... allowing our experiences and analysis to be added to the forum that will constitute public opinion could help halt the disastrous trend toward building more fortresses of fear which will become in the 21st century this generation’s monuments to failure.

Jo-Ann Mayhew (1988)
How Malevolent Gatekeepers Exacerbate the Power Imbalance in Social Research
Craig W.J. Minogue

INTRODUCTION

In this article I outline the history of research ethics, starting with the issues that arise from imbalanced power relations. I then analyse the national social research ethics policy in Australia, which is typical of such policies in developed countries, and identify one of its significant shortcomings. I argue that not all institutional gatekeepers are equal and can be assumed to have an ethical research policy. I differentiate between benevolent and malevolent gatekeepers, and analyse the research policy of a malevolent gatekeeper in the form of Corrections Victoria/Department of Justice in Australia. I propose an innovative solution that will ethically enhance and considerably broaden academic research practices and outcomes whilst bypassing a malevolent gatekeeper, and what I argue is its unethical research governance. I conclude by asking whether researchers are willing to think critically or simply follow codes of research ethics and the power of institutional gatekeepers without a proper consideration of the ethical consequences of their actions.

IN THE BEGINNING

In his seminal 1972 article exploring the ethical considerations associated with power relations between institutions, researchers, and participants in social research, Herbert C. Kelman (1972, p. 1011) argues that:

The questioning of the status quo, of the assumptions on which existing social institutions and policies are based, is at the very heart of the analysis in which the social scientist engages and is inherent in [their] methodology. Social science, by its nature, is designed to bring independent analytic perspectives to bear on questions of social policy and to provide systematic bases for assessing the consequences of existing arrangements and deriving alternative policy approaches.

At the time Herbert Kelman’s article was published, there was considerable thought being given to the role of research ethics within social institutions. Tremendous controversy surrounded Stanley Milgram’s (1974) obedience
experiments. Philip Zimbardo had conducted the Stanford Prison Experiment which went out of control when the student participants, playing prison officers, started to abuse their fellows acting as the prisoners, who in turn started to resist violently or became almost catatonically withdrawn (Haney et al., 1973). The filming of these experiments, which allowed the widespread dissemination of the shocking results, contributed to an assumption that maverick experimenters needed to be reined in by Institutional Review Boards (Research Ethics Committees in Australia) and government-sponsored national ethical research standards. Of course, it is legitimate and appropriate for there to be codes of ethical research standards and ethical oversight of research. I argue, however, that the practices associated with institutional control over academic research involving human persons have become an unquestioned part of the research landscape which academics respond to in a formulaic way. Participant consent forms have become a kind of fetishism, despite the fact that some researchers think they are detached from reality and almost threatening.²

In matters of academic research, the role of institutional gatekeepers, like hospitals, schools, and prisons, is to protect research subjects or participants from being harmed by the research process and to ensure that researchers do not interfere with legitimate institutional activities. A review of the literature available to me (see endnote 2) suggests that the legitimacy of the role gatekeepers play and their governance of the social research process is not subject to the critical analysis it deserves.

In Australia, the National Statement on Ethical Conduct in Human Research (NSECHR) is the key policy document for social researchers and Human Research Ethics Committees. The National Statement uncritically emphasizes the role of institutional gatekeepers and it therefore accepts an assumption, as does most of the literature, that gatekeepers are naturally benign, objective, and enlivened to the public and personal good in determining issues of governance and control of research within their areas of responsibility (NSECHR, 2007, p. 4). The National Statement also presumes that the role of a researcher is to act as an adjunct to, or under the auspices of, the institution (NSECHR, 2007, p. 4). The very clear implication of the policy in the National Statement is that institutions can be trusted, but researchers cannot. I believe there is a kind of “four legs good, two legs bad” ideology at work here.
The underlying mission of ethics, philosophy and the social sciences is to challenge ideological positions that situate the Other at a disadvantage because of an arbitrary attribute which marks their Otherness. The ethical value of our conduct needs to be thought through, because history has shown that there is a very real danger in uncritically accepting the basic assumptions of one’s epoch, be they cultural, racial or political. I argue that the idea that institutional gatekeepers are benign is based on such an assumption. Philosophers ought to investigate and critically think about the positions for which there may well be no rational justification. Peter Singer (1986, p. 225), the author of *Animal Liberation*, has argued that “thinking through, critically and carefully, what most people take for granted is, I believe, the chief task of philosophy”.

Institutional governance of research ethics and the development of codes of research ethics both internationally and nationally, constituted a very appropriate and necessary response to the horrors of Nazi death camps and other bio-medical research atrocities like the Tuskegee Syphilis Study and the Willowbrook State Hospital study involving hepatitis in the United States. Over time, the primacy of the institution as a research gatekeeper has become a basic assumption that is not ethically interrogated. Despite the fact that the legitimacy of institutional gatekeepers is uncritically accepted, I am proceeding on the basis that all areas of research ethics should be critically thought through in an ongoing way. When the role of institutional gatekeepers is thought through, it becomes clear that benevolent and malevolent gatekeepers need to be differentiated along with the various ethical positions that arise.

**ARE ALL GATEKEEPERS EQUAL?**

When considering social institutions in general – that is, before we look at their research ethics processes – it can be said that a benevolent gatekeeper is found, for example, in the hospital or school, as their primary mission is to provide benefit by caring for and improving the health of patients or to provide an education for pupils. When approached by researchers seeking access to the patients and pupils, the hospital and the school have a primary ethical duty to promote the specific interests of their patients and pupils. This is not to say that the institutions themselves or their Ethics Committees are benevolent in all things when it comes to their patients and pupils. Benevolence is a fair starting point with these types of institutions.
A malevolent gatekeeper, on the other hand, can be found in the prison, whose primary mission is to hold prisoners coercively to serve the utilitarian end of punishment as part of the criminal justice system. The prison has a legal duty to care for the welfare of prisoners, but this duty is legally and ethically subservient to matters of security and control, as they are judged to be relevant and at the discretion of individual staff members of the institution. When approached by researchers seeking access to prisoners, the ethical duty of the prison for the people over whom they have a gatekeeping role is nowhere near as clear-cut as the duty of the hospital or school in promoting the specific interests of the people concerned.

A prisoner with two days or two decades of a sentence to serve can legally be shot and killed if trying to escape custody. The prison has absolute control over every aspect of the physical environment in and near the prison. The body of the prisoner is also controlled, not only to the extent that movements around the institution can be limited to very small and physically confining spaces, but to the point that the physical integrity of the prisoner’s body can be violated and intimately examined without consent and even against the well-articulated objections of the prisoner. Firearms, chemical weapons, pain-inflicting instruments of restraint, attack dogs, striking weapons and electroshock weapons are all standard equipment used to coerce prisoner compliance (Minogue, 2005; Minogue, 2010, p. 323). There is no civil agreement between prisoners and the prison, no consent is sought or given at any point, and there is no proportionality of coercive action. Rather, a military level of absolute and ‘life-threatening force’ underpins the everyday practices which the prison aggressively deploys as a means of compelling the total compliance of prisoners to the will of individual officers and the institution as a whole (Minogue, 2005).

A patient seeking to leave a hospital against medical advice, or a pupil who is truant or remiss in their lessons, cannot be shot and killed or coerced violently in the way which it is thought legitimate to treat a prisoner. A case study will help to illustrate this point. A short-term prisoner in Victoria, Australia was shot in the neck as he, in a state of “desperation,” while handcuffed, ran down what an escorting prison officer knew to be a deserted, dead-end and underground corridor in a public hospital (DPP v Federico [2005] p. 605). Claiming he feared for his life and the lives of other people in the crowded hospital as the prisoner ran away from him, the prison officer fired a number of shots at the prisoner, one of which hit the man in the
neck and killed him. The judge ordering the acquittal of the prison officer on a charge of murder said that the handcuffs, an “authorized instrument of restraint” at corrections law, which were securing the man’s wrists, were to be considered in the defense to charge of murder, as “a weapon” which could have been used to “wreak havoc” on the general public (ibid, p. 606). The verb to “wreak” means “to inflict or execute vengeance, etc., to carry out the promptings of one’s rage, ill humour, will, desire etc., as on a victim or object” (The Macquarie Dictionary, 1981, p. 2006). The Macquarie Dictionary is the Australian national dictionary, and it should be turned to when interpreting legislation (Gifford and Gifford, 1994, p. 89). The noun “havoc” means to cause “devastation; ruinous damage; to ruin; destroy; a word used as the signal for pillage in warfare” (ibid, p. 816). The phrase crier havot (cry havoc) was used to “give the call for pillaging” (ibid). The word “pillage” means “to strip of money and goods by open violence, as in war; plunder; to take as booty etc.” (ibid, p. 1311). Exactly how a prisoner, in a deserted, dead-end and underground corridor, could wreak havoc by the instruments of restraint which were securing his wrists is not explained in the judgment.

Then, in a hypothetical and unsustainable leap of logic, the judge in this case found that the escaping prisoner running down the deserted, dead-end and underground corridor, away from the man with the gun, could have “commandeered a lethal firearm” (DPP v Federico, [2005] p. 606). Perhaps the prisoner could have stumbled upon the weapon-stocked armory, which the hospital keeps to coercively control its patients? Of the two escorting prison officers, only one had a firearm. The prison officer said he acted immediately and “instinctively and in accordance with his training”, drew his firearm and started shooting (ibid). Given the immediate nature of the shots discharged at the prisoner, it is very difficult to imagine how the prisoner could have commandeered any firearm, let alone the officer’s firearm whose bullets were aimed and fired at the prisoner’s head (ibid). The power of prison officers escorting a prisoner outside of the prison, like the powers they have inside the prison, are effectively unfettered and absolute – officers are empowered to do ‘anything’ or to ‘order’ a prisoner to do ‘anything’ the individual officer deems necessary to control the prisoner and the situation (Parliament of Victoria [1986] Corrections Act, ss.9A (IB) (c)(i) and 55C(2)(a)). This judgment does not speak to reason or logic, but to the lowly status of a prisoner as an Other and to the absolute power of a prison officer at law to do as he or she subjectively sees fit.
This case illustrates that the use of force by prison staff – in Victoria at least, and most other places no doubt – is not accompanied by reason or fairness, sensibility, appropriateness or proportionality. Ethical action is, by its very nature, endowed with reason and sound judgement which can be shown to not exceed the limits prescribed by reason or fairness. Reason is not characterized by excess. Rather, it is characterized by that which is moderate in the circumstances.

The unassailable reality is that the modalities of control in the prison setting are far beyond what is reasonable, lawful or ethical for a benevolent gatekeeper. For in a benevolent institution, ongoing civil consent of the patient or the parents of the pupil is required for any physical restrictions, pain and suffering, or loss of privacy. And the physical restrictions, pain and suffering, or loss of privacy in a benevolent institution represent the minimum of what is reasonably required and demonstrably necessary in the circumstances to achieve a beneficial outcome from the person concerned – none of this is in any way true of the prison, a malevolent institution. Significantly, these institutions play the role of gatekeepers when researchers seek access to people within them.

**ANALYSING THE RESEARCH POLICY OF A MALEVOLENT GATEKEEPER**

Having differentiated between a benevolent and a malevolent gatekeeper, it can be seen that a very different set of ethical considerations must apply for social researchers. The very nature of the prison as a malevolent gatekeeper means that its vested institutional interests will most often violently override and contradict the interests of the prisoners. To fully consider the ethical issue inherent in my argument against accepting the research governance of a malevolent gatekeeper at face value it needs to be asked if there is any evidence which would suggest that such institutions allow their nature as a malevolent gatekeeper to undermine the possibility for and conducting of ethically responsible academic research.

There is next to nothing that is new in the theory or practice of the prison. From the Rasphuis of Amsterdam which was opened in 1596, to the so called ‘Philadelphia model’ which followed suit and applied the same theory and practice to the opening of the Walnut Street Prison in 1790, and a contemporary prison in Victoria, Australia (Foucault, 1991; Minogue,
In the Australian context, Corrections Victoria and the Department of Justice Victoria (CV-DOJ) represent, in many respects, the typical approach taken in relation to the operating theory and practice of prisons in developed countries. For example, sightseeing tours of prisons taken by academics and students follow the same patterns in Australia as they do in Canada (Minogue, 2009; Piché and Walby, 2010). However, some authors argue that carceral tours in the United States are given more ethical consideration by Institutional Review Boards than they are in Australia and Canada and suggest that the reported conditions in Australia and Canada would constitute a violation of civil rights and lead to litigation (Smith, 2012, p. 3). From an American perspective, Hayden Smith is no doubt right about this violation of civil rights and resulting litigation, but the notions of “civil rights” or “human rights” are not known to Australian law as justifiable rights (Minogue, 2002; Minogue v Human Rights and Equal Opportunity Commission [1998 and 1999]; Minogue v Australia [2004]).

Leaving the issue of carceral tours aside, I want to examine what the gatekeeper says about social research governance. On the CV-DOJ (2011) website, under a page headed “Corrections Victoria - Research Ethics Application Guidelines”, it is advised that:

All research to be conducted in a correctional setting requires ethics approval and must receive support from Corrections Victoria prior to being submitted to the Department of Justice Human Research Ethics Committee. When deciding whether Corrections Victoria will support a research project, the Research and Evaluation Unit considers a range of factors, [primarily it considers if the research] aligns to the strategic priorities of the organisation.

CV-DOJ details their research governance and research ethics policy in two documents; the first is the Corrections Research Strategy 2009-2012 and the second is the Corrections Research Agenda 2009-2012, both of which are still current. The Strategy advises that the research goals of Corrections are to “manage research projects that build the strategic capacity of the organisation, improve the outcomes of our work and are of a calibre that enhances our standing in the research and criminal justice communities” (Corrections Research Strategy, 2009, p. 3). The stated “strategic initiative” of the policy is to “leverage Corrections Victoria’s research activities to
enhance its standing as an organization”, and “to use research findings to penetrate the media, lead and influence debate on correctional issues” so as to “generate positive media coverage of Corrections Victoria’s work” (ibid, p. 5). The Strategy clearly evidences a strong desire for leverage, penetration, and influence, and it paints an aggressive modality of control of the social research process and its outcomes to serve the vested interests of CV-DOJ. The Agenda, however, is not so straightforward as it is couched in densely packed and obtuse corporate language that is difficult to understand. A close reading of the policy can, however, reveal its justification for and the means of controlling research to serve the vested interests of the institution.

The Agenda explains that “correctional facilities operate as a result of complex organisational effort” and that “in view of this, the strategic planning and management cycle was chosen as the organising framework for Corrections Victoria’s priority research topics” (Corrections Research Agenda, 2009, p. 6). In their own words, the corporate aim here is to “ensure that our research efforts support the achievement of Corrections Victoria’s strategic priorities and yield findings that are useful at both policy and operational levels” (ibid, p. 4, emphasis added). Recall that, in the more direct language of the Strategy, it is a “strategic initiative” to “enhance” Corrections’ “standing as an organization” and “penetrate the media” so as to “generate positive media coverage” (Corrections Research Strategy, 2009, p. 5). To side step the obtuse corporate language of the Agenda, in plain terms, it is fair to say that the policy can be reduced to the biased and value-laden question: will this research help us run our prisons, get the results we want, and make us look good in the mainstream news and infotainment media?

The Corrections Research Agenda (2009, p. 7) identifies four areas of research which Corrections will support. These relate to:

- socio-economic issues of crime in the community;
- helping corrections to run its prisons in relation to issues of workforce development, systems and processes, resources, infrastructure and organisational culture;
- understanding prisoners and their needs in order to help “deliver the core business efficiently and effectively”; and
- reviewing the implementation of findings associated with the research aimed at helping corrections to run its prisons.
Under each of these four research categories, Corrections Victoria states that they believe the “current situation” corresponds to its corporate view, which it then relies upon to formulate and provide a list of pre-approved research questions (ibid, pp. 8-37).

There seems to be very little room for independent academic research here. It is a clearly expressed condition that before a proposal is sent to the DOJ for final consideration by its Research Ethics Committee, it must be endorsed by Corrections, and “research proposals will have the best chance of obtaining Corrections Victoria’s endorsement if they are shaped in consultation with relevant staff members” (ibid, p. 38). However, before Corrections starts to shape the research project to suit its strategic initiatives, the researcher needs to have demonstrated “the potential utility of [the] research topic” to serve the organisational and strategic needs of Corrections Victoria to the Research Evaluation Unit (ibid). The utility of the topic is about yielding findings that they find useful. The process looks like this:

- The researcher must demonstrate to the CV Research Evaluation Unit that the research has a utility to Corrections and will produce results that are desired by Corrections.
- If the CV Research Evaluation Unit is satisfied of the potential utility and results of the research, then staff from CV will work with the researcher to shape the research proposal to best suit the strategic initiatives of Corrections. The research proposal will go back and forth between all the stakeholders and the CV Research Evaluation Unit until the proposal is endorsed. Researchers are told to “allow plenty of time for discussion” for this part of the shaping process (ibid).
- The DOJ Ethics Committee will then consider the proposal for final approval.

No doubt the utility of the topic would be best served if a researcher chooses a Corrections-approved research question provided in the Agenda. Choosing a pre-approved research question, which is framed by what CV-DOJ says is the current socio-economic situation, does not constitute a legitimate social research methodology for an independent, ethically responsible academic. Perhaps it is possible for some researchers to negotiate this situation in
the preliminary stages so that their research and outcomes are not co-opted by the prison, but then there is the matter of the inherent unequal power relations that underlie the work of researchers operating with the auspices of the powerful gatekeeper when dealing with powerless, dependent and vulnerable subjects/participants. Perhaps these things can be negotiated and perhaps a researcher could do something to address the stark power imbalance. That, however, seems unlikely (Minogue, 2003; Minogue, 2009). If a researcher deals officially with prisoners with the auspices of the institution, then, by the very nature of that situation, the autonomy of participants cannot be respected.

If one considers, as I do, protecting the interests of participants to be the cardinal rule of human research, be that social or medical research, then serious questions are raised by research conducted in the prison pursuant to a policy such as that described above. A researcher who agrees with the public relations-like conditions and control of their research outcomes, and who then acts with the auspices of the malevolent gatekeeper, leaves themselves open to the charge that their work is ethically compromised (Minogue, 2003; Minogue, 2009). The notion that research outcomes might be controlled is not a stretch, as the Agenda makes it clear that research is to “yield findings that are useful at both policy and operational levels” (Corrections Research Agenda, 2009, p. 4). The use of the word “yield” is telling, for a yield is something that is produced or provided as a result of a purposeful process. Most commonly, a yield is understood as a material gain or a profit that relates to a financial return. For an institution to talk about shaping academic research so as to yield findings that are useful for its vested interests devalues academic research and makes it ethically questionable.

At the centre of the social research activity are the power relations between two interrelated people: the researcher and the research subject or participant. It is common ground that prisoners are socially disadvantaged, of poor physical and mental health, and marginalised working class or underclass people who are totally dependent on the good graces of the malevolent institution which holds them against their will. On the other hand, social researchers who come into and go out of the prison setting are most often people from a middle or upper class background with a tertiary education and who are obviously operating with the auspices of the prison. Many academic researchers seem to be totally oblivious to this severe
power imbalance resulting from their privileged position as researchers, and the powerless and disadvantaged position of the prisoners they study as subjects or whom they work with as participants. The work of C. Fred Alford offers a typical example of the ethically oblivious mindset of some academics in relation to matters of social status, inequality, and the research process. Alford (2000, p. 142), an academic who conducts research in the American prison system, boasts of his likeness to “an unpaid staff member with an official position, that of researcher with... a staff badge” which gives him the freedom to roam around the prison at his self-directed will. And it gets worse as Alford argues that this official position gives his research added credibility and the ability to say what is really going on in the prison in ways that academics without the “staff badge” cannot (ibid).

Research activities are not the only problem at the malevolent institution. As previously mentioned, it was once general practice in Victoria for universities to allow academics and students to participate in guided tours of prisons without an Ethics Committee consideration. The questionable practices associated with prison tours are widespread (Piché and Walby, 2010). When ethics complaints have been raised with universities about this practice, the response has been “the prison allows us to do it”, therefore the prison is responsible and there is no need for Ethics Committee consideration (Minogue, 2003). Since complaints to universities in Victoria, Australia detailed in Minogue (2003), the tours have very much diminished in their frequency. Some have argued that prison tours by academics could be conducted ethically and suggested potential amendments to achieve such a goal, but I am unaware of any academics taking up these suggestions (Minogue, 2009). In this paper, rather than argue for an ethical research scheme for academics from outside the prison, I want to suggest something which is much more innovative and ethical.

It is sociological, psychological, and ethnographic research orthodoxy that covert research can be undertaken without informing the subjects. I have not, however, been able to source any peer-reviewed material that addresses the possibility of fully informing participants, but acting covertly from the institutional gatekeeper. The prospect of covert or limited disclosure is contemplated within ethical realms for dealing with subjects/participants (NSECHR, 2007, pp. 8, 23-24). Let me reiterate that I consider protecting the interests and respecting the autonomy of research participants to be the cardinal rule of human research, so I approach any suggestion to abstain
from informing participants with a great deal of caution. Covert research projects that treat people as subjects of research, rather than respected participants or partners in the research, should be limited to those very few situations where overt disclosure would make the research impossible or the results flawed. But such is the primacy of the role of the gatekeeper that concealing research from or even limiting disclosure to a gatekeeper is not considered in the National Statement.

HOW TO ADDRESS THESE PROBLEMS?

Before an innovative approach can be taken, there needs to be a willingness on the part of researchers to differentiate between benevolent and malevolent gatekeepers. Then, the particular research governance policy of the gatekeeper needs to be ethically scrutinised rather than uncritically accepted at face value, as is most often the case. Considering the way in which CV-DOJ, as a typical example, seeks to shape and control the results of research for its own vested interest, the possibility of bypassing a malevolent gatekeeper to conduct research covertly while fully informing and respecting participants should be actively considered as the most ethical way to proceed in the prison setting.

Bypassing any gatekeeper to conduct covert research is a bold move. Simply put, relying on a malevolent gatekeeper to give permission may well involve a less ethical outcome for the research participants. And the ethically relevant interests of the participants should come first, not the vested power interests of the institution as represented by its research governance processes. Without gatekeeper approval, a social researcher would need to be much more personally responsible for their ethical conduct, rather than shielded by the gatekeeper.

Criminologists who work with gatekeepers can be heard saying things like “the prison lets me do it—end of ethical discussion”. Even academics who admit their ethical unease to the point that they feel like apologising to the prisoners they subject to their research, nevertheless go on to say that any apology “would be incongruous” (Wacquant, 2002, p. 378). Yes, it would be incongruous because the researcher is a privileged actor in an unequal power relationship that he is exploiting, a situation in which he can get away with not considering the ethical imperative to respect the dignity of other human persons.
I opened this paper with reference to Herbert Kelman’s (1972) article wherein he considered issues of power relations and the policies of social institutions. In this article, Herbert Kelman goes on to say that researchers can promote equality by drawing research participants from similar socioeconomic, racial, gender and cultural backgrounds. Herbert Kelman argued that “disadvantaged segments of the population” could be “represented genuinely in the research process” if members of their group were trained as researchers, and that, if this were to happen, “social research would be broadened considerably” and ethically enhanced because social equality would underpin the interactions between researchers and participants (ibid, p. 1014). When a person from within one’s own community is conducting the research, then issues of unequal power relationships are greatly reduced. But what about the situation in prisons? Herbert Kelman says that although some groups, like “criminals” in prison, “often provide subjects [they] cannot, by their very nature, provide investigators” (ibid, p. 994). And, consequently, this means there is “an unequal relationship [in the research process], since there is no real possibility of role reversal” when conducting social research in the prison setting (ibid).

Since 1972, the world, led by America, has been on an incarceration binge. Millions of men, women, and children are now confined in some form of imprisonment, and the number is growing every day, with seemingly no end in sight. With the imprisonment of millions of people, much has changed in the prison since 1972, when Herbert Kelman thought that prisoners “by their very nature” could not provide investigators (Kelman, 1972, p. 994). The prison has developed as a microcosmic mirror society. Although it is distorted and twisted in some respects, this society also resembles normal society in many other respects. In prisons, many people perform various kinds of work-tasks and attend vocational classes or academic courses; they attend medical appointments for treatment, and chapels for worship; they sit down with others for meals, make telephone calls, play sports and engage in many normal types of other social, economic and personal activities.

Considering the development of the prison since 1972 as a fully-fledged microcosmic society in its own right, the following question needs to be asked: is there a possibility that prisoners can be trained as researchers and conduct academic research? The answer may be a surprise to many academics, but yes, of course people in prison can conduct academic research. There are imprisoned intellectuals who are politically and
academically engaging with the social, racial, cultural, legal, and other aspects of their confinement and the place of the prison in society (James, 2003; Rodríguez, 2006). Professor Dylan Rodríguez (2006, p. 10) of UC Riverside and a founding member of Critical Resistance says that

Confronted with the dilemma of how to foster substantive political, intellectual, and personal connections to political affiliates and loved ones in civil society, imprisoned radical intellectuals appropriate their conditions of confinement to generate a body of social thought that antagonizes and potentially disrupts the structuring logic of their own civic and social death.

That may sound like a surprising claim, but it is true whether in this journal (see Gaucher, 2002; Piché et al., 2014) or elsewhere as authors (for a summary, see Taylor, 2009) and co-authors with university-affiliated academics (see Bosworth et al., 2005; Ross et al., 2014). This article represents the political, sociological, academic, and personal endeavour that Dylan Rodríguez articulates as being possible. It is possible because I have been in prison since 1986, and, in that time, I have obtained all of my academic qualifications and achieved over 40 publications in professional journals. In 1986, at 23 years of age, I was functionally illiterate. I could not even spell my middle name, William, because the dyslexia I suffered made the “illi” impossible for me to cope with. But much has changed since then.

My first formal educational achievement came in 2004 when I graduated with a wide-ranging, interdisciplinary Bachelor of Arts Degree with three major humanities sequences of study. In 2005, I was awarded a First Class Honours Degree in Philosophical Studies with a thesis examining the consequentialist utilitarianism of Peter Singer and what it is to live the good life in the age of self-interest and the primacy of the idea in popular culture that material wealth is an ends to happiness and a meaningful life. In February 2012, I was awarded a research PhD specialising in the field of Applied Ethics and Human and Social Sciences from La Trobe University, Australia. My thesis examined conceptions of the Self and Other surrounding crime and punishment, the accompanying public and private discourse, and the need for this discourse to be mediated by morality. At the time of submitting my thesis, 20 percent of my research had been published in academic journals.
Despite my origins in criminal activity in the early- to mid-1980s, Dylan Rodríguez (2006, p. 110) would say that I have become an “imprisoned radical intellectual”, Black Panther Marshall Eddie Conway would say that I have become a “political prisoner”, and Henry Giroux (2005, p. 190) would say that I am an “oppositional academic”. The conception of a political prisoner which I have adopted and argued for in other places (Minogue, 2008) is found in the thought of Marshall Eddie Conway, who argues that a political prisoner is a person who stands up to injustices, a person who for whatever reason takes the position that this or that is wrong, whether they do it based on ideology or they do it based on what they think is morally right... [P]eople become political prisoners, become conscious and become aware and act and behave based on that awareness after they have been incarcerated for criminal activity (Rodríguez, 2006, p. 6).

The “oppositional academic” is a person who challenges the structuring logic of the status quo, as I have done through my publications. This paper is an intellectual and ethical challenge to my imprisonment and to my jailors. This paper is a challenge to the social, legal, academic, ethical, and personal assumptions associated with imprisonment and social research in the prison setting. Whatever frames of reference are argued for, the reality is that imprisoned intellectuals and academics such as myself are already doing the work under the most difficult circumstances imaginable. Imprisoned intellectuals and academics can be contacted, and they can be engaged with by their colleagues on the outside about ethically conducting research on the inside. Alternatively, the university and its academics can just say “the prison allows us to do it” in a kind of weasel-worded version of “just following orders” (Minogue, 2003).

Considering the position I have taken on, the most appropriate way for me to bring this paper to a conclusion is to pose some questions for others to contemplate:

- Will academics outside the prison and their Research Ethics Committees (Institutional Review Boards) think critically about the role and research governance of a malevolent gatekeeper like the prison?
• Will there be initiatives to engage with imprisoned intellectuals and academics?
• Will innovative ways of working be developed to bypass malevolent gatekeepers like the prison? Or will the role of the malevolent gatekeeper and their unethical research governance continue to be uncritically accepted as the cost of doing research in the prison?

ENDNOTES

1 I will refer to people by their full proper names, for, as Paul Ricoeur (1992, p. 29) says in his seminal *Oneself as Another*, “privilege accorded the proper names assigned to humans has to do with their subsequent role in confirming their identity and their selfhood”. In most academic disciplines, it is tradition to refer to one’s fellows in professional journals by the use of second names only. This is no doubt a kind of shorthand, but it is also a type of elitism and thus a language of exclusion. And “discipline” ends in the academy, as a verb the word “discipline” means the practice of rebuking and imposing obedience and punishment on another person. Such discipline seeks to strip a person of his or her social and human character. The use of family names only is read by me as an objectifying language of exclusion and a form of class elitism, and therefore I break with this tradition whenever I can. It should also be acknowledged that the elimination of given names in research publications is used by some to help rectify the problem of male privilege in the academy. Research has shown that gender-bias can result when the sex of the author or authors is known to reviewers and readers who tend to associate greater scientific quality with scholarship by men, irrespective of merit (Knobloch-Westerwick et al., 2013). However, from where I am writing from, where prisoners are stripped of their identity through practices such as not calling them by their given names, I feel including them is necessary here as an act of humanization and acknowledgement.

2 These ideas have been taken from Christopher Shea’s article “Don’t Talk to the Humans: The Crackdown on Social Science Research”. This article was sent to me by one of the peer reviewers, but it did not have a URL, or page numbers, or any details about when and where, if anywhere, it had been published. I do not have access to the internet or a university library, and, after 28 years in prison, the number of people I can call on for any type of support has dwindled to next to nothing—and there is only so much my long suffering, now 75-year-old mother can do, in terms of academic research support. Reviewers also suggested the need for more academic journal article references to support my argument and more up-to-date materials. I have done as much as I can from the site of isolation and marginalisation in which I find myself. Academics in the real world with all the resources at their fingertips need to take up the challenge that this insider article presents.

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ABOUT THE AUTHOR

Craig W. J. Minogue has survived in prison since 1986. Having completed a BA (Hons) in 2005, he was awarded a research based PhD in Applied Ethics in February 2012. Craig assists fellow prisoners with equitable access to the courts, educational programs and health services. He is a regular contributor to community education projects and has over 45 publications in philosophy, literature, criminal law, human rights, and prison issues. Craig can be contacted by email at craig2016@bigpond.com or by mail at the following address:

Craig Minogue
Locked Bag 3
Castlemaine, Victoria
Australia 3450
Many people are asking ‘why do ex-offenders continue to re-offend or violate the conditions of their release supervisions usually within a 90 day period after release?’ But more importantly, many more are saying that this is because individuals ‘choose to continue to live the lifestyle of lawlessness, and opt to act and behave in ways that violate the conditions of their release supervision’. However, is it not possible that this type of thinking could not be further from the truth, and that in fact, for many of the criminalized like myself, there could be different reasons altogether?

Our nation’s recidivism rate has dropped a lot in recent years but it is still holding at approximately 34 percent (Glaze and Bonzcar, 2010). In New York, where I am serving my sentence, of the 24,605 ex-prisoners released between 2011 to 2013, a total of 10,217 (42 percent) of parolees were taken back into custody (Department of Corrections and Community Supervision, 2014). Interestingly, only 9 percent of these men and women were convicted of a new felony, while 32 percent were returned to prison for violating terms of their parole (ibid, 2014). Recidivism rates vary by State, so to give the reader a sense of the magnitude of the problem, consider the following rates of recidivism from jurisdictions who, according to the Council of State Governments Justice Center (2014) have actually lowered their return rates: Colorado (49 percent); Connecticut (40 percent); Georgia (26 percent); North Carolina (28.9 percent); Pennsylvania (40.8 percent); Rhode Island (48.9 percent); South Carolina (27.5 percent); and Wisconsin (51.1 percent). Some States have more disturbing statistics. In Washington State, the recidivism rate in 2007 was 63.3 percent (Sentencing Guidelines Commission, 2008).

There are many factors that contribute to the current rate of re-incarceration. Academics and researchers have identified social economic poverty, alcohol and drug addiction, lack of educational/vocational training, mental health disorders, family dysfunction, childhood trauma and/or abuse, and lack of adequate transitional service housing programs and resources, as some of the contributing factors to recidivism. These factors contribute not only to the small number of parolees who commit new crimes, but also to the thousands who return for technical violations of their parole. For example, of the 24,520 men and women paroled in New York in 2008, 29 percent had their parole revoked and were returned to prison. Twenty-three percent of the time these
parolees were in violation of a condition of their parole (Herrschaft, 2008). That is, over 7,000 individuals were returned to prison within three years, but did not commit a new crime. This means that parolees were instead returned for violating technical conditions of their release supervision, usually in a nonviolent way such as failing a urinalysis test (dirty urine), breaking curfew, failing to report a change of address, violation of non-association requirements and residential approval difficulties.

There are many components to consider when putting the reasons for one’s repeated return to corrections into its proper context. The purpose of this paper is to illuminate the inadequacies in the release procedures as I have experienced them and make known what factors most significantly inhibited my ability to successfully reintegrate back into the community.

I began this paper by giving a broad overview of the current problem of recidivism in the United States. In the following pages, I provide a bit of personal biography in order to establish my grounded expertise on the subject before explaining how daily life in prison contributes to the inability to successfully remain out of prison once paroled. However, it is important to make it very clear to the reader that I am in no way attempting to justify or excuse my repeated returns to Department of Corrections and Community Supervision (DOCCS). On the contrary, it is my intention and hope that I will instead be able to get the reader to understand how I – who has had multiple felonies with five sustained parole violations – and those with the same or similar circumstances, have slipped through the cracks in the past and release re-entry procedures only to find themselves once again behind bars, usually within the 90-day period and often for a non-violent offense.

After completing all six years of a ‘6 flat 5 post-release supervision’ sentence for the crime of robbery in the second degree, I was released from a maximum security prison for the first time in August 2007 – ironically, this is the same prison in which I am confined today. With no pre-release programming or community preparation, and no family support, I was ill-equipped to appropriately handle the things I was about to face and experience. To further complicate a successful reentry attempt, there were virtually no community-based agencies or organizations in place specifically designed to assist ex-prisoners returning to their communities with the reintegration process. While there is some pre-and post-release assistance available today, many of us had already slipped through the cracks and were
re-incarcerated. I have had other releases prior to 2007, but neither had been from a maximum security prison and neither were successful.

The most recent release I experienced was in 2012 when I was released directly from the special housing unit (SHU) after 13 months of solitary confinement at the Residential Mental Health Unit (RMHU) or the ‘box’. Unfortunately, I was not set up with outside assistance because I had ‘maxed out’ and was thus not entitled to re-entry services (unlike those released on parole). Once released, I fell back into the only lifestyle I had known and was subsequently arrested for another bank robbery just 35 days later. I was sentenced to three and a half to seven years and am scheduled for my first parole board appearance in December 2015 and may be released in April 2016.

I have spent the majority of my adult life behind bars and involved with the criminal justice system. I have experienced over 17 years of state prison confinement including extended periods in solitary confinement. In fact, I have been released from such confinement directly back into the community where I have found it extremely difficult to make a successful transition and reintegrate into society.

It is important for the reader to have a sense of how I experienced incarceration in order to understand how that influenced my subsequent and limited time in the community. I am a prisoner who has been confined and released from some of the most violent maximum-security prisons in the New York State penal system (i.e. Attica, Clinton Dannemor, Elmira, Great Meadow and Auburn), and solitary confinement at many of these. The maximum-security prison environment is a hostile, violent and frightening place. Even for those considered to be ‘hardened criminals’ who have passed extended periods of time behind bars, a maximum-security prison is a difficult place to do time in. Typical social communal and acceptable societal standards become lost or forgotten as the years pass. In this total institution a new set of beliefs replace what are considered in the community to be normative appropriate and acceptable codes of conduct (Goffman, 1961). Moral and ethical codes, if one ever had them, become twisted into a perverse set of beliefs where hate and oppression are the subcultural norm.

The decor of all state correctional facilities is that of solid plain pastel earth colors and this includes the dress code for all prisoners. The ideology behind this (outside of security purposes) is used, I am sure, as a mechanism to ease the effects of a pressure filled environment with the general temperament of discontentment. Civilian staff are strongly
discouraged from wearing anything fancy or what might be construed as ‘suggestive’, for what I hope are obvious reasons. The diet is bland and consists of meals that are precooked and processed in large volume at one facility. There, all meals are prepared, refrigerated and stored for shipping to all state correctional facilities and to some city/county jails on private contracts. The entire process from cooking, packaging, storage and shipping to consumption takes an average of three to four weeks, but on occasion, we are served food that was processed six to seven weeks prior to consumption.

Electronic devices are prohibited with the exception of 13-inch TVs and cassette Walkman or speaker radios. The phone system is landline only with no access to live operators or Internet services, and phones are made available to the general prisoner population during their ‘rec’ periods. All calls are electronically monitored and are subject to immediate termination under the discretion of staff members who monitor calls. Recreation is offered daily for a minimum of one hour, but in most facilities it is based on a schedule of one to one and a half hours on Monday, Wednesday and Friday, and on Tuesday and Thursday for three hours at night.

Rehabilitative programs are available for those who want to follow their ‘individual recommended program requirement’ as described in the NYSDOCCS program services COMPAS case plan pamphlet by their Offender Rehabilitation Coordinator or Counselor (ORC). According to the Department of Corrections and Community Supervision (2014, p. 2):

Incarceration programs and an evidence-based instrument tool known as COMPAS guides DOCCS’ staff to help predict future behavior based on a parolee’s needs, thus preventing future crime. COMPAS is one of many tools staff uses to make supervision decisions helping DOCCS personnel create individual discharge case plans by working with state and local governments and community organizations to develop the transition from prison to community. Components of reentry programs include education, job readiness, community resources, housing, substance abuse, rules of post-release supervision, family reunification, health care, cognitive behavior, mental health, and personal identification.

However, what is written and what really happens are not always the same. Indeed, a 2013 court decision from a New York prisoner who was denied release on parole noted the following:
…while a COMPAS was performed here, there is no indication in the parole hearing minutes, the Board’s decision, or anywhere else in the record that the commissioners charged with weighing petitioners release even viewed, much less considered, the COMPAS risk assessment in making their determination… The mere existence of a COMPAS risk assessment in an inmate’s file, as here, is not enough… The Board must, at the very least, review and consider the COMPAS results in order to fulfill the statutory requirements of “measuring the rehabilitation of persons appearing before the Board, the likelihood of success of such persons upon release, and assisting members of the state Board of parole in determining which inmates may be released to parole supervision” (Diaz v New York State Board of Parole, [2013] NYS 2d 838).

Sights, smells, and tastes become heightened in some respects and are dulled in another with the passage of time and the lack of exposure to anything other than what has been described. The constant sounds of screaming and yelling, the slamming and banging of closing cell doors, and the general commotion associated with confinement in a maximum-security prison cell block becomes, over time, the unheard white noise of daily prison life. Any lull in the noise can be unnerving because the quiet becomes louder than the noise itself and it usually means trouble – the ‘sounds of silence’ if you will.

Most maximum-security prisons or tension-filled environments where the takers rule, kindness is seen as weakness and there is little or no room for mistakes. Though the general public may be under the impression that Corrections Officers are here to ease the burden, this is simply not the case. Although they have most likely been trained to do so, I have rarely witnessed a Correctional Officer do anything other than what is minimally required to diffuse the situation or lighten the atmosphere when problems occur. Staff exacerbate situations with unprofessional derogatory comments and/or behaviours that illustrate a cold, callous demeanour suggesting that they are not there for assistance, but only to observe, break-up fights, and open and close cell doors. If and when trouble comes (and it likely will), one does not ask for help nor seek it because of what has been explained above, and the consequences associated with being identified or labeled as a ‘rat’ or ‘snitch’. At the end of the day one must handle their situations alone.

Gangs are rampant throughout State correctional facilities and if you are a gang member you will only seek assistance from other gang members.
Unfortunately, no matter how hard one may try to avoid problems, it is likely that at some point in their ‘bit’ that trouble will come. When this happens, one will have to stand up and fight for what is theirs, give it up willingly or have it taken by force. That is just the way it is for most prisoners confined in a maximum-security prison in the New York State prison system.

It has not been my intent to paint only a one-sided picture of prison life, but to provide the perspective of an individual on the confined side of the bars. It is very difficult to be impartial. As previously stated, there are therapeutic programs available to assist prisoners like myself who wish to make a change and start the process of rehabilitation. Those who choose to begin this process can take advantage of programs like ASAT [alcohol substance abuse treatment] and ART [aggression replacement training], and by participating in self-help groups and by staying disciplinary free among other things.

However, in regard to the NYS DOCCS program services as depicted online and in the literature, there seems to be some question as to availability and timeline in reference to accessibility of the stated programs. Where it is written that they are available, there is no mention of the lengthy waiting periods between one’s entry into DOCCS and the onset of active rehabilitation/therapeutic programming as directed by DOCCS staff. For many prisoners, this lapse in time and continued exposure to the prison mentality and treatment previously stated can create the potential for a person to become ‘hardened’ and no longer interested in, or receptive to, constructive rehabilitative concepts. For many, the lapse is in years not months.

I understand that this has been a lengthy preamble to the main subject of my reentry and reintegration struggles. As previously stated, I believe that is necessary so as to give the reader the means to more effectively comprehend how the years of being confined in this environment I have just described can inhibit one’s ability to make a successful transition from the lifestyle and mindset of a prisoner to that of a civilian. Personally, I have lost just about everything that was ever important to me. This not only includes my freedom and the opportunity to raise my children, but also my dignity, and to some degree, my self-worth. In one of many status degradation ceremonies (Garfinkel, 1956), every time that there is a shakedown or cell search, I am made to strip naked and expose myself to a corrections officer that is younger than my last born child and I am reminded of what I have lost. I am also reminded of what I so selfishly and willingly sacrificed by
the choices I made, and that it was those choices that put me into situations where I am subject to degrading and humiliating treatment, and that it is only I, with the help of others, that can change this. Thus, my endeavour to address the struggle I have with the re-entry and reintegration process now, approximately one year prior to my earliest release date and enhance my chances for successful re-entry and break the cycle of recidivism that has kept me in chains for decades.

From my prison cell, I wonder how I can effectively convey the difficulty of release from a maximum security prison to a reader who has never before experienced incarceration. I wonder how someone can fully comprehend the tremendous amount of fear, anxiety, and stress that is created by the cultural shock and sensory overload that accompanies the actual ‘event’ of release, which I commonly refer to as ‘the Star Gate’. In order to better understand the significance of the ‘Star Gate’ phenomenon, I request that the reader take all of the things I describe about daily prison life into account to consider how this shapes life after release and the impact years of imprisonment may have on an individual psychological state upon release, and how this may in turn hinder a successful reintegration.

As Munn (2011) noted in her essay on the impact of lengthy incarceration on prisoner resettlement, there is a big difference between the initial release/reentry from that of the reintegration process. I hope to make differences clear in the remainder of this essay. There are a couple of important factors that need to be considered when taking into consideration these differences. For myself, the most significant factor is to recognize that the release/reentry itself is an ‘event’, and it happens instantaneously, where the reintegration back in the community is a process that takes time.

Here, I want to highlight a few of the areas, which I think dramatically influenced my lack of success in reintegration after release from prison. I want to first discuss the difficulty of release, then I want to briefly discuss mental health and lack of state support.

When the release event occurs and one steps through the ‘Star Gate’, senses that had been dulled or unused for years are bombarded within minutes by outside stimuli and flooded with emotions. For many like myself, this creates the potential for sensory overload, and without assistance of some kind of safety net in place, it could lead to some unhealthy coping mechanisms that may also be violations of one’s release conditions (alcohol or drug use, isolating, outbursts and/or other types of unacceptable coping behaviours).
When I was released on a Friday morning in August 2007, I stepped through the maximum-security prison gates and found out quite quickly that everything I had known and left behind six years prior had vanished.

Sights, sounds and smells exploded all around me in what Grassin (1983, p. 1451) referred to as “hyper responsivity to external stimuli”. Even the next day my senses were continually bombarded with outside stimuli. The world that I had just stepped into was a world that I no longer knew or understood. Walking into a convenience store for the first time was like walking into some kind of dreamscape – the smallest most insignificant things had advanced so much that I had a lot of trouble trying to figure out how to operate the coffee urn or the microwave. The things that were familiar to me were gone. Being confined in prison is almost like being in a state of suspended animation in regard to civilian societal communication. People, places and things change with time, so the cars appeared different in the street and seemed to have somehow morphed into a landscape that had become alien to me. Everyone had cell phones, but prior to my arrest they were considered a luxury for the rich. The places where payphones were used seemed to be vacant. The things that I had become accustomed to receiving from the state (e.g. food, clothing, transportation, and personal hygiene products), I now had to find a way to pay for. There so much to adjust and adapt to immediately upon release that things began to pile up on me right away.

The computer age had arrived and websites on the internet were common social meeting places. I needed to figure this out in order to do job searches or apply for work. Like many other acts, computer illiteracy is a major obstacle for those re-entering society because the DOCCS does not give computer access to prisoners – even those who are about to be released so that they may be properly instructed in how to use them. I felt this disadvantage as I tried to learn how to use a computer or activate a cell phone. Constantly I was reminded of how much I had lost, forgotten or needed to learn. The simple and most menial tasks became complex endeavours and began to take their toll. I was brought to the brink of an emotional and psychological breakdown within the first 24 hours after release.

My mental health was compromised during this release process and this was exacerbated because of my previous mental health issues. If any ex-prisoner has a serious mental health disorder, a pre-diagnosed alcohol/chemical dependency and/or all of the above, these added psychological
disadvantages create an even greater struggle for those experiencing the ‘Star Gate’ phenomena, especially if it is the first time.

In my particular case, the difficulties experienced increased and so did my feelings of becoming overwhelmed. I chose to self-medicate with alcohol. I realized I was in trouble psychologically and that I was violating the terms of my release by consuming alcohol. I needed help so I picked-up the phone and called the parole office. However, because I was released on a Friday and it was a Sunday, no one was available at the Area 1 parole office in Rochester. I was desperate and so I called 911 and I was connected with lifeline. After some discussion, it was decided that I needed to be taken to the hospital under the Mental Hygiene Law (2005). Article 9 of this legislation states that:

The director of any hospital may receive as a voluntary patient any suitable person in need of care and treatment, who voluntarily makes written application therefor… the director may retain the patient for a period not to exceed seventy-two hours from receipt of such notice. Before the expiration of such seventy-two hour period, the director shall either release the patient or apply to the supreme court or the county court in the county where the hospital is located for an order authorizing the involuntary retention of such patient. (New York State Assembly, N.Y. Mental Hygiene Law, 2005).

Once my psychiatric evaluation was completed, it was determined that I was best suited for the ‘strong ties’ outpatient service program and I was put in touch with them immediately. I then spoke to my Parole Officer at length and discussed my circumstances and situation. I was informed that because I had asked for help they would not enter a technical violation into my file. However, upon my release from the hospital, this decision was reversed and a more senior parole officer had me returned to prison for another year. This was a pattern that continued in my subsequent releases. Indeed, this re-incarceration focus receives praise as is evidenced by the following quote from Tom Herzog, DOCCS’ Deputy Commissioner for Community Supervision:

By determining the appropriate intensity of supervision, strictly enforcing parole conditions, and reinforcing reentry goals, the steady number
of parole violator returns points out that New York’s parole staff are vigilant in their efforts to supervise parolees and maintain public safety by returning parolees to custody on parole violations before there’s an escalation of committing new crimes (Department of Corrections and Community Supervision, 2014, p. 2).

I could go on and on about the specifics of each release and subsequent violation and return to prison but I am confident that the reader is able to get the gist of my story. Essentially, I had been released with no programs, no alternative to incarceration initiatives and no other remedy except to return to corrections. I take full responsibility for the choices I made but my point is that there should be alternative measures for non-violent technical violations because for me the response of the state has always been returning me to prison. I do not consider myself to be a bad man trying to be good, but instead to be a sick man trying to get well. I have been clean and sober for 28 months and am working with mental health services while incarcerated in order to find a means to manage my symptoms. I fully intend to break my cycle of recidivism upon release, but state support would be helpful.

One of the greatest misconceptions that I had when I was first released was the idea and belief that my parole officer and the state division of parole as a whole were to be part of the solution to my recidivism problem, and that they would be a positive influence on my reentry and reintegration attempt. I had assumed that my parole officer would work in concert with my outpatient Mentally Ill Chemically Addicted (MICA) team, but that was simply not the case. It seems to me that the division of parole are there to supervise and to violate and to think they do anything else is an unrealistic expectation for a prisoner to hold. Though assistance with the reintegration process may be part of their job description, in my experience, it is not a regularly practice procedure. It seems to me that a great deal of the parole division’s time money and resources are directed towards the supervision aspect of their duty (i.e. residential approval, release investigation, curfew enforcement, office reporting, urinalysis and home visits).

Though it is possible to address and then overcome this dilemma with good pre-release preparation and a solid release/reentry plan, it is important to recognize and understand that each new release (where applicable) presents a brand-new experience. Just because one has stepped through the release ‘Star Gate’ before does not negate the creation of a new set of emotions associated with one becoming overwhelmed. Even with a good
comprehensive preparation plan it is virtually impossible to be completely prepared for the actual ‘Star Gate’ event. Think of it this way, is there really any way to be totally prepared to jump into ice cold water?

The phenomenon I have just described has been a great struggle for me to overcome. When I have been able to adjust to the initial shock of release in a positive context, I learned soon thereafter that that was only the beginning of many obstacles I would need to overcome in order to successfully reintegrate back into the community, of which to date I have repeatedly failed to accomplish. It seems that some States, along with the federal level of government have recognized that more support and resources are needed if our society truly wants to reduce recidivism rates and increase the chances of reintegration. In 2008, the Second Chance Act was passed which has allowed federal grants to be used to support services that help the transition back to the community. These grants have been used for a variety of initiatives to improve employment training, to increase the availability of substance use treatment, to provide educational opportunities and improved housing for ex-prisoners. Some grants have been used to support the families of current and former prisoners, and to offer mentorship in the hopes of improving the transition to the community after incarceration. According to the Council of State Governments Justice Center (2014, p. 16): “as of September 2013, Second Chance Act programs had served nearly 90,000 individuals across 49 states and the District of Columbia”. However, given the sheer number of people being released from prison in the United States today, this opportunity is a drop-in-the-bucket compared with the number of people who, like me, need this post-release support and are not receiving it.

REFERENCES

Diaz v New York State Board of Parole, [2013] NYS 2d 838.


ABOUT THE AUTHOR

Jeffrey Bliss is a 50-year-old male who has been involved with the criminal justice system for over 35 years. He is a high school graduate who has pursued higher education through college programs offered to the New York State prison population until they were disbanded in the 1990s. During his lengthy incarceration he has completed various training programs (including the Counseling Aid II program) that allow him to do peer counseling and help facilitate groups inside the prison.
I got up to get ready for breakfast. I felt tired. I had not been sleeping well for the last few weeks. Ever since my cell had been “trashed” by the I.S.U. (Institutional Security Unit), I had been feeling other prisoners looking at me differently. Even worse, guards were treating me with animosity. They are supposed to be professional and treat all prisoners with dignity and respect (for the money they get paid, it is the least they could do), but most are far from professional.

After I came back from breakfast, I read a book for one of the classes I was taking, wrote some letters and kept busy until I had to go to work. I was at work for less than 20 minutes before my supervisor came and told me that I had to report to my wing guard, because he had called for me to take a “random” mandatory drug test (urine test). How random can they be if this was my third test in six months? I have never used any illegal drugs and I keep getting tested, while active, well-known drug users never get tested. I am sure they have a database of who has been tested and who has not. Perhaps the reason certain individuals never get tested is because some corrupt guards are the ones bringing in the drugs.

So, I went back to my wing. As I got closer to the office, I overheard the two wing guards having a conversation, “I can get 1000k with overtime” one of them said proudly. The office door was open, but I knocked to let them know I was there. When the guard saw me, I said, “I was told you called for me”. “Are you ready to piss?” was his quick, sharp response. “Because I don’t have the fucking time to wait for your fucking ass to feel like fucking pissing and shit” he continued.

I remained quiet, trying to figure out the reason for his deep anger. Sadly, his attitude did not surprise me. It was normal for him. One day I was in the dayroom and I witnessed what sounded like a prisoner argument right before a fight. I heard a lot of offensive, vulgar insults getting louder and louder. When I turned to see who was yelling like that, I discovered it was that same guard threatening to beat up a prisoner. I was surprised because the guard sounded like a common street thug. On the other hand, the prisoner kept his cool but also kept his arms in a defensive position, just in case the guard followed through with his threats. In a way, I felt sorry for the guard. I mean, he is free to go home, so why the bad attitude? If my job ever made me hate life that much, I would simply quit or at least take a few days off, but this guy was here all day and sometimes he even worked double shifts. I am not
saying he worked a couple hours overtime. I am saying he worked two eight hour shift in a row on a regular basis. Life is too short to be mad at everything.

When he had finished his cursing, I said, “You called me for a test. I came right away because I’m ready”. “Okay, get ready. Wait for me in the fucking restroom”, he responded. The single restroom/mop room was a 2’ x 9’ common area for over 300 prisoners to use when they were not in their cells, and consisted of one toilet at the back end, one floor sink to wash the dirty mops in by the entrance and a rack on which to hang six wet, stinky mops on the side wall. When I walked into the restroom, the first thing I noticed was a foul smell and water all over the floor. The barred windows were covered with plywood, so there was no air circulation, which made the smell of urine worse. So I got out and waited outside, away from the door.

A second guard approached me and told me to get in the restroom. Then he told me to remove my pants and my shirt. I told him to let me out of the restroom to take off my pants. I did not want my pants to soak the restroom “juices” off the floor. The guard did not seem too happy, but allowed me to take my pants off outside. I hung my state-issued blue pants and shirt on a gate outside, and walked back into the restroom, ready for the test. The guard handed me some purple latex gloves and told me to put them on. I guess they did not want me to touch my own penis with my own hands.

I asked the guard for the test container, but he said we needed to wait for his partner, the one with the eloquent speech. “Do you need two of you to watch me urinate?” I asked. “Yeah, that’s how we have to do it” he retorted. I wondered if all of this was because of my recent encounter with the Security Unit.

So, there we were, he standing at the door looking at me and I standing in front of the toilet wearing a white T-shirt, white boxers, white socks, boots, and a pair of stylish purple latex gloves. The guard was staring at me, watching me as if I would take off running to avoid being tested. Where would I go? This was ridiculous!

After about five minutes of standing there, taking in the sour smell of prisoner urine on the floor, I told the guard that I would wait for his partner outside. So, I got out of the small, smelly torture chamber. A couple more minutes passed and I kept waiting, so I decided to put on my pants so I would not be standing in the dayroom wearing only my boxers. Five minutes later, the other guard finally arrived. He was carrying what appeared to be a 4 oz. urine container inside a sealed plastic bag, and two pre-printed matching sticker labels, one to go around the cup and the other to seal the lid to the cup so that the urine sample did not get mixed up with someone else’s urine.
“Okay, get in the fucking restroom!” he barked. I proceeded to take off my pants right there. When he saw me, he yelled again, “What the fuck are you doing? Get in the restroom first!” I explained to him that I did not want to mop the floor with my pants. He did not like it and continued yelling and cursing. He kept at it until I got inside the restroom.

Once inside, he told me to take off my T-shirt too. “Why?” I asked as I lifted my T-shirt thinking that that would suffice, but he insisted I needed to take my T-shirt completely off. “You’re gonna be there watching me urinate into the cup, right? Why do you want my T-shirt off?” It did not make sense to me, but he insisted. So, I walked out of the restroom again to take off my T-shirt to hang it with my shirt and pants. Once again, the guard started yelling and cursing. Then, I also took off my socks. I did not want to go in and have to come back out once again. When he noticed I was taking off my socks, he yelled, “You don’t have to take off your socks! Come on!” But I was already done.

So, I walked inside the restroom once again. This time, I was only wearing my white boxers, my brown leather work-boots and the fancy latex purple gloves. He handed me the plastic container and told me to go ahead and piss in it. I unscrewed the lid and turned around to urinate, but right away he yelled, “No! No! I need to see you pissing in it”. “So, what was the point of taking off my shirt and pants if you’re gonna be looking at my penis urinate inside the cup? It doesn’t make sense”. They stayed quiet. They knew I was right.

At that time, I was getting tired of their lack of common sense and I realized they did not care so much about the drug test. What they really wanted to do was humiliate me. Even though they had the authority to make me take that test, I would not give them the satisfaction of reacting in the way they wanted me to.

So, since they wanted to see me urinate into the cup, I confidently pulled my boxers all the way down to my knees, spreading my legs so that my boxers would not fall to the floor, and walked four feet towards them (like a penguin). They took a step back, unsure of my intentions. Then, I put my penis inside the cup, right in front of them so they could see me better, since they seemed so eager to see the flow of my urine filling up the cup. When I filled the cup up to the rim, they told me to put the lid on. I did and took off my gloves. “No! What are you doing?!? Keep the gloves on! You need to rinse the cup in the sink! Fuck! I need to get you another pair of gloves” he exclaimed pissed off. I stopped him. “I don’t need gloves to rinse the cup.
The cup is clean, plus it’s my own urine”. Then I added, “Plus, I couldn’t feel anything with the gloves anyway”.

Grabbing the container, I rinsed it with cold water. When I was done, the guard handed me a couple of paper towels and told me to dry it off. When I finished, he took the container back. At this time, my boxers were still down to my knees, but I did not care. I stood right in front of him and placed my hands on my waist, waiting for him to tell me what else he wanted me to do.

As I stood there, he peeled off one of the pre-printed name and serial number sticker labels and stuck it on the cup. Then he peeled off the other sticker to seal the cup, and said, “Your prison number is J256–”. “No!” I stopped him right away. “Yes! Your number, is… J256–” he yelled again. “No!” I stopped him once more. “That’s not my number!” I said as he retorted, “Isn’t your number… Ummm J2–”. “I know what my number is”, I stated. “That’s my cellmate’s number! You dumb ass!” (Well, this last statement, I actually did not say, of course. I only thought it).

He had not bothered to read the label before calling my supervisor to send me back to my wing. Thinking about my recent encounter with the “Security Unit” and the cell number, he had assumed that the urine test was for me. His prejudice toward me had flown so naturally, like the urine I had provided for them. I grabbed the cup from his hand, opened the lid, and emptied my bodily fluids into the sink. Then I lifted up my boxers and I walked out of the restroom without saying a word. I did not have to say anything.

When we believe only the things we want to believe, we end up wrongfully judging and punishing others. Many times, we take action without actually knowing the true facts of a situation. Just because something may seem a certain way does not mean it is. Our prejudice gets in the way of wisdom, and we do not care to find out the facts, even when we have the facts in front of us, naked for everyone to see.

ABOUT THE AUTHOR

Victor Becerra is incarcerated in California. He can be contacted at:

Victor Becerra, K09324
CTF-Central
P.O. Box 689
Soledad, California 93960-0689
USA
INTRODUCTION

The very concept of “being a man” has always implied that, when necessary, men can take action that breaks the law.


Women who have committed violent crimes have historically been constructed as the antithesis of femininity, whereby their womanhood is challenged by their characterization as dangerous women.


I contrast the above quotes from American, black, feminist theorist bell hooks and Canadian, feminist criminologists Jennifer Kilty and Sylvie Frigon to illustrate how in our patriarchal world, male actions are seen as inherently lawful even when they violate written laws, and how violating laws can strip a woman of her femininity to leave her branded “dangerous”. This article is part of my ongoing efforts as a wrongfully-incarcerated survivor of male battering to deconstruct the ideologies and systems of oppression responsible for the above misogynist worldview and practices. My goal is to eradicate them.

I have partially situated myself above, but let me add that I am a white, doctoral-educated, feminist media scholar with 22-year-old repetitive strain injuries (RSI) in my hands, arms, neck and back dating back to the inherently injurious duties of newspaper copyediting (Marston, 1999; also see Pascarelli and Quilter, 1994). The Austin, Texas police found my abusive ex-boyfriend and his best friend trying to kill me on 13 January 2004 and found that friend on top of me grinding my face into the cement and smothering me on 13 December 2004. Both times the police arrested me, the victim, despite seeing these men trying to kill me – which is known as a “crime in view” mandating arrest under the warrantless arrest provision (chapter 14) of the Texas Code of Criminal Procedure.

The Texas Council on Family Violence reports that the Texas police have a deliberate, unique pattern of arresting battered women instead of male batterers at least 20 percent of the time on a “domestic-violence call” – where this misogynist atrocity happens 3 percent of the time in other states (Marston, 2010; 2011, 2014a, 2014b). I clearly have lived the assertion...
made by hooks that men can break the law, with the support of the system that is supposed to enforce the law. Despite their knowledge and viewing of photos of extensive injuries inflicted by my battering ex and his friend, and despite admissions by the police and my batterers that the police found my batterers on top of me, the District Attorney (DA) actually characterized me as “deranged and dangerous” – while she asserted the (false) victimhood of my batterer and portrayed his friend as a hero.

**FEMINIST METHOD**

I position myself as a feminist researcher who had her PhD and a research record before her arrests. I earned my PhD in 2000 and was an internationally published and presented expert on repetitive strain injuries (RSI), LGBTQ and disability rights, and newswomen (see, for example, Marston, 1999a & 1999b). In 1998, I garnered a research award from the Association for Education in Journalism & Mass Communication (AEJMC), the largest journalism educator association in the United States, for my preliminary, feminist, ethnographic work on college newswomen learning work practices and work ideologies that were damaging to their bodies (Marston, 1998).

This article is a blending of feminist narrative, journalistic, and ethnographic techniques used to situate myself within my ongoing efforts to make personal and academic sense of my experiences. Feminist epistemologist Sandra Harding (1987, p. 3, original emphasis) argues that traditional epistemologies systemically “exclude the possibility that women could be ‘knowers’ or agents of knowledge”. Feminists have, thus, proposed alternative theories of knowledge that legitimize Others as knowers, namely those who are not white, upper-class, able-bodied, heterosexual and male (ibid).

Since these categories of identity are so important to each researcher’s frame of reference in research construction and method, Harding argues that the best feminist analyses, as well as the best analyses from any research perspective, should insist that the researcher be placed in the same critical plane as the subject matter so that others can decide for themselves the bias inherent in the entire research process. I have already situated myself above.

As someone trained in feminist ethnography, I studied with Laura Lein and Elizabeth Fernea at the University of Texas at Austin and Margery Wolf at the University of Iowa. I have been puzzled at the usage of the term “autoethnography”, including by convict criminologists, because as a feminist, I already situate myself in my work. As a journalist, I
learned nonfiction writing techniques in high school and college, then honed them with a narrative study of women journalists’ experiences with and definitions of sexual harassment (Marston, 1993) and my feminist ethnography of college newswomen (Marston, 2000). I agree with anthropologist Liz Bird (1987) and media scholar Paula S. Horvath-Neimeyer (1990) that there is much shared between these methods and writing styles, as well as much that journalism and anthropology have yet to learn from each other. I argue that anthropological methods and cultural context are crucial to writing from a feminist perspective (Marston, 1996).

Ethnography is a method and a form. I endeavour to write clearly to make my work accessible, minimize jargon and so on. The bodily experience of writing this article with RSI has included musculoskeletal pain in my hands, arms, neck, and back, and eyestrain. This began as a paper typed on a typewriter in prison. It was revised on a computer at home, with use of reading/writing stands so I can stand as I work. However, upon my release from prison in July 2014, my old, voice-recognition computer from 1995 no longer worked. So, I had to key by hand at first and this journal had to get Gabrielle Pilliat, a graduate student who volunteers for the Journal of Prisoners on Prisons, to key my paper into a digital format. I wake frequently at night, unable to sleep from pain in my hands and my neck. X-rays in December 2014 revealed that I have completely lost the cervical curve (a.k.a. cervical lordosis) in my neck. As I revise in 2015, the state finally purchased a replacement computer that I am relearning voice software on.

All texts are constructed through the lens of their writers, which has been debated extensively in anthropology (i.e. Behar and Gordon, 1995; Clifford and Marcus, 1986; Wolf, 1992). Feminist anthropologist Margery Wolf (1992) believes that very few anthropologists read ethnography for their form, but instead for their content. She reminds us that as feminists, we have a responsibility not to use obscure forms, which will make our work accessible only to other academics. She goes on to say “[e]xperience is messy” and “[w]hen human behavior is the data, a tolerance for ambiguity, multiplicity, contradiction, and instability is essential” (ibid, p. 129).

As someone who loves doing research “at home”, feminist sociologists Patricia Hill Collins (1986) writes that being an “outsider within” mainstream, white, male, (able-bodied, heterosexual, upper-class, academic) culture can help offer a critique of that culture. This is not an easy task. Diane Bell (1993) could not escape gender relations at home in Australia, where she
was sexually harassed by male activists and had an article removed from a legal journal prior to publication because of her own activism.

Feminist, disability theorist Susan Wendell (1989, 1996) writes that the oppression of people with disabilities and of all humans based on their bodies comes from the hiding of bodily experience – which is why many often fear illness and death. She believes we need to create a “language of the body” to share bodily experiences and reduce fear and oppression. Nancy Mairs (1996, p. 60), for example, argues that she always writes consciously “as a body” and that this exiles her work “from conventional academic discourse”. She calls one of her anthologies, *Carnal Acts*, to reveal the act of her body emerging in her writing through her life experience with multiple sclerosis (Mairs, 1990). I strive to create my own “language of the body” and agree with sociologist and media scholar Gaye Tuchman (1991, p. 92) when she feels “extended participant-observation method is for the young” because of the physical strain of long hours of observation and note-taking. I would add that this is true of any form of research, which requires a lot of sitting and writing, and I had to take that into consideration as a person with a workload disability while doing ethnography and while writing this piece.

Ideally, this article attempts to educate and prescribe solutions to my case and the cause of wrongfully-arrested battered women in Texas by contextualizing within increasing male violence, as well as police and prosecutorial collusion with it.

I will focus primarily on building my theoretical framework via a feminist literature review to weave a multiaxial analysis of white, capitalist, patriarchal violence as the natural extreme of socialization in our society. Then, I will discuss how the criminal justice system interacts with these patriarchal biases to women versus men. My hope is to review literature for a subsequent study of media coverage of recent trends of normalization of male violence in the United States, including: mass shootings (including at public schools), and military men’s and football players’ violence against women.

### FEMINIST THEORY, IDENTITY AND CRIMINALITY

White supremacy has taught [adult, white males] that all people of color are threats irrespective of their behavior. Capitalism has taught him that, at all costs, his property can and must be protected. Patriarchy has taught him that his masculinity has to be proved by the willingness to conquer fear through aggression.

In the introductory quote to this paper, hooks makes a statement about what constitutes “maleness” in the American culture, vis-à-vis the legal system. This maleness cannot be separated out from the influences of white supremacy, capitalism, and the patriarchy, as she deftly adds above: white, capitalist, and patriarchy are all identities of violence. hooks comes to this topic as a survivor of childhood abuse, using her personal history in an attempt to unpack the concept of “love” and how we can still seek it in such a world. She argues that we need to understand “the way power and privilege are accorded men simply because they are males in a patriarchal culture” (ibid, p. 37).

hooks then microanalyses men and how, as boys, they are socialized into numbing their feelings, distancing themselves from others and learning to lie. On the macro, cultural level, hooks asserts that this socialization escalates pervasive male battering and rape of women. “Love and abuse cannot coexist. Abuse and neglect are, by definition, the opposite of nurturance and care” (ibid, p. 6). She gives, as an example, the man who batters his children and wife as he passionately “proclaims he loves them” (ibid) – this is one of our culture’s patriarchal lies. When my most recent batterer heard in Spring 2000 about a prior boyfriend who beat me on my 20th birthday, he cried as he said, “Cathy, I would never hurt you. I love you”. Yet the man who said that proceeded to punch, shake, choke, and verbally abuse me and injure my dog when he and I lived together in 2000-2001. He is the one who nearly beat me to death, breaking my foot, from about 11 p.m. on 12 January 2004 until somewhere after midnight on 13 January 2004 – then went to get his best friend to join in so that the police found both of them on top of me.

hooks explains this contradiction between the batterer’s words and deeds as such: “Too many of us need to cling to definition of love that either makes abuse acceptable or at least makes it seem that whatever happens was not that bad” (ibid, p. 6). She blames “other males and sexist mothers” for teaching boys to “mask true feelings” (ibid, p. 38). Zachary Shore (2008, p. 38) calls this a lack of “emotional literacy” in boys; and hooks credits it with creating in boys “an inability to assume responsibility for causing pain” (ibid, p. 39). This is especially true in how men victim-blame women “in cases where men seek to justify extreme violence toward those less powerful” (ibid).
Ellen Pence (2011) co-created “Turning Points: A Non-Violence Curriculum for Women” taught in the Batterer Intervention & Prevention Program (BIPP) for women, such as myself, who are court-ordered via civil, protective-order cases or criminal-court, jail-diversion programs. She stated in a DVD that she has never heard a male batterer refer to his victim by name; that he Others the victim by calling her “crazy”, “bitch”, or some other derogatory term to dehumanize her so he can justify beating her. I have been called that and more by my batterers and I have been called worse by the prosecutors who also sought to distance themselves from my victimhood to justify false prosecution.

In a review of Margarita Pisano’s, *El triunfo de la masculinidad*, Natalia Thompson (2012, p. 8) agrees that “masculinity” is a “super-ideology” that “has adopted patriarchy’s sinister standbys such as narratives of conquest (whether on the battlefield or in bed)” to create a misogynist apparatus “more hidden and more devastating than that of old-school patriarchy”. Thompson argues that “histories of colonization and recent neoliberal projects” create “una cultura del dominio” that has “dismembered women’s bodies (literally and figuratively) and deformed social movements” (ibid).

Feminist, disability theory has informed my view of identity and social constructs such as “gender” and “crime” with arguments such as that of Canadian, feminist, disability theorist Susan Wendell (1989, p. 107) that “disability is socially constructed from biological reality”. American, feminist, disability scholar Rosemarie Garland Thomson (1997, p. 6) agrees, adding: “disability . . . is the attribution of corporeal deviance”. It is a value-judgment, as is the dualistic constructs of gender or of criminal (versus noncriminal). Wendell (1989, p. 111) argues that oppression of people with disabilities comes from able-bodied people not wanting “to know about suffering caused by the body” just as hooks argues that men do not want to know about women’s suffering, or even their own emotions. Thomson (1997, p. 41) goes further to say that disability subverts the liberal, American ideal of becoming master of self: “The disabled body stands for the self-gone out of control, individualism run rampant” (ibid, p. 43).

I have argued that psychiatry was legitimized solely to create mythic, mental maladies—all social construct without biological reality to continue to oppress women after the burnings and hangings of the Inquisition/ Burning Times fell out of favour (Marston, 2011; also see Savage, 2000). Susan Faludi (1991) traces the history of the American Psychological Association pathologizing and victim-blaming female, battering survivors
via diagnoses: first as “masochists”, then as having “Battered Women’s Syndrome”. Meanwhile, there is no diagnosis for male batterers, of course. Unless one counts so-called “Posttraumatic Stress Disorder”, which is often used to excuse the conduct of male soldiers who return home and beat and/or kill their female, significant-others. I resent any suggestion that I have some mythic, mental malady because I was beaten and nearly killed repeatedly.³

Feminist criminologists Jennifer Kilty and Sylvie Frigon (2006, p. 44) argue: “Syndromizing women’s actions [Battered Women’s Syndrome] may lead to an increase of the power of such psychiatric diagnoses which explain women’s behaviour as disorderly rather than reasonable”. A reminder that women defending ourselves via our state’s self-defence statutes is our right, not the deviant behaviour the justice and media systems of patriarchal culture portray it as. Battering is the crime.

**WOMEN, VIOLENCE AND THE JUSTICE SYSTEM**

“[E]ven by conservative FBI statistics, if you add up all the women in the U.S. who have been murdered by their husbands or boyfriends since 11 September 2001 – and then add up all the Americans killed in 9/11 plus the wars in Iraq and Afghanistan – many more women have been killed by their husbands and boyfriends, yet we put much more thought and money into ending foreign terrorism than into ending domestic terrorism” (Steinem, 2014, p. 31). In her speech accepting the Presidential Medal of Freedom, American, white feminist Gloria Steinem reminded us that the “causes of violence” are not “distant”. The above compares women’s death-by-male-significant-others with civilians and soldiers killed by “foreign terrorists” since 11 September 2001. Clearly terrorism is something American males inflict on women, in terms of policy and funding priorities.

However, the justice system does not see it that way. My experience as a wrongfully-convicted, battered-woman educated me to the fact that women are supposed to settle for less from the justice system, just as we are supposed to settle for less pay at work and the like. Regarding violent, criminal conduct against women and the language used to describe it, feminist, media scholar Marian Meyers (1994, p. 47) prefers to use the term “battering” because “terms such as... domestic violence obscure the relationship between gender and power by failing to define the perpetrators and victims”. Feminist philosopher Mechthild Nagel (2013, p. 155) adds to Meyers’ observations: “labeling something as ‘domestic’ has the ring of ‘harmlessness’”. Considering the
femicide statistics, and the fact that men batter a woman every 12 seconds here in the United States (Jones, 2003, p. 449), many men – by definition – are violent and harmful terrorists of women.

Nagel discusses the attribution of deviance and gender dating back to the 1804 Napoleonic Code, in terms of influences on our legal system, the Code relegating women to the same status as “children, felons, and the insane” (LeGates, 1995, p. 496, as cited in Nagel, 2013, p. 150). Nagel then shows the similarity between Judge William Blackstone’s “Unities Doctrine” in family law informed by the white, capitalist, Christian patriarchy – and Muslim “Shar’ia law” and veiling of women. Both involve the wife being “covered” under the husband/male and being seen as chattel and “civilly dead” (Nagel, 2013, p. 150). Nagel argues that this worldview leads to an erasure of women in the public and legal spheres: a codification of our death-in-life.

If women are, at best, chattel, then: “[h]ow can somebody be castigated as violent if he couldn’t do what he pleases with his property?” (ibid, p. 155). Nagel reminds us that the “rule of thumb” permitting men to beat their wives (with a stick no bigger than their thumb)” was “a compromise solution of the ‘justice system’ that was clearly intent on keeping the woman in a subjugated role” (ibid).

Rape is permissible under this legal worldview. As American, feminist, legal scholar Catharine Mackinnon (1989, p. 179) argues, rape “from a woman’s point of view is not prohibited; it is regulated”. Here, terms such as “acquaintance/date rape” are meant to imbue sexual brutality with that “harmless” air Nagel and Meyer referred to regarding “domestic”. Mackinnon (1989, pp. 180-181) adds:

Many women are raped by men who know the meaning of their acts to the victims perfectly well and proceed any way. But women are also violated by men who have no idea of the meaning of their acts to the women. To them, it is sex. Therefore, to the law it is sex. … When a rape prosecution is lost because a woman fails to prove that she did not consent, she is not considered to have been injured at all. … She had sex. Sex itself cannot be an injury. Women have sex every day. Sex makes a woman a woman. Sex is what women are for. (ibid, pp. 180-181).

…From whose standpoint, and in whose interest, is a law that allows one person’s conditioned unconsciousness to contraindicate another’s
violation? In conceiving a cognizable injury from the viewpoint of the *reasonable rapist*, the rape law affirmatively rewards men with acquittals for not comprehending women’s point of view on sexual encounters (ibid, p. 182, emphasis added).

Mackinnon summarizes by arguing that normalizing sexual violence against women and making it reasonable leads to Othering women by reducing them to “their fuckability” (ibid, p. 183).

U.S. Senator John Cornyn, of Texas, stated in 2012 that there were “upwards of 400,000 DNA swabs never tested” sitting in police rape kits across the U.S. (Capitan, 2012). Ms. Reporter Stephanie Hallett (2011) also reported that there were 22,000 of those untested kits here in Texas, and that when a rape kit was tested, it often identified the DNA of a serial rapist and/or murderers of women.

Hallett and Jeanne Clark (2007) note that male police officers are four times more likely to have active/recent charges for battering women themselves, creating some insight into why police are not prioritizing and showing due diligence to male violence against women. Ann Jones (2003, p. 452) writes that “one 1991 study found that among assaultive men arrested, prosecuted, convicted, and sentenced, less than 1 percent (0.9%) served any jail time”. Contrast that with Dr. Phil McGraw (“Dr. Phil Show”) on 9 November 2011 showing a video of Aransas County, Texas Judge William Adams beating his 16-year-old daughter, Hillary, with a belt as he yelled: “I’m going to beat you into submission!” Her offense? File-sharing on the Internet. Adams response: “I was just disciplining her”. Hillary’s mom, Hallie, divorced Adams for battering her. Adams is a Family Law/Domestic Violence Court judge adjudicating and sentencing batterers like himself.

Of course, that is if the batterer makes it to court. Prosecutors in Topeka, Kansas, claimed their budget was so tight that they could no longer prosecute misdemeanors. So, the DA set free 18 male batterers, according to a 11 October 2011 story on NPR’s “All Things Considered”. A 21 May 2013 story on “All Things Considered” reported that Oregon was cutting public safety jobs to save money which meant that they were not answering 911 calls overnight and on weekends. NPR played a call to the Josephine County Sheriff’s Office at 4:15 a.m. of a woman reporting that her boyfriend was trying to break into her house as she spoke! The operator stayed on the phone with her for 10 minutes. After the operator hung up, he broke into the house and was later arrested for sexually assaulting the caller. NPR quoted
a domestic-violence expert who worried that women were staying with their batterers, because the cops were essentially saying, “If you’re a woman, move somewhere else!”

Police were not interested in the drowning death of Kathleen Salvio until her husband’s next (and fourth) wife disappeared. The man finally tried for Salvio’s death was, of course, her husband and ex-cop Drew Peterson (Associated Press, 2012). Michigan police officer Clarence Ratliff shot to death his wife, Judge Carol Irons. He was sentenced to 15 years for murdering Irons and sentenced to two life terms for shooting at the cops, according to Ann Jones (2003, p. 453). Jones asserts that: “[i]n the scales of American justice, men weigh more that women. Assaulting a man is a serious crime, but “assaulting a woman or even killing her well, that’s not so bad” (ibid). That begs the question, of course, of what happens when women have to fight back to defend ourselves.

Canadian, feminist criminologists Dianne Martin (1999) and Laureen Snider (2003) both argue that females historically were invisible to male criminologists and an afterthought in penitentiaries. In tracing the history of criminology, Snider shows that feminist criminologists had to reclaim criminalized women from male criminologists – who branded her as “inferior” and “defective” and “more terrible than any man” (Snider, 2003, p. 357, citing Lombroso and Ferrero, 1895). Snider (2003, p. 363, original emphasis) argues that “feminist criminology has constituted the fallible expert”. She says that this is the most important implication of that work: “Destabilizing the cult of expertise has been significant in constituting the resistant female offender, providing her with the languages and the legitimacy to dispute the truth claims made about her” (ibid). Women have been over-represented in sex-specific crimes such as abortion, infanticide, and prostitution. Criminalized and incarcerated women were an afterthought in penitentiaries, which were conceived for male prisoners (ibid, p. 357).

In looking at modern punishment of the criminalized woman, Snider examines only leading English-language schools of feminist criminology. She finds that large-scale, quantitative research is more commonly used in the United States. Qualitative, ethnographic studies are more often found outside the United States, particularly in Canada, Australia, and the United Kingdom (ibid, p. 362). The theoretical questions involve two main themes. First, there’s “the generalizability question: “…[C]an male(stream) theories of crime be extended to cover female criminals?” The other theme is what
she calls “the gender ratio issue—why do so few women, relative to men, commit crimes?” (ibid). Snider finds a great pervasiveness of gender bias still in research, “masquerading as gender neutrality and hidden under the guise of science”, meaning that “women, if present at all, are still ‘at best a complicating figure – in the male story of crime’” (ibid). Crime is judged differently, as well:

...rebellion by male subjects is romantic independence, in females it indicates pathology or promiscuousness; legal conformity by males indicates a well adjusted, appropriately bonded individual, legal conformity in women indicates their passivity, lack of independence, or ‘over-socialization.’ (ibid, pp. 362-363)

Martin (1999, p. 186) analyzes the sentencing and confinement of female “offenders”, arguing that they have been overlooked by the criminal-justice system because they represent a small minority of persons charged or convicted. Martin argues that “[c]rime is a masculine occupation. Women are the exception in criminal courts—whether as judges, lawyers, police officers, victims, witnesses, or accused” (ibid, p. 187). Like Snider, Martin claims that women are often treated as anomalies, with consequences:

Sometimes the experiences unique to women are ignored in the name of judicial neutrality, and matters such as pressures from family violence, which should be considered are ignored. At other times, the simple fact of gender is acknowledged as if relevant in itself, and that acknowledgment produces unintended harms by perpetuating stereotypes and reinforcing biases. The identification of difference can also produce overtly harsh sentences (ibid).

Martin says that sentences “intended to deter or reform the male offender too often simply crush or brutalize a woman” (ibid, p. 188).

In studies in the area of gender-ratio, girls were found to receive longer sentences for sexual acting-out that was ignored or admired in boys (Chesney-Lind, 1981, 1987, 1988). Moreover, black and aboriginal women never received less than the mandated quota of punishment (and often got longer sentences served in harsher conditions) (Kruttschnitt, 1981; Spohn et al., 1987). The result, in policy terms, has been ever higher rates of
incarceration for women and girls, “equality with a vengeance” (Snider, 2003, p. 363). Snider summarizes with two points:

First, it is significant that lenience arguments were only, ever always heard as arguments for increasing the punishment of women, never for infusing mercy into the treatment of men. Punishing up, not “leniencing down;” equal opportunity oppression not equal opportunity clemency. … Second the institutional sites where women were subjected to more intensive surveillance, discipline, and punishment than men, many of them outside criminal justice venues, were never deemed problematic (ibid).

She says that women are more likely than their male counterparts to serve time in a locale many kilometers away from friends and family. Fewer job training and educational programs will be available to her, and she will be housed in inferior conditions at excessive security levels (ibid, p. 365). Snider then reports the only way women prisoners are better off than men: “incarcerated women appear far less likely [in US prisons]…to be raped by fellow prisoners” (ibid).

Snider reviews knowledge-claims in feminist and nonfeminist criminology on the punishment of women from 1970 to 2000. She argues that the knowledge claims of critical and feminist criminology are part of the incarceration spiral because the construction of women developed in feminist criminology “have structured the ways in which punishment descends upon them” (ibid, p. 355). She includes an interrogation of feminism as possibly complicit in excessive punishment, which is certainly problematic, because feminism’s “quest was always to liberate women from oppression not merely analyze it” (ibid). Snider asks: “To what degree is feminist knowledge…a component in surging levels of punitiveness” towards women (ibid)?

While Snider deftly handles a large amount of feminist criminology literature and its critique, she says that to understand the “punishable woman”, “scholars must shift analytical attention away from discourses produced and on to those heard, looking beyond deconstruction to political economy” (ibid):

On the positive side, it became clear that feminists in criminology have contributed to the constitution of a self-aware, robust, female offender, equipped with languages and concepts of resistance, on an individual
Snider goes on to argue that neo-liberal regimes have rolled back incremental gains by movements to replace amelioration with punishment – the latter becoming the key function of government.

First-wave, feminist reformers sought to “reform” women to save them from harsh prisons: the keepers were well-intentioned, feminist, liberal reformers whose “reformatories” were created to provide alleged nurturing for our society’s nurturers – a conflict between domesticity and discipline. These reformatories were primarily for white, working-class women convicted of minor, sex-related offenses. This allowed women to have a voice in public discourse as reformers of the prison system. Female staff were controlled and surveilled as much as prisoners (ibid, pp. 358-359).

Snider’s analysis of feminist, criminology literature compared with policy discourse finds two types of criminalized women: the Woman in Trouble of feminist-criminology discourse versus the Female Criminal of policy discourse. The Woman in Trouble (ibid, pp. 364, 367) is poor and “the caregiver, the impoverished, aboriginal and/or victimized woman” (ibid, p. 367). This is the “needy, but not the punishable offender” (ibid, p. 364). Here, she argues, “women’s abuse experiences structure their lives and their offending” (ibid) and means women need healing, not incarceration. Thus, Snider calls the criminalized woman as Woman in Trouble: “a woman of entitlement, one whose crimes have to be understood in relation to her victimization (albeit in a manner determined by penal authorities). Because she has been victimized she is a subject who ‘deserves’ better treatment than she has received. She is entitled to demand more programmes, more healing, less punishment” (ibid, p. 366).

Unfortunately, pointing out difference and need “to guide penal policy in a humane and liberating direction, has been heard through discourses of risk. Thus high need equals high risk equals maximum security confinement for the inmate – in the guise of meeting inmate needs and ‘empowering’ her” (ibid).
Snider credits feminism with altering the worldview of female arrestees/prisoners, and with the fact that criminalized women challenge the claims of “authorized knowers” to create a critical “feedback loop or spiral” where “resistance is now (re)inscribed into patterns of governance” (ibid, p. 367). Victoria Law (2012), herself a former prisoner, is one of the American feminists who documents the tactics of resistance by female prisoners and helps aid those tactics.

Along with the “Woman in Trouble”, Snider finds another “female offender”: the Female Criminal. “[T]he predatory, rational, calculating Female Criminal, the violent gang girl, or the irresponsible, out-of-control Bad Mother/Child Abuser” who is “the woman of policy discourse, the woman who justifies the surge of punitiveness reflected in the incarceration rates” to create an “ever-widening gap between knowledge claims in criminology and official policy” (Snider, 2003, pp. 367-368). This category is the same as Martin’s (1999) “bad” criminalized woman.

The statistics compiled on the increase of incarceration of women are staggering. Sharona Coutts and Zoe Greenberg of RH Reality Check (2015) find that the number of women in state and federal prisons in the United States “jumped by 646 percent between 1980 and 2012 – from around 25,000 to more than 200,000–one-and-a-half times the speed at which the incarceration for men increased during the same period” (p. 1).

Snider (2003, p. 369) looks at international data from the 1983-2003 timeframe and finds “the total number of incarcerated males increased 303 percent from 1980-99, it increased 576 percent for females”. She also finds that “[b]etween 1986 and 1991, African-American women’s incarceration rates for drug offences rose by 828 percent, that of Hispanic women by 328 percent, that of white women by 241 percent” (ibid; also see Chesney-Lind and Faith, 2001, pp. 25-26). Snider (2003, pp. 368-369) comments:

These figures. … force us to ask why the discourses produced by authorized knowers that legitimate less punitive treatment for female offenders are either not heard (as in many American states) or heard in ways that authorize expanded surveillance, repression, and control (as in Canada and Australia). … Part of the answer lies in the triumph of discourses of equality, and the apparent determination of some policy makers and officials to use this idea, this set of knowledge claims, to bring women (back) into line, to ensure that female offenders, in particular, do not ‘get away with anything’.
Some of the effects of liberal, feminist-inspired, “equal treatment laws”, according to Snider, “destroyed ‘early’ parole, and authorized women’s inclusion on chain gangs” (ibid).

New laws on spousal assault worldwide have seen women charged for defending themselves and others charged with contempt of court for their unwillingness to testify against their partners (Snider, 1994, 1998). Meda Chesney-Lind (2002, p. 82) found that pro-arrest policies in the United States, for example, have led to “mutual” arrests (the practice of arresting both the man and the woman in a domestic violence incident if it is not clear who was “primary” aggressor), and that nearly 90 percent of the increase in the number of violent female felons was accounted for by aggravated assaults, likely from increased prosecution of women in battering cases (ibid, p. 85). Between 1990 and 1996 the number of convicted female defendants grew at 2.5 times the minimum rate of increase. Chesney-Lind has a conclusion similar to Kilty and Frigon: “If ‘abuse’ is decontextualized, if the motive of the violence cannot be considered, and if the meaning of the ‘violent’ behavior is irrelevant, then we will arrest girls and women” (ibid, p. 86).

Unfortunately, Snider (2003, p. 369) has to conclude that: “[I]n a culture of punitiveness, reforms will be heard in ways that reinforce rather than challenge dominant cultural themes; they will strengthen hegemonic not counter-hegemonic practices and beliefs”. She says we must analyze continually power relations in academe and public policy to “understand why and how the claims of one set of authorized knowers (… right, realist criminology) ‘grow legs’ and hop off the computer screens… on to the legislative agendas of politicians, while [claims of feminist criminology] atrophy and die” (ibid).

Here, I would add that the advocates of male prisoners end up on legislative agendas, versus those advocating for women. The 2013 Texas Legislature passed a bill to legalize sex between adult males and teenage girls, as long as there was no more than a three-year age difference; this bill was flippantly called the “Romeo and Juliet bill”. Fortunately, Governor Rick Perry vetoed it.

Martin (1999, p. 188) has three, contradictory, stereotypes of female arrestees as “simply sad”, mostly mad” or “basically bad”. With the first group, she believes that has found that it may be possible that certain women receive preferential treatment: attractive, young, and middle class. Otherwise, she argues, the myth of “chivalry in sentencing” is exactly that: leniency may
be more apparent than real “in many cases, the more lenient sentences were quite justified, given the lesser involvement of the woman, or the fact that the crime was less serious than originally described” (ibid, p. 189). The “mostly mad” category is created by a disproportionately high number of women sent to psychiatric institutions due to “the idea that ‘normal’ women do not commit crimes unless compelled to by a man also reinforced the idea that the women who do commit crimes are ‘abnormal’. It is a short step to conclude that they are also ‘sick’” (ibid, p. 189). I found anecdotally that many of the women in my group, Free Battered Texas Women, were psychiatrized by the police or by their own court-appointed attorneys.

Let me explain with my own personal experience in this area. When I met my first, court-appointed criminal attorney on the cause described herein in February 2004, he refused to listen to anything I had to say about my evidence and innocence. “I want you to talk to this psychiatrist”, he said, adding that the DA had claimed that the Sheriff’s Office (who runs the jail) claimed I needed a psychiatric evaluation. I reiterated the need for him to acquire the photos of my injuries taken by the jail staff, by the battered-women’s shelter, and by a law-student acquaintance, as well as medical records from the assault-exam conducted by a local hospital that the shelter had sent me to. He refused. I told him I wanted him off my case. A client’s desire to have her attorney removed creates an inherent conflict-of-interest under Sixth Amendment case law, the provision of the United States Constitution that mandates effective assistance of counsel for criminal defendants.

This attorney refused to withdraw. Then he wrote to threaten that he would have me declared incompetent if I did not agree to his strategy. I filed motions to dismiss this attorney with my three judges in the felony, misdemeanour and protective-order courts. Somehow, the hearing was held only in the misdemeanour court by a judge who denied my request and then found me incompetent at a later hearing. When the other two judges heard my dismissal motion in person for the first time five weeks later, they quickly fired this attorney. However, that was after weeks of suffering daily tackling and forcible injection of a drug that knocked me out because this attorney wanted to control me due to misogynist brainwashing by a DA who did not have a case. What’s my proof? The DA did not go to a grand jury for an indictment until after my own attorney had me declared incompetent – this was one of the factors coercing me into a plea bargain. At that plea setting, the DA had me plead to a nonviolent, criminal-trespass
misdemeanour that I also was innocent of – showing that they knew I had not committed violence and saying: “We weren’t exactly sure she entered with intent to commit assault”. I lost two and a half months on my case while I was being tortured in the so-called state hospital. It was only after the lawyers from Advocacy Incorporated (now Disability Rights Texas) intervened that I was released.

Other battered women I met in the Travis County Jail were also psychiatrized by jail staff and their own attorneys to violate their bodies and presumption of innocence. Rhonda Glover told me she had repeatedly called the Austin police to report her boyfriend beating her and molesting her son to no avail. When he finally pulled a gun on her in the middle of a beating, she wrestled it away from him and shot him to death in lawful self-defense. Yet her attorney had her declared incompetent and sent hundreds of miles away to the Vernon State “Hospital” along the Oklahoma Border. HS was in her 50s and an MBA-holding ranch-owner when I met her in Spring 2005 in the jail. Her much-larger husband had gotten drunk and beat her. She shot at him – nicking his neck so he only required a Band-Aid. This distracted him enough for her to leave. When she went to the police, they photographed her injuries, yet charged her with aggravated assault. The jail staff injected her with Thorazine so she slept for a couple of days and could not call her attorneys to begin her defense.

The third category Martin (1999) presents, that of the “inherently bad” criminalized woman that the courts justify punishing harshly, is the woman accused of committing a violent offense. She is seen as “more deadly than a male” because “violence is seen as contrary to [women’s]… ‘proper’ role as gentle victim” (ibid, p. 190). It is this category that those of us who defended ourselves against our batterers (or defended children or grandchildren) are placed into and the reality of our victimhood is erased to do so. As Merrie Lehning, who is serving a 52-year sentence in Texas for killing her batterer in self-defense, told me: “These people [in the justice system] are trying to erase our pasts and destroy our futures”.

**WOMEN AND SELF-DEFENSE**

The National Clearinghouse for the Defense of Battered Women (NCDBW) (2011) cites statistics from the FBI, *Crime in the United States 1995: Uniform Crime Reports*, showing that female homicide victims are more than twice as likely to be killed by husbands or boyfriends than the male victims are to
be killed by wives or girlfriends (also see Craven, 1996). Ninety percent of female homicide victims in the United States are killed by men, most often by a family member, spouse or ex-partner. Approximately 70 percent of murdered women are killed by a current or estranged husband or lover in the United States (also see Campbell, 1995). Based on the data from the FBI’s Supplemental Homicide Report, in 2007, 64 percent of female homicide cases were committed by a family member or intimate partner. Specifically, 24 percent of female homicide victims were killed by a spouse or ex-partner, 21 percent were killed by a boyfriend or girlfriend, and 19 percent were killed by another family member (that does not include ex-boyfriends).

The NCDBW (2007) statistics on sentencing show that the proportion of female prisoners convicted of violence against intimates who received life terms or the death penalty (33 percent) is higher than for male prisoners convicted of violence against intimates (19 percent). The difference is probably attributable to the higher proportion of female prisoners being convicted of some form of homicide of an intimate (also see Zawitz, 1994). In a review published in 1987 of 100 battered women charged with killing their batterers, nine women pleaded guilty to murder, manslaughter, or criminally-negligent homicide and were given sentences ranging from conditional discharge or probation to 20 years in prison, three entered pleas of not guilty by reason of insanity and were acquitted, and three had the charges against them dropped before trial. The remaining 85 women went to trial on homicide charges, claiming self-defense. Twenty-two were acquitted and the 63 others were convicted of various forms of criminal homicide. Twelve of those women, all convicted of murder, received sentences of life in prison, one without parole for 50 years (also see Ewing, 1987). It is easy to see why someone would take a plea bargain for a lesser sentence, despite innocence.

The California Coalition for Women Prisoners (CCWP) (2014) reports that nearly all (80 percent) of the women in California’s prisons have experienced some form of abuse during childhood or as adults. Over half (60 percent) reported physical abuse as an adult, primarily perpetrated by spouses or partners. Of the 45 women on death row in 1993, almost half (approximately 49 percent) had a history of abuse and were there for killing an abusive spouse or lover. Out of the 223 reviewed appellate opinions of cases where battered women kill their abusers, 75 percent involved confrontations, meaning the woman was being assaulted or abused at the time of the killing. Threats of physical injury, mutilation or death were common among a study of 100 battered women who killed their batterers
between the years of 1978 and 1986. In 41 cases, it was reported that the batterer had threatened to kill the woman at some point in the relationship and 39 women had been threatened or assaulted at least once with a weapon.

As for once these women are arrested and in the justice system, the CCWP find that battered women who kill are either being convicted or taking pleas at a rate between 72 percent and 78 percent nationally. Significantly, CCWP finds that women usually kill men, not women, and women charged with homicide had the least-extensive prior criminal records of any people convicted of crimes. CCWP states that several hundred women in California are serving time for killing their batterers. Hundreds, if not thousands, more are serving time for domestic-violence-related crimes. CCWP shows that battered women who petition for parole are often ignored by the governor. Of those 34 incarcerated battered-women who were assisted by CCWP in 1992 with parole petitions, 24 never received a response.

The Texas Criminal Justice Coalition (2015) mailed surveys to women being held in the Texas Department of Criminal Justice. 421 women submitted completed surveys for review. The majority of these women were white (49.3 percent) and more than 50 percent of them had household incomes of less than $10,000 per year before being incarcerated. The majority were unemployed (47.4 percent) and 35.2 percent had less than a high school degree. Of the 57.4 percent of the women that were abused as a child, 30 percent said they were five years or younger the first time. Those responding to the survey also reported that 62.6 percent of them were physically abused as adults, and only 44.6 percent reported this abuse. These women also reported that 47.5 percent of them said they were sexually abused as an adult, with only 27.4 percent reporting their abuse to the authorities. The survey reports that 82.1 percent of them considered themselves domestic violence victims; and 47.4 percent of them witnessed their mother being battered. Comparable data on plea bargains, parole and the like for incarcerated battered women in Texas is not available.

I have already briefly summarized that the Austin police found my battering ex and/or his friend on top of me hurting me in two separate incidents in 2004 and that they arrest the battered woman instead of the male batterer at least 20 percent of the time on “domestic violence” calls in Texas, according to the Texas Council on Family Violence (2010; 2011; 2014a; 2014b). During the first incident, my ex had shoved my face into the sofa to smother me and I do not know how I am still alive – he completely overpowered me. He then wrapped his arm around my neck in a chokehold. That is when I bit him in
self-defense, which is permissible in Texas if “the actor reasonably believes the conduct is immediately necessary to avoid imminent harm” (TEXAS PENAL CODE, Subchapter C, SECT. 9.22.). If I had not bit him, I would be dead. Yet the State characterizes that one bite as “violent”, while lying that my ex’s 90-minute beating and murder attempt are self-defense – victim-blaming by the State as Big Boy, à la hooks. The beating that followed included him sitting on me after he had taken the phone from me and him hanging up when I screamed for help as the 911 operator answered. The police did not respond. He knelt on my calf to pin me and pounded my back with his fists. When I stood, he grabbed me from behind and I attempted to throw him off. He fell on top of me and bashed my face into the floor. Then he dragged me outside and got his friend to join in.

Self-defense waivers have been the subject of scrutiny in the United States following the killings of multiple, African-American males by nonblack males. MBA-educated Marissa Alexander, an African-American woman, had separated from her batterer, Rico Grey. Yet he broke into the house to strangle and beat her. She broke free to escape out of the garage, but the door would not open. She grabbed her gun and fired into the ceiling, injuring no one. Yet she was the one arrested with aggravated assault. The court would not allow her to use a self-defense argument regarding her shot into the ceiling to scare off her husband, who was a “convicted woman-beater,” according to Annaliza Torres (2014), Victoria Law (2013) and Aliyah Frumin (2014). The court sentenced her to 20 years for aggravated assault when the bullet did not hit him. As supporter Sumayya Coleman observes, “If you get 20 years for defending yourself, what does that say to victims? Let them beat you, your life means nothing” (Slater, 2013).

Alexander’s conviction was overturned in 2013. At that time, her prosecutor, Angela Corey, vowed to retry Alexander and get her sentenced to three, consecutive sentences for 60 years! Despite national outrage, Corey was not stopped. The federal government did not step in. Frumin (2014) writes that in November 2014, Alexander pled out to three, trumped-up, felony charges, and the judge sentenced her to three years in prison. As Alexander had already served 1,030 days on the first case, she was released 27 January 2015. Alexander is being denied the protection of the very “Stand Your Ground” laws that the notorious George Zimmerman used to successful acquit himself in his shooting death of black, male, teenager Trayvon Martin.

My felony prosecutor did a “Motion in Limine” in my criminal trial to bar me from discussing my ex’s battering history, when exculpatory
material cannot be barred in a criminal trial. Without that exculpatory material, I could not put forth a self-defense argument. So, the prosecutor felt she could lie with impunity, while my own attorney was barred from saying I defended myself in the criminal proceeding, even if he had been interested in doing so. I say the latter because he did finally present 28 photos of my injuries in the punishment phase and put me on the stand, but mischaracterized them as my idea of a “catharsis”, and he referred to the beating I suffered as a “scuffle”. Both the felony and the civil prosecutor (on a protective order) reduced themselves to the same “Othering” strategies my batterer used: calling me a “liar” and “crazy”. My own research on sexual harassers found that those who rape and batter employ four strategies when confronted with their misconduct: 1) they lie; 2) they deny; 3) they blame the victim (say she deserved it); and 4) they call the victim “crazy” (Marston, 1993). That is not what public servants sworn to promote justice are supposed to do!

I filed for the transcripts, photos, and other evidence from the civil, protective order proceeding in a timely manner, but they were never provided. I was denied a right to appeal that false order, which was used to construct the felony charges used to imprison me. The DA claimed at the felony trial in May 2005 that the protective order proved I had committed family violence before, when all it proved is that the police, prosecutors, court-appointed attorneys, and judges in Austin and Travis County related to that case were interested in promoting lies and empowering my batterer, along with his friend.

It is no surprise, therefore, that the same 28 photos of my injuries used in my civil case and misrepresented and minimalized by my attorney in my criminal case were gone from my criminal record – as were exculpatory emails – when I finally had the money to pay to replace the free copy that prison guards stole from me in 2006. It is a felony to tamper with evidence in Texas and it is a misdemeanour to refuse to produce public records. I need $25,000 to pay my attorney to write a writ of habeas corpus – I do not have the money.

While I have talked about self-defense, please note that Texas also has a “Defense of Third Party” waiver that many women are arrested under for defending children or grandchildren against imminent harm from batterers/rapists, namely Texas Penal Code, Subchapter C, sect. 9.33. Statistics I have taken of all the battered women I have encountered incarcerated since 2005 to October 2015 on domestic violence-related
cases who report that they defended themselves and/or their children and/or grandchildren show that 77 percent defended themselves, 15 percent defended a third party, and 8 percent did both.

In a book released in 2013, University of Ottawa Law Professor Elizabeth Sheehy says that battered women are “morally entitled” to kill our abusers and compares battering survivors to prisoners of war as “[w]e would never say of a prisoner of war that it’s not just that she or he kill their captor to escape. …We should say you were right to kill to save your own life”. Sheehy goes on to say, “[w]hen women kill to save their own lives, they assert that they matter, that their lives count” (Butler, 2013). Janice Kennedy (2013, p. B7) says that this complex moral position is not handled well in headlines, nor by those who “can’t conceive of self-defence as anything more complicated than an immediate reaction to imminent danger”. Kennedy lauds Sheehy for an exhaustive study with the goal of “the countless ways our criminal justice system fails abused women and our social safety networks fail to find them safe exits” (ibid).

Molly Redden (2015, p. 32) reports that innocence projects “have tended to avoid cases in which the offender knew the victim, because it can be hard to untangle what happened in a domestic crime”. However, she also knows that when women kill, they usually kill someone close to them. The innocence projects operate primarily by reviewing DNA evidence, which is not relevant in battering cases. Karen Daniel and Judy Royal of the Center on Wrongful Convictions at Northwestern University Law School found that in 63 percent of cases where women were convicted, there was never a crime to begin with (ibid). They also found that 37 percent of exonerated women were convicted using false or misleading forensic evidence (ibid, p. 33).

Ms. magazine reported in its Winter/Spring 2014 issue (p. 25) that Italy’s prime minister enacted a 12-point decree to end battering, which is that country’s top killer and injurer of women. Feminist activists there said what is primarily needed is enforcement of existing laws – the same arguments I make about ending wrongful arrest of battered women here in Texas. I believe that male violence against women is an operating ideology that needs to be stopped at its roots in boyhood.

Pamela Colloff (2014, p. 24) has covered the Texas criminal justice system for Texas Monthly. She writes that it is high time for prosecutors to be punished for their role in what she calls the common theme between all the cases she has covered, as “the prosecutors who sought their indictments and secured their convictions should never have tried the cases in the first
I was introduced to Colloff’s work when she wrote about my unit-mate Hannah Overton, who was convicted for the death of her foster son, who was later revealed to have a medical condition called pica. Colloff characterizes Overton’s DA as “aggressively” pursuing a “life without parole” sentence for Overton, “even though it could not answer the most basic questions about how she would have committed the crime” as someone who was six months pregnant and bedridden from a car accident. The Texas Court of Criminal Appeals overturned Overton’s conviction in September 2014, but on the grounds she had ineffective assistance of counsel. It refused to deal with the issue of malicious prosecution, merely because it had granted relief on her first ground.

Colloff’s focus is on how Overton’s case and many others involve the prosecutor withholding exculpatory evidence from the defense. In Overton’s case, there was a sample of the victim’s vomit from earlier in the day. In Michael Morton’s case, there was a blood-stained bandanna with the DNA of the man who really killed his wife; yet his attorneys did not know about it and Morton did more than 20 years in prison until his exoneration in 2012 or so. Anthony Graves was sent to death row in 1994 for killing six people, but was exonerated after it was revealed that the real killer had implicated himself, but was pressured by prosecutors to name a co-conspirator.

In 2013, the Texas Legislature passed the Michael Morton Act requiring prosecutors to share both incriminating and exculpatory evidence with the defense before going to trial (Colloff, 2014, p. 90). This is certainly a start. However, Colloff rightly points out that there is more to be done:

…the State Bar of Texas needs to radically reform the way it handles allegations of prosecutorial misconduct; right now the Bar’s guiding principle seems to be to ignore even the most egregious examples of behavior by prosecutors unless there is enough attendant media attention that some sort of action must be taken–and even then, it’s usually a slap on the wrist (ibid, p. 30).

She goes on to cite a study done of the Texas Bar by the California Innocence Project, which found that in 91 criminal cases in Texas in which the courts decided there had been prosecutorial misconduct, the Bar failed to discipline anyone. In one case, the prosecutor and judge were romantically involved, and it led to a death sentence for the defendant. They were never disciplined. Christopher Zoukis (2014) also discusses prosecutorial misconduct
nationwide. It is rampant, partly because there is no uniform, reporting body.

I never filed a complaint against a prosecutor to the Bar. However, I did grieve an old boyfriend who wrote to me in prison to whine how he had left prosecuting to become a defense attorney because of a case in which he falsely prosecuted a woman in the accidental death of her husband. He was successful and his judge apparently told him “It takes a hell of a prosecutor to convict an innocent person”. I have also grieved my defense attorneys to the Bar – especially when the judge in my criminal case fired my trial attorney, then appointed the trial attorney’s brother on my appeal. The Bar did nothing.

Colloff (2014) argues that the Legislature needs to do away with absolute immunity for prosecutors, downgrading it to qualified immunity – the same protection provided for police officers, which allows for civil suits. Such legislation would help to “counterbalance the pressure prosecutors feel to rack up convictions and never admit mistakes” (ibid, p. 32).

Olivia Lord was no-billed by a grand jury in Texas in the death of her boyfriend – meaning that the grand jury refused to indict her. It was clear later that he was suicidal and waiving his gun drunkenly earlier in the evening in front of his friends. Lord sued the detective who aggressively sought to falsely charge her. The civil court granted her millions in monetary damages, but an internal affairs investigation by that detective’s police department found no wrongdoing (Hollandsworth, 2014).

What is really needed in Texas is legislation similar to that passed in California – their “Sin by Silence” bills, AB 593 and AB 1593 – and up for consideration by the New York legislature (Domestic Violence Survivors’ Justice Act), which would give wrongfully-arrested women ways at various stages of the legal process to have their status and experiences as battering survivors contextualized against the alleged, domestic-violence-related offense (Law, 2013). California’s AB 593 has a statute to allow incarcerated women to cite intimate-partner battering (IPB) as a ground for overturning their conviction on a writ of habeas corpus. The battering committed against women would be taken into consideration in parole, as well, via AB 1593. This legislation also assures that when female prisoners tell the parole board that their crimes are related to being battering survivors, the board cannot penalize them for “lack of insight”. The New York bill would take into consideration if someone is a defendant who, at the time of their offense, was subjected to domestic violence: physical, sexual or psychological abuse inflicted by a family member or member of the same household.
However, my concern for this legislation is that it does not go far enough in providing reviews by state innocence projects and other legal non-profits. The Texas Innocence Project, for example, does not seem to recognize that self-defense and defense-of-a-third-party constitute “actual innocence” worthy of their attention. Again, as Redden (2015) found above, the Innocence Project has been DNA testing to exonerate convicted rapists for decades, while refusing to review battered women’s cases.

As I write this in Fall 2015, I am researching these laws and the 1991 Senate Combined Resolution (SCR) 26 that created the Texas Council on Family Violence and gave it power only to recommend battered women for pardons – with the pardoning power still held by TDCJ’s Board of Pardons & Paroles. My recommendations to the legislature:

1. Stopping wrongful arrest of battered women via legislation that stresses adherence to the state’s pre-existing self-defense and defense-of-third-party waivers. This may include the creation of review bodies at the city, county and state levels of each arrest of women on a domestic-violence charge.

2. Exonerating battered women already in prison or who have served their sentence. This legislation would direct our state’s innocence projects and other legal entities (nonprofits, law schools, etc.) to review convictions in this area of law, as women who defended themselves or a third-party are erroneously not considered “actually innocent” via current misinterpretations of our pre-existing statutes.

3. Addressing other arrests and convictions for non-domestic-violence-related offenses that are actually mitigated by battering. For example, a woman who is being battered by a man might assent to running drugs for him.

**FURTHER STUDY**

On 11 February 2015, I spoke to members of the Texas Legislature as part of a lobby day sponsored by The Texas Council on Family Violence and Texas Association against Sexual Assault. The message was “Love shouldn’t hurt”. On 14 February 2015, Valentine’s Day, the movie “50 Shades of Gray” opened in theaters across the United States to much media
coverage – sending the opposite message and encouraging women to think of battering as love worthy of commitment.

Feminist, media scholar Meyers (1994) studied news coverage of the murders of battered women by their male, significant others and found that this coverage blamed the dead, female victims. It took me 10 years to get something published in the mainstream press on the topic of wrongful arrest of battered women – I had to add two co-authors and limit myself to 600 words, yet the editor cut a co-author’s byline and part of our text (see Castillo and Marston, 2014, for what got published by the San Antonio Express-News; for our full critique, see Castillo et al., 2014). Clearly, the ways that the media cover male violence in the criminal justice system needs to be interrogated and remedied.

ENDNOTES

1 An earlier version of this paper was presented at the Fifteenth International Conference on Penal Abolition in Ottawa, Ontario, Canada. I would like to thank the anonymous reviewers for their suggestions, as well as Justin Piché and Jennifer Kilty of the University of Ottawa, Mechthild Nagel of SUNY-Cortland, Bill Christ and Meredith Elsik at Trinity University, and Gabrielle Pilliat who keyed in my manuscript to accommodate my hand disabilities. I also thank Sarah Pahl, Policy Attorney of the Texas Criminal Justice Coalition, for the preliminary survey data on incarcerated women, Jorge Renaud for three years of support of my case and this cause, as well as for facilitating communication with TCJC, Sue Ostoff, Executive Director of the National Clearinghouse for the Defense of Battered Women, for their packets on intimate partner homicide and sentencing, and Diana Block and Pamela Fadem of the California Coalition for Women Prisoners for their statistics on sentencing and parole of women convicted in intimate-partner homicide. Lastly, I thank Jaya Vasadani and Tamar Kraft-Stolar of the Correctional Association of New York for information on New York’s Domestic Violence Survivors’ Justice Act, as well as Victoria Law for helping us connect, as well as for her research and blog.

2 This is not to criticize the fine work of Michael Lenza, whose “autoethnographic” work I enjoy immensely, as well as his consistent efforts to include critical, race theory and feminism into his analyses. We have different intellectual starting places.

3 An interview on NPR’s “Here and Now” the week of 11 January 2015 with an author of a book on handling trauma also agrees that it is not a disorder or pathology to be afraid and mistrust authority, have nightmares and the like.
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**ABOUT THE AUTHOR**

*Cathy Marston, PhD* is Founder and Director of Free Battered Texas Women and was on the Steering Committee for the Fifteenth International Conference on Penal Abolition. She is compiling an anthology of the stories of wrongfully-incarcerated women who defended themselves and/or their kids/grandkids, as well as stories of advocates for these women. She can be reached by email at cmarston.fbtw@gmail.com or by mail at the following address:

Cathy Marston  
P.O. Box 47  
Schertz, Texas 78154  
USA
The Massachusetts Correctional Institution in Shirley offers a typical example of most medium security prisons across the country. The complex is surrounded by deadly razor wire that gleams in bright sunlight. It includes several low, prefabricated buildings housing various programs including industry, a library, a barbershop, and a chapel. It also features six massive state of the art cell blocks that look like Hollywood soundstages painted a rusty clay.

It has been another long gray winter, another gray day, another gray year here in Shirley World and men have grown callous marching to chow in their loose, gray uniforms. Overcrowded and distressed, prisoners are sick and tired of another brutal winter. Complaints about food and waiting lists for programs are just a few disputations causing prisoner angst.

Just in front of the mess hall, perhaps the largest of the single story prefabricated structures, is a line of cold men waiting for Happy Hour. Happy Hour is this facility’s steam-release valve. Prisoners of Shirley Medium know that every Tuesday and Thursday afternoon is the time that superintendents and supervisors meet to address grievances and concerns.

Prisoners wait as long as it takes during lunchtime to question medical staff, property officers, and the superintendent. Here in Shirley, a cookie cutter McJail built in the 1990s, prisoners use Happy Hour to get answers to questions about issues that directly impact their confinement. Communication between prisoner and staff remains the most cost-effective method of gathering essential information about conditions affecting the prison population. Answers to their questions often come from the source, including the superintendent herself, Kelly Ryan, who is usually the first official to arrive. She leads a line of administrators that include the Deputy Superintendent for programs, Karen Dinardo, and the captain of the guard, among others.

No jailer wants conditions that lead to discontent and uprisings, like those in Attica during the turbulent 1970s, so Shirley takes Happy Hour very seriously. Each administrator at this facility understands that communication is essential for the peaceful operation of the facility.

Medium security prisons like Shirley may be home to nearly 2,000 prisoners. These guarded facilities represent business as usual for a public safety policy that does little more than act as a warehouse for bodies until their eventual release. Correctional facilities have evolved dramatically over the years, although not always for the better.
Superintendent Ryan and her deputies bring to Shirley progressive incarceration. Gone is any pretence of rehabilitation. These are labour intensive businesses located in far away communities, representing a redistribution of wealth and resources during a period when this nation desperately needs income equality for the middle class.

Once committed to Shirley, prisoners are sent to the new man unit, designated A-1. A-1 holds nearly 100 individuals in single or double-occupancy cells. Each new man meets a caseworker upon his arrival. I met with Aura, a diligent woman in her thirties with remarkable energy who speaks her mind, while managing prisoner concerns such as time computation, job assignment requests and liaison with prison administrators. In fact, Aura helped photocopy several drafts of this article. She also helps men to check funds in their trust accounts, among many other things. For many prisoners, she is a shoulder to cry on. A woman overwhelmed by making a difficult job look easy.

Though ancient, the science of so-called caring for prisoners has evolved over time. Today, there is a greater emphasis on trying to encourage positive behaviour in order to eliminate violence, victimization and recidivism. However, these goals are not always mirrored by similar institutions elsewhere. A glance through a prison window into many modern American detention centres today is a look into crisis and despair.

Recently, a piece of the facade of A-block’s new man unit fell off, revealing exposed cinderblock and water damage. This camp is showing its age. Will it even be a viable prison in twenty years?

There is less solidarity among general population prisoners today. Gone is the collective righteousness that fuelled prison uprisings in the past. Instead, there is a tacit acceptance of conditions by all. Prisoners have grown temperamental, consuming each other instead of attacking problems such as overcrowding, appalling food, loss of privileges, and general decrepitude.

Gone is the burning urge to escape. Prisoners no longer seem to hunger for escape, that age old yearning found in prison films like Papillon or Cool Hand Luke. Rather, prisoners today stumble in search of freedom in a nation where freedom itself is fleeting.

Prisoners attack one another. Racial division and gang affiliations are minefields here in these dangerous places. Charges of commitment also tend to ostracize many, particularly those with sex-based offenses. There is no shortage of judgemental anonymous authority dividing the prisoner population.
MCI-Shirley is home to every class of prisoner. “Going along to get along” is how most prisoners do their time. There are lifers who will never see the streets living alongside prisoners facing but a few years. Running to Happy Hour to read or address concerns is a good and easy alternative to violence.

There is little spirit of resistance. Instead, there is a pining for parole and the hope of work release. Others wait for appeal decisions or some other kind of sentence reduction. Cynicism from decades-long political policies like mandatory minimum sentencing, zero tolerance for victimless crimes, and draconian parole and probation conditions of release fuel ennui and hopelessness.

Prisons have always been little more than islands of social welfare. Public safety makes these guarded facilities essential. Many of today’s prisoners lived through the beginning of the business of incarceration that exploded during the 1980s (Christie, 2000). Forty years ago, Arthur Okun (1975), Chief Economic Advisor to President Lyndon Johnson, published a classic book titled *Equality and Efficiency: The Big Tradeoff*. In it, Okun argues that redistributing income from the rich to the poor takes a toll on economic growth. For years, liberals argued that the efficiency cost of redistribution was small, while conservatives argued it would be prohibitively large and therefore undesirable.

The years of economic growth under Ronald Reagan and his so-called trickle-down, supply-side economics relied heavily on construction jobs. The development of the prison industry solved the economic puzzle putting to rest any criticism. Economically depressed communities across the nation grew as money was spent on the construction and operation of our nation’s jails (Gilmore, 2007).

The business of growing these institutions has its roots, ironically, in the frowzy 1970s when fears and dreams were woven together into a national neurosis. Fear of crime – and of government – mingled with dreams of success (Simon, 2007). America’s dream, with all its promise of home ownership, and 2.2 kids, living an idyllic reality. The dream was a nap and the nation was nudged awake as pluralism met with xenophobia. Race relations, the Vietnam War, and drugs ripped America apart.

Uprisings of the 1970s rooted in rebellion rocked the nation and for the first time on network television America would get a firsthand glimpse of the Attica Riot.* In 1971, 43 guards and prisoners were killed during a
four-day standoff in Attica, one of this nation’s penitentiaries just outside of Buffalo, New York.

Here in Massachusetts, only a short drive from MCI-Shirley, men at the state prison in Norfolk began to organize. On 8 November 1971, armed guards and state troopers moved into cells at Norfolk as part of a surprise raid, pulling sixteen prisoners out and shipping them to the nearby maximum security prison at Walpole.

What existed during the critical years of the 1970s was a general distrust of government. This distrust was founded on arrogance and rooted in scandal. These were the Watergate years, when an unpopular war, political corruption and class division fuelled rebellion. America was an economy in transition. Ronald Reagan saw this transition as a danger and labeled the underground economy a threat to national security.

When I began my journey through prison in the 1980s, there were cries from holding cells accusing the system itself of being a racket, a big business wherein detainees are little more than work product. It is hard, under the circumstances, not to sympathize with the prisoners’ dilemma. The incarcerated are languishing in hastily built prisons across the nation, many serving excessive years because of newly-legislated mandatory minimum sentencing rules, raw material in a money-making scheme designed entirely to prop up the middle class – especially the white middle class in economically distressed communities all across rural America.

The 1980s would shift prison demographics. Prison populations would grow furiously. We now live in a nation where millions are held under lock and key. A sobering 3 percent of American adults are under some kind of supervision by the Department of Corrections (Glaze and Kaeble, 2013) often in facilities where privileges are diminished and programs are scarce. The Massachusetts Correctional Institution at Shirley illustrates this evolution, mirroring prisons coast to coast. It is a facility housing bodies where privileges are diminished and programs are scarce.

Since mandatory sentencing became widespread in the 1980s, and prison populations and costs began to climb, opponents have pointed to its disproportionate impact on minorities and the poor (Alexander, 2010). The political right calls the current criminal justice system an expensive government program that produces poor results (Simon, 2007). Yet, no politician wants to be accused of being soft on crime, and, therefore mass incarceration remains. The long lines and lack of rehabilitation programs in
penal institutions are the result of decisions to pack prisons nationally. Here in MCI-Shirley, trade opportunities are scarce and the wait for barbershop, for example, can take years.

Happy Hour is becoming less happy, as prisoners find themselves left with little more than empty promises and meaningless hopes. Recently, during a momentary thaw, I stood with nearly a hundred men waiting for my chance to speak with Karen Dinardo, the assistant superintendent for programs, about being assigned a job in industry. Shifting from foot to foot, watching while corrections officers pat-frisked prisoners in line, I looked beyond the gray day, past the blazing concertina wire, and beyond to the other facilities which make up Shirley World.

Shirley is but one of three correctional facilities within this hub. Just west across a rural road is a lovely string of colonial buildings that make up the minimum security institution. To the south looms Souza Baranowski, this Commonwealth’s only purported maximum security penitentiary.

Men jump when an opening is called for an available administrator. The bodies of those interested in such openings clot into long lines. Officers announcing medical positions seem the busiest. A grievance officer looks fitfully occupied, as is the property officer and senior caseworker. Superintendent Ryan stands and takes notes, while an animated speaker waves his hands and points to something unknown. She nods and the motley crowd grows. I decide that my request for a job assignment can wait. It does not seem that important. I decide to return to my housing unit and simply write a note. After all, time stands still in these institutions – what difference does one day make?

**ENDNOTES**

* For more information on the causes of the Attica prison riot, readers are encouraged to read the recently released report, first written in 1975 and kept unpublished for decades, by Judge Bernard Meyer, who was appointed to investigate whether there was a cover-up of what happened (see http://www.ag.ny.gov/pdfs/MeyerReportVol2And3.pdf).

**REFERENCES**


**ABOUT THE AUTHOR**

*Charles N. Diorio* is a prisoner at MCI-Shirley and can be reached at the following addresses below:

Charles N. Diorio W103769
P.O.Box 1218
MCI-Shirley
Shirley, Massachusetts 01454
USA

Attorney James J. Gavigan, Esq.
80 Billings Road
North Quinry, Massachusetts 02107
USA
It is unlikely that Omar Khadr ever received the letter that I mailed to him while we were both incarcerated at Millhaven Maximum Security Penitentiary in the fall of 2012. I knew that this was a possibility when I wrote it. I also knew that sending the letter could potentially result in the placement of my name on one of the Canadian Security Intelligence Service’s (CSIS) watch lists or in its flagging by the Security Intelligence Officer (SIO) in the institution. But I sent it anyway.

Mr. Khadr was being held in Millhaven’s Medical Segregation Unit at the time, probably due to an attempt on his life that occurred in the prison shortly after his return to Canadian soil from Guantanamo Bay in Cuba. After 10 years in Guantanamo, he was still facing brutal conditions and lack of safety in a Canadian prison.

I saw him only once while I was there. He marched right by me one day in the medical area, where we were, of course, separated by a steel barrier. I thought to myself, “That’s him! That’s Omar Khadr!” Even while being escorted in handcuffs by a correctional officer to 23 hours a day of lockdown in a cell, he still had a serene aura about him. He wore an unassuming smile that Canadians will no doubt be familiar with as he made his way back into society. It was then that I decided that I would write to him.

I went back to my cell and sat down to pen the letter. I really did not know all that much about him. Of course, I knew his background story. I knew that he was a Canadian citizen. I knew that his case was contentious and highly political. I knew that he was a child at the time of his alleged “offence” and that he had little if any choice in becoming immersed in the extremist ideology which he was accused of espousing and which was said to have motivated his “crime”. It appeared clear to me, also, that the Conservative federal government of the day was certainly exploiting Mr. Khadr for political reasons. This had made me quite upset, as it has many others.

Oddly enough, I also knew that Mr. Khadr was on a special diet – double portions, in fact. I knew this because I often prepared his food and was the one responsible for sliding his tray onto the meal cart before wheeling it down to the main control area where it would be sent to medical segregation. I was a kitchen worker at the time and, though he did not know it, I always took care to make sure that his tray was as full as possible. I often found myself defending him against the bigoted personal attacks of ignorant food service workers and prisoners alike.
You see, Omar Khadr and I happen to have a few things in common. The first is that we are the same age: 28. Second is that we both place a premium on education. Thirdly, we both have an intimate relationship with the carceral apparatus. Now, I will not pretend for a second that our cases are analogous. The crimes for which I was sentenced could hardly be classified as political, and in terms of moral culpability, if any of us “deserved” what they got, it would certainly be me. That said, though we have different stories, what we do share are experiences with the penal system.

Both Khadr and I have spent our entire adult lives as captives, under some type of penal supervision. And again, I must repeat that the conditions of our captivity have in no way been equivalent. That, however, is not my point. My point is that by nature of our experiences, we have both been granted access to a sort of “adversely privileged” view of the systems in which we have been implicated. This privileged perspective, along with an intellectually thirsty nature, can be harnessed for much good. That is, if we are to acquire the educational credentials which will allow us to make sense of our experiences in a coherent manner and to articulate our analyses for an audience of folks capable of pushing for changes within the systems we have become so intimate with or perhaps be the catalysts of changing it ourselves. It was on these terms that I decided to write to Omar.

I started off my letter by introducing myself and letting Omar know that I was a prisoner serving time in the same institution as he. I added that I knew only a little about his life, but not enough to claim that I could understand his situation. However, I wrote that, based on what I did know, I thought that his life experiences would be quite valuable if accentuated with some academic training and that any university in Canada would be the better for his addition among their ranks. I also let him know that this was a route that I myself was attempting to take and I began to relate some of my own experiences as a person incarcerated with the beginnings of an education in the discipline of sociology. Such a combination of experience and education, I iterated, would be of great value and permit him to make an important and unique contribution to the academic community or, if not academia, through an NGO or perhaps some other organization. I was sure that he had probably been contacted by professors and various institutions before (as it turns out he had), but I humbly decided to share some information with him about schools
that offer distance education courses such as Laurentian University (the school at which I am currently completing my degree) and Athabasca University in Alberta.

I closed the letter by expressing my hope that he is treated fairly by the system now that he is back home on Canadian soil, thinking, at the same time, that this was a great unlikelihood – although now it appears that at least the courts have approached his case in a just manner. I also offered him my friendship, if he was willing to accept it, knowing also that, at the time, my friendship might be more of a liability than an asset.

After having finished the letter, I sat with it in hand for a few moments. I started to reconsider my decision to send it – I was thinking about the potential security issues. It was at precisely that moment that I knew I had to mail it and into the mailbox it went.

Omar Khadr may have never received the letter I sent to him while I was incarcerated at Millhaven Maximum Security Penitentiary in the fall of 2012. If he did, it was probably in his best interest not to write back to me anyway. At the time, he was still in the hands of the federal government and I am sure he did not need to be accused of associating with “criminals”.

Now it appears, however, that Mr. Khadr, through the dogged ambition of his lawyer, mentor, and father figure, Dennis Edney, has found his way back into the community and is out of the Correctional Service of Canada (CSC) and federal government’s clutches. With them at bay, the court of public opinion will likely place the greatest restriction on his newfound liberty. This in addition to the ankle bracelet the Province of Alberta has forced him to wear as a part of his bail release conditions. Naturally, everyone is probably wondering how this man, who has endured thirteen years of injustice, will get back to a normal life. Even Omar Khadr himself wants to be a “Joe-Citizen”. I might not be the person in the best position to speak to what a man like Omar Khadr needs as he transitions into life in the community and finds some normalcy, but, as another young adult with hopes, dreams, a desire to make a difference, and a storied past, I think that I can identify with what he might be going through now that he is free. And what he needs most is love.
ABOUT THE AUTHOR

Jarrod G. Shook is a prisoner at Collins Bay Institution in Kingston, Ontario. Jarrod credits the time he was able to spend attending university during a previous period of release under community supervision for cultivating in him both a political awareness and an intellectual curiosity. He is currently completing a university degree via distance education.
In 1939, a sociologist by the name of Edwin H. Sutherland presented his differential association theory in a text titled *Principles of Criminology*. Eight years later, in 1947, Sutherland – a towering figure in the sociological study of crime – presented his final version of this theory in a revised edition *Principles of Criminology*. This version has appeared in most criminology textbooks published in the last half century.

In short (and by “in short”, I aim to acknowledge the risks associated with oversimplifying such a complex postulate), the essence of differential association theory maintains that delinquency is the product of being exposed to more lawless temperaments and law-breaking attitudes than law-abiding ones. Sutherland divided this theory into nine propositions, one of which puts forward the notion that the degree of delinquency that results from associating with delinquents depends upon four primary factors: frequency (how often one associates with delinquents), duration (how long each association lasts), priority (how early in life these associations occur), and intensity (how much importance one places on these associations).

In *Theories of Delinquency: An Examination of Delinquent Behavior* (2000), Donald J. Shoemaker attempted to delegitimize this proposition by asserting that police officers have frequent, prolonged, high-priority and intense contact with criminals, but do not usually adopt these criminals’ attitudes. Shoemaker’s implied intention was to criticize and discredit Sutherland’s position, but not only is his criticism tremendously flawed, it actually had an effect that is opposite of his intended one. His narrow, pan-cultural, and haughty perspective of police activities is the reason why this specific critique actually supports Sutherland’s theory instead of disproving it.

To begin with, studies and surveys have shown that most police officers pursue a career in law enforcement because they view themselves as diametrically opposed to and detached from crime commission and because they have a desire to combat illegality. They believe that crime needs to be eradicated and that those who commit crimes must be stopped. Their self-identify is fundamentally contrary to “criminal” from the onset, and they believe that the crimes that criminals commit, and that the actions that criminals have allegedly monopolized, are wrong. These officers want to be the ones to fight against them. Simply put, cops tend to define themselves as both non- and anti-criminal. Shoemaker would likely agree with these
findings and rejoice when reminded that most policemen (and policewomen) convince themselves that they are averse to criminal practices and attitudes.

If actions, however, are a manifestation of one’s attitudes, then this aversion is a sham. Police, more often than not, initiate and carry-out the very activities that they claim to be opposed to. Shoemaker’s incognizance of, and inexperience with, the plights and vistas of people on the other side of the legal divide are the reason that he is unaware of this reality.

In reading Shoemaker’s work, I am not only reminded of his lack of awareness but also of his arrogant assumption that the only valid interpretation of law enforcement practices is that of law enforcement personnel and their blind sympathizers. Another interpretation – which is just as substantive and worthy of equal consideration – needs to be acknowledged: that of the criminological objectives. The following interpretation of my past experience, both confirms and endorses this interpretation’s worthiness in a manner that effectively challenges Shoemaker’s aforementioned take on the differential association theory.¹

As a teenager, I endured a variety of experiences that helped form my perception of “police criminality”, a perception that Shoemaker’s work fails to account. These experiences, and my analysis of them, undoubtedly support the differential association theory and directly counter Shoemaker’s argument.

For example, I have stared down the barrels of numerous officers’ service weapons (brandishing a firearm) after being pulled over on “routine” traffic stops. In these situations, I did as these officers told me, which was to get out of the car and move slowly or be shot (communicating threats). I have been directed, at gunpoint, to walk a certain distance to a specific location (second degree kidnapping) and empty my pockets (armed robbery). I have had officers enter my home, go into my bedroom (breaking and entering) and confiscate some of my legally possessed property without warrant or permission (burglary). I can also recall an incident involving multiple policemen entering my house with their guns drawn without a warrant and barking unnecessary orders (home invasion). I have been slammed to the ground, choked and kicked by police officers (aggravated assault). I have been placed in handcuffs, taken to jail and held in a cell for hours only to be released without being charged with anything (first degree kidnapping). I have been pulled over and forced to stand back and watch as officers literally ripped up the carpet in my vehicle (destruction of private property). I have had them actually dare me to take a weapon that they were trying to shove
into my hand (contributing to the delinquency of a minor) so that they could have a reason to use brutal force to take it away from me. They have come onto my parents’ property without just cause or permission (trespassing), placed me in cuffs and accused me of things that I did not do (defamation of character). These policemen have sprayed me with mace (simple assault) and commanded snarling police dogs to attack me (attempted assault with a deadly weapon), but luckily I was able to lock myself in a room or in a car to prevent a sure mauling. I have seen the police do things that, if done by a civilian, would result in prison time. But more importantly, none of these incidents were the result of my misbehaviour.

At this point, if you are as myopic as Shoemaker, you may be drumming up accusations to direct my way. You may be revealing your myopia, as well as your inexperience, by asserting that I had to have been doing something wrong in order to receive so much attention from the police. You may be right if you consider walking down a sidewalk or attending a party “wrong”. You also may be right if you deem going to a basketball court with friends, being in the area where a spontaneous fistfight erupts between strangers or wearing urban athletic attire as grounds for harassment by law enforcement officers.

Such accusations also inform me that your parents never had the Talk with you as a youth, the Talk that all decent fathers of young black men have with their sons around their sixteenth birthday: “If you’re stopped by a cop, do what he says, even if he’s harassing you, even if you didn’t do anything wrong. Let him arrest you, memorize his badge number and call me as soon as you get to the precinct. Keep your hands where he can see them. Do not reach for your wallet. Do not grab your phone. Do not raise your voice. Do not talk back. If he verbally threatens you, don’t talk at all. If you see his hands go to his gun, don’t move at all. If he grabs you, don’t fight back. Do you understand me?”

And despite your detachment from the side of law enforcement that makes these sorts of “talks” necessary, there is still one fact that confirms the groundlessness of my aforementioned past encounters with police: none of them led to or resulted in an official arrest or criminal charges of any kind. I was not a criminal when these events transpired, although I did become one eventually. These incidents all occurred while I was in high school, while my record was clean, my face was full of acne, my curfew was 9pm, and while I still thought that old people smelled funny,
and that armpit farts were hilarious. The officers not only treated me like a criminal, they acted like criminals themselves – all before my behaviour could justify criminal deeds. The very actions that aspiring police officers claim to be averse to are the very actions that cops used to terrorize me, and countless others, throughout my teenage years prior to my brief yet willing embracement of criminality, which led to my confinement at 19 years old. The argument can even be made that such terror was a contributing factor to my eventual loss of reverence for the institutions of law enforcement and lawful citizenship – not the sole factor, but a contributing factor nonetheless. However, my point here is not digression for digression’s sake, nor is it to focus solely on criminogenic policing mechanisms or to assign total blame for my past misconduct directly on police officers. That would not only be a misappropriation of blame, but it would also discredit my counterargument against Shoemaker’s rebuttal to the differential association theory.

My point here is to highlight the fact that, from behind badges, the police regularly commit the same (mis)behaviours that regular people usually get incarcerated for. These are the same (mis)behaviours that police officers claim to be opposed to, and that Donald Shoemaker has yet to factor into his theorization. Shoemaker’s declaration that police do not commit criminal actions or adopt criminal attitudes despite frequent association with “criminals” is clearly counterfactual and the experiences noted above verify this.

A more accurate position would recognize that police officers do not commit criminal actions or adopt criminal attitudes until they complete training and begin to frequently associate with criminals. The fact that police are not criminal until after said training and association supports the first two factors of Sutherland’s position – frequency and duration. The fact that said training and association occur at the onset of one’s “cop life” (i.e. policing career) and serve as an officer’s initiation into “officer hood” supports the third factor of Sutherland’s proposition – priority. And lastly, considering that the focal point of cop life is opposing and arresting those identified as “criminals”, I think it is safe to say that law enforcement personnel place tremendous importance on engaging those with criminal dispositions. This is confirmation of the last factor of the proposition that is pertinent to this essay – intensity. In Theories of Delinquency, Shoemaker rightly notes these truths before making his inaccurate assertion that these facts do not result in police criminality, when in fact they do.
It is apparent that police adopt criminal attitudes and readily display criminal behaviours on a regular basis. Yet these attitudes and behaviours are not deemed criminal when their perpetrators are adorning badges. More specifically, Shoemaker does not categorize police officers’ criminal attitudes and behaviours as criminal simply because of their shiny shields. This oversight discredits his position. The categorization of someone’s disposition should not depend upon their career. Pointing a firearm at a law-abiding minor remains the same act whether executed by a policeman, the pope or a snot-nosed teenager.

Of course, the source of someone’s temperament, or the reason that a person experiences a particular sentiment or behaves in a certain way can sometimes be traced to his or her career, but the actual diagnosis of behaviour itself should be made without reference to his or her chosen profession in this context. More simply put, a criminal attitude, which manifests through criminal behaviours, should not be overlooked, denied or misrepresented simply because it is possessed by someone who is above the law. Nor should the theorizations of a respected academic be tainted by an inability to see beyond a paradigm that favours a particular group of people because of their career – in Shoemaker’s case this “group” happens to be law enforcement officers.

Such tainting prevents Shoemaker from recognizing that officers develop criminal tendencies – which can almost be described as addictions – after extensive association with delinquents over time. It also hinders any efforts to develop organic interpretations of public behaviour, such as my own, rooted in solid empirical information, supporting, rather than refuting, Sutherland’s differential association theory.

It is my hope that users of differential association theory grow to consider and accept the validity of such interpretations and vistas and to refrain from relying exclusively on the one(s) with which he has grown so comfortable with and can’t seem to see beyond. Furthermore, as I outline in my book, *A Convict’s Perspective: Critiquing Penology and Inmate Rehabilitation* (Baker, 2014), we must all work together to engage, challenge and hopefully refine the scopes of individuals who are as highly regarded as Shoemaker, so that counterproductive critiques can be avoided, criminal penchants can be prevented, and true progress can be made.
ENDNOTES

1 One would be hard-pressed to locate someone who is both aware of frontline police activities through first-hand experiences, such as those referenced above, and who would refute my position. Quite the contrary. Most who have been arrested, labelled as a person of interest or suspected of committing a crime, will say that my position is a little “toned down” or diluted, and this is understandable. I grew up in a solid middle-class, two-parent household. I was enrolled in college at the time of my imprisonment. My pre-prison experiences with police were less virulent, less tumultuous and less inflaming than those of many of my fellow prisoners. So, in interpreting my experiences with officers of the law, I am speaking from the more moderate end of the spectrum, so to speak.

2 I would like to clearly state that, even if these events had followed rather than preceded my season of individual delinquency, it would still be absolutely ridiculous for police officers to use criminal acts to combat criminality. Such acts only fertilize criminality, they do not extinguish it.

REFERENCES


ABOUT THE AUTHOR

*T. Lamont Baker* is a prisoner at Lumberton Institution and can be reached by mail at the following address:

T. Lamont Baker #0915700
Lumberton Institution
75 Legend Road
Lumberton, North Carolina 28358
USA
I often wonder what might have become of my life had I chosen another path. I am sure that any mindful human being who has ever designed to confront his or her conscience in search of redemption as a result of even a single isolated deplorable experience has wondered the same. We do not always consider the irrevocable – especially abominable – deeds of our past, perhaps because it is easier to suppress them altogether. Some of our deeds, however, tend to haunt the psyche the more we try to suppress them from our memories, as though eerily lurking between the realm of our conscious and subconscious mind.

There is a perception that many men (and presumably women) are incarcerated with the notion that the sentence given to them serves as requital for the crime they have committed. Yet it is often the self-righteous ones who recidivate, and only very few can attain self-actualization during incarceration. Indeed, reform is neither educational (the criminalized are told continuously what to do), nor does it constitute the breaking of a spirit cloaked in despair. Rather, it embodies the desire and practice of improving one’s character, morals and values, which ultimately improves one’s circumstances.

The minority who comprise the Department of Corrections and Community Supervision maximum-security prisons in New York State – as my authority extends no further – are representative of the aforementioned perception. Although rehabilitation is not offered, nor reinforced collectively within the system, prisoners may choose to realize it if desired. I have heard countless “war stories”, the ignominious deeds of men, delivered with enthusiasm and reiterated with nostalgia. But I have also heard countless pleas for help, delivered with subtlety and reiterated with urgency. Perhaps the latter were given by those who confronted their conscience in search of redemption.

It is unfortunate that during the twenty-one years of my incarceration, I have seen men come and go, and come again – always with stories of the “good run” they had while in the free world. Based on the discussions I have had with some of those men, I concluded that their return to prison was not attributed to the lack of opportunity society’s pariahs are often forced to contend with. Instead, their return to prison, in absence of any other logical explanation, is attributed to their being stuck in a specific era, an era where their deeds – whether good or bad – were rewarded and their conscience undisturbed.
As a realist, I question how different I am from any of these men. Am I not also in some way suspended in time, trapped within primitive confines as the world evolves? Are not my memories of the outside world in contrast to the fantastical, hopeful visions I have of my future upon returning to it? The difference is that those men failed to seek redemption, whereas I have not. For how can one be redeemed of one’s past when it is the very platform upon which one’s future is prognosticated?

The reality is that, with limited access to even basic technology, antiquated programs, and susceptibility to strict disciplinary measures that are physically and psychologically damaging, the penitentiary system is designed to keep prisoners in a state of stagnation to which only some conform. The detriment of those wayward souls lies within the system’s failure to understand the gravity of returning unchanged to an evolving world. On the other hand, being suspended in time does not necessarily prevent one from growing. We tend to learn more from enduring years of tribulation than we do from years of content, although it is the application of our lessons learned that matters most.

Despite the fact that there is no guarantee of my freedom from incarceration, I am at least free from my haunting conscience. Granted, I will always be a convicted felon, an “offender” who squandered opportunities to explore options that make life meaningful. However, I am not defined by the poor choices that I have made, nor by what a conviction says I am, but rather by who I become and who I strive to be. Anyone defined by principles is one well defined, and perhaps anyone who finds value in humanity (other than his or her own) and progresses morally while incarcerated is redeemed.

We incarcerate the criminalized in accordance with their crimes, as a civilized society, under the protection of due process of the law and the initial presumption that one is innocent until proven guilty. Hence, guilt should not negate magnanimity, neither in regard to “offenders” nor those offended. Otherwise, our punishment is continual and our ideal of reform is only an illusion.

ABOUT THE AUTHOR

David Riley was convicted of second-degree murder and is serving twenty-five years to life in Attica. He is enrolled at Genesee Community College and facilitates volunteer programs where he attempts to change the lives of
young adults at risk of being incarcerated. David Riley can be reached at the address below:

David Riley
Attica Correctional Facility
Box 149
Attica, New York 14011-0149
USA
RESPONSE

Self Reflexivity:
A Narrative Analysis of a Poem Titled “Crying”
Natasha Brien

When contemplating what to put forth for this issue of *Journal of Prisoners on Prisons*, I engaged in an internal debate for quite some time. The debate was around whether or not to submit this self-reflexive thematic, narrative analysis of a poem titled “Crying”, which I had written shortly after the time when a family member was given a federal prison sentence within Canada. Considering all of my efforts over the past five years have been devoted to creating peer support for loved ones of incarcerated people, and engaging in public education around related issues, I still struggle with the repercussions of stigma that are deeply rooted in this component of my identity.

While the concern that I can potentially face negative reverberations as a doctoral student who may potentially seek future employment within academia lingers, I decided to proceed with this article in which I expose myself as a loved one of an imprisoned person. To the audience, I offer my deepest, and most personal thoughts expressed in a poem and analyzed through thematic and structural narrative approaches. Ultimately, I foresee that maintaining silence about this issue is far more dangerous than taking the risk to speak out publicly.

REFLECTIONS ON ACADEMIC LITERATURE

The literature around the impacts of incarceration on family members often focuses on the hardships of having an imprisoned loved one, inclusive of, but not limited to financial strain, practical challenges of prison visitations and maintaining contact, bridging the relationship between family members in jail or prison and children on the outside, as well as enduring social and structural stigma (Brien, 2013; Codd, 2002; Comfort, 2008; Hannem, 2012). Emphasizing such collateral impacts of the penal system, theoretically and empirically, can be important in supporting loved ones’ voices, particularly within correctional settings (interviews with parole officers, pre-sentencing reports, prison visiting policies), and in academic settings (informing student learning, supporting justification for further academic inquiry). With this said, it is pivotal to point out that the need for theoretical and empirical validation as evidence to justify the credibility of loved ones’ narratives remains troubling.
When considering academic research and agency funding proposals, there is often a tendency to take a deficit approach towards marginalized populations. If the focus is primarily placed upon in-depth analyses of social problems, the people whose lives are being scrutinized can often feel exhausted and used. This is because people’s testimonies have a history of being monopolized and exploited to build credentials, social statuses, and to provide economic gains for individuals and organizations, with minimal benefit to the population of study (Pittaway et al., 2010; Smith, 1999). As such, in publishing this article I am privileged to be the author of my own experience. I speak to challenges and hardships I faced as a loved one of an imprisoned person, while ensuring I pay attention to emphasizing positive aspects of my journey that highlight elements of strength and hope for others.

**INSPIRATION**

Prior to delving into this article, it is of utmost importance to speak about the inspiration for embarking on this boldly honest piece of writing that leaves me mentally, emotionally and spiritually naked. One day while in an undergraduate course, a professor from another university was invited to guest lecture to our class. I attended with an open mind, expecting to hear critical perspectives on the topic of social work practice and perhaps to be provided with some helpful resources for further consideration. What I did not expect, however, was for the professor to disclose very personal life accounts that countered many dominant social and academic norms. Instead of solely lecturing in a way that tunnelled deeply into a topic area while simultaneously keeping an arm’s length in distance by excluding his lived experiences, this professor spoke without apology about having grown up in extreme poverty, having experimented with drugs and having been in conflict with the law in his younger years.

I must admit most of the students, including myself, were completely shocked. We sat on the edge of our seats clinging to every word the professor courageously uttered. What he did that day, was to transform professors into human beings for the first time for many of us. This may seem like an obvious fact, but in reality, there is a hierarchical-based air of superiority within which many students view professors. This may be connected to the power educators possess to influence the minds and fates of students or the
common perception that professors have to be extraordinarily brilliant to be able to achieve such an esteemed position in life.

Within Eurocentric social work pedagogy, we as students are taught quite a bit about the importance of maintaining boundaries by being very careful not to reveal “too much” about oneself, which evidently transfers over into teaching social work (Dominelli, 2002; Lasky, 2005). I am forever grateful, however, that this professor “crossed the line”, for the positive impacts of him doing so have since rippled like waves throughout my life’s work. His lecture provided me with a gift of strength to be able to honour and share my “socially unacceptable” herstories, with the hopes of further inspiring others to be able to speak their truths without shame or regret.

OPERATIONALIZING TERM(S) AND CONCEPTS WITHIN A SCHOLARLY CONTEXT

Before I share my poem and analysis, I want to clarify a couple of terms with the goal of enabling the reader to better understand the thematic and structural narrative approach that I use to analyze this body of work. Firstly, according to Riessman (2005, p. 394), narrative analyses can be “thematically and episodically” oriented, in contrast to Western chronological categorization, the former being an approach I am taking with this article. Riessman’s (2008) thematic analysis centres on the creation of categories or components of a story, components being relevant to this article, since I will not be analyzing the poem in its entirety. Structural analysis offers critical insight into how narratives are composed and what the language used says about systemic constructs. To provide context to the poem, and as a response to questions Riessman poses around “for whom…how…and for what purpose” the text was generated, “Crying” was originally written for myself without intentions of sharing it (Riessman, 2005, p. 393).

The why and how of this creative endeavour was to find relief in externalizing the internalized. This externalization consisted of putting forth some of my most intimate thoughts and emotions that surfaced when my family member was given a prison sentence, by taking a non-academic approach to the written word. As such, I composed the poem in one sitting without stopping to reflect. In doing so, I typed with vigour and passion, which upon completion brought the calmness I was seeking by purging spirit injuries and clearing my mind. I am thankful I kept this piece of text,
because it is as though a transformative moment in my life was frozen in
time, and is now available for critical self-reflection through narrative tools
of thematic and structural analysis (Riessman, 2005).

THE POEM: “CRYING”

I am crying…
Because I am stressed out, your leaving affects me in ways I was naive
about before.

Because I am angry that I have a child joined to my hip 24/7 & I am being
pressured about money.

Because when I try to make money, or partake in something that will lead to
a better life I am made to feel guilty; the bad mother complex.

Because you left, I am forced more than ever to depend upon my family
member, who is getting old, tired and stressed out by having to live to
sustain an adult child.

Because I am sad and feel alone. You were who I confided in, my best friend
and now it’s just me. So I bottle up my sorrows, angers, frustrations and
disappointments to not reveal this part of who I am.

Because I have no down time, or time for self-care. I am behind on my
work, and I am isolated, my body is here but my mind is everywhere. It is
near impossible to be present in the moment.

Because I am under a microscope. Government bodies and agencies have
continually invaded my life, and so I too begin to subconsciously scrutinize
my every move, always physically jolting to the sounds of sirens.

Because I am experiencing exhaustion and compassion fatigue at very deep
levels. I barely find the energy required to have this purposeful cry.

Because I want our lives to be stable and I have overdosed on courthouses,
bail hearings, calls from police stations, visits to jails, and prisons.
Because I am devastated by the time I subsequently have been serving with you – the stigma & restrictions on life. I am scared of this happening again, although this time I have more confidence it won’t.

Because there have been times I enabled you, and lacked the strength to set forth/enforce healthy boundaries.

Because posttraumatic stress resides in my heart and I am not sure how to heal it.

**THEMATIC NARRATIVE ANALYSIS**

**Embodiment**
Considering narrative approaches to research focus on elements of telling a story that reveal aspects of “narrative identity…according to the situation”, this method is well suited for focusing on components of my autobiographical narration of a particular moment residing within a poem (Dahl, 2009, p. 6). One theme this poem demonstrates is the ways in which experiences directly related to my loved one’s criminalization were embodied, or “inscribed in the body” (Csordas, 1993, p. 136). I say this because having a family member in prison can be viewed in relation to cognition and how I mentally processed the experience. However, impacts were equally felt deep within the core of my physical being.

One example of embodiment is illustrated when I relayed, “I too begin to subconsciously scrutinize my every move, always physically jolting to the sounds of sirens”. The experience of my loved one having been on years of very strict house arrest leading up to imprisonment, which involved ongoing police harassment towards the entire family, are events that led to the formation of a negative association with audible sounds of sirens. Regardless of the physical space, when I heard a siren, my body would react with a sudden electrical jolt, my muscles instantaneously became very tense, and I would stand frozen until I realized the siren was not intended for me/us.

**Affective Responses**
A second theme that emerged is the prevalence of affective responses (Csordas, 1993). As I critically read and re-read the poem, very strong
emotions became evident, the dominant of which I interpret as being sentiments of anger towards my family member for making a choice that led to the circumstances disseminated in the text (Urek, 2005). While reading this poem, I think about how much one person’s actions impact those around him/her, thus creating lasting effects among individuals and communities.

In hindsight, the circumstances implicated in my family member’s imprisonment were way more complex than choice alone, as systemic racism and poverty were major factors. However, during the time when the poem was constructed, my anger was solely geared towards my loved one. While I was angry that my family member was going to prison, nothing could have prepared me for the sense of sorrow and emptiness I encountered there afterwards. When the physical space that was once occupied by this individual became void – it was as though someone had died, as there lingered a ghost-like presence.

With the absence of my family member and in the process of grieving, one significant lifestyle change that occurred was single parenthood, which I described when saying “I am angry that I have a child joined to my hip 24/7 & I am being pressured about money”. Prior to my family member’s imprisonment, there was an enormous amount of (practical) parental help. This form of aid assisted with the privilege of having time to focus on schoolwork, without worrying about (the cost of) childcare, while being able to earn an income. The loss of income increased my precarious financial situation, contributing to the feminization of poverty prevalent among some women raising children with minimal supports (Harris, 1993).

**Courtesy Stigma**

The third theme I discovered was “courtesy stigma”, a term coined by Goffman (1963), which entails enduring negative social and systemic repercussions as a result of being so closely associated with a family member who carries a highly stigmatic label, such as inmate or criminal (Poindexter, 2005). The following excerpt relays the idea of courtesy stigma,

> I bottle up my sorrows, angers, frustrations and disappointments to not reveal this part of who I am… Because I am devastated by the time I subsequently have been serving with you, the stigma, restrictions on life.
I understand this text to be an expression of feeling alone and isolated, because throughout the years leading up to the sentencing and thereafter, the only person I could completely confide in was the person subject to the criminal proceedings – my family member.

As such, I would often go to my student placement, for example, feeling overwhelmed or emotional because the police were in front of our home that morning, honking to draw unwanted attention. Despite the challenging feelings endured, my standpoint was to ensure I did “not reveal this part of who I am” to my peers or supervisors, even when questioned whether or not I was okay, because of “the stigma, restrictions on life”. What led to the impression that it was not safe to disclose this aspect of my life? At the time I was being evaluated as a social worker in a legal aid clinic, in which criminal law was one of the prevalent discourses. I had at times heard clients being discussed in derogatory ways among some colleagues, who were consistently assumed to have no personal relationships with “the deviant or criminalized other” (Juhila, 2011).

**STRUCTURAL NARRATIVE ANALYSIS**

**Economics and Gender**

I became aware that economic situations, and gendered dispositions within Western society, are related to the luxury of having time and physical space to oneself and/or to interact with friends and family members (Bittman and Wajcman, 2000). In the poem I state: “I have no down time, or time for self-care... I am experiencing exhaustion and compassion fatigue at very deep levels. I barely find the energy required to have this purposeful cry”. While I did have one close friend with whom I could be honest about the situation described in the poem, there was no time to speak on the telephone, let alone arrange an in-person meeting. This was a result of extensive caregiving responsibilities, in combination with scholarly obligations.

My daily schedule consisted of: full days of childcare; attending evening classes for school while a female family member babysat my child; rushing home to cook and get my child to bed; only to work tirelessly throughout the nights completing readings and assignments. This poem was written in the middle of the night while working on an essay. At the time, written text took the symbolic place of tears, embedded within a heavy energy I desperately yearned to shed (Tilly and Caye, 2005).
Financial desolation also led to what the poem calls being “under a microscope”, or what is better known as accessing Ontario Works (OW). While social assistance provided some financial relief, on a socio-political level, the outcome of receiving that money entailed further policing and oppression from another governmental institution (Hier, 2002). I was judged very harshly for my state of poverty and entanglement with a criminalized identity, while also carrying the burden of internalized shame. I was subject to ongoing and unfathomably intrusive lines of questioning that I answered because of power differentials between government workers and myself, thus, creating many additional spirit injuries.

It has been argued that interpersonal experiences are mutually constructed, but at the time I often felt as though I had lost my sense of agency and self-determination, both of which I argue are required to co-construct a dialogue in which one can maintain a sense of dignity. Aside from compliance, I did present counter narratives to OW and correctional workers as well. However, I was subtly and overtly reminded to reconsider my position if I wanted to continue receiving funds or engage in prison visits. Because I so urgently needed the money and because I wanted to maintain a relationship between my child and my imprisoned loved one, *compliance was my strategy* (Tanassi, 2004).

**The Bad Mother Complex**

I referred to my dilemmas of being “made to feel guilty” when trying to make money through the rhetorical use of the phrase “bad mother complex” – words strategically employed to relay the depth of intricate and burdensome gendered issues incurred (Riessman, 2005). What was meant by the use of the above phrases was that every time I tried to earn a living of some sort, people would say I was not spending enough time with my child. Conversely, when I decided that I would be better off on OW spending time with my child because what money I was making was too little to afford living and childcare expenses, I was referred to as a “lazy welfare mother”.

What both situations demonstrated is that within a patriarchal worldview, which is dominant in Western, hetero-colonial, settler-societies, mothers are often allocated blame by default of their gender (Jackson and Mannix, 2004). I was judged for not remaining within the private sphere when I attempted to work, yet also for remaining in the private sphere as a poor person, within a multi-racial(ized) family. Hence, my point around economics and the “bad
“mother complex” was one of extreme frustration, because it was as though I was “damned if I do, and damned if I don’t”.

**A POSITIVE SPIN ON A DIFFICULT SITUATION**

Within my journey, there are a couple of very critical points I would like to emphasize for readers – the necessity of maintaining hope, and the act of transforming negative experiences and emotions into energy utilized for igniting change within the self, among my fellow sisters and brothers enduring this struggle, as well as broader social changes. While the experiences conveyed in the poem were often troubling, they did steer my life in unintended directions. Examples of such unintended directions include, but are not limited to: forming a peer-support organization called Supporting Ourselves while Supporting Our Loved Ones (SOSOLE) for friends and families of people in conflict with the law; making my population’s experiences my academic focus; and eventually speaking publically about these aspects of my personal and professional life to work towards minimizing social and structural stigmas. Hence, challenging life’s undesirable experiences via re-scripting, in ways that move towards empowerment and social justice initiatives are important points to highlight (Conrad, 2004).

Similar to the positive spin I placed upon the experience of stigma by forming a peer-support organization, I also initiated a collective in which women bartered services with one another and exchanged children’s clothing to assist with financial difficulties. As a result, many blessings have emerged in the lives of my sisters and I, through the formation of a circle of support, which helps to minimize some of the harmful impacts of this shared identity (Codd, 2002). A part of changing some negative outcomes that feel prescribed by default of having an intimate connection with an incarcerated person, is first becoming aware of stigmatizing messages that can be or have been internalized, and challenge them. Be sure to ask the self: Where are these messages coming from? What purpose do they serve? Who is benefiting – and in what ways? What agency do I have in accepting or rejecting negative connotations associated with this aspect of my identity?

While I began to change gears from internalizing the dominant voice of marginalization, I chose to reflect upon positive responses that emerged from being a family member of an imprisoned person. I started to recognize
the strengths involved in taking a chance by presenting my experiences and ideas to other women who shared my situation. Instead of accepting a demonized identity, I redirected attention to the resourcefulness that it requires to navigate the criminal (in)justice system and the perseverance to not only survive against the odds, but to thrive despite the odds. It is important that loved ones consider and be exposed to ways in which experiences of having their lives become enmeshed with the prison system and issues of criminality, can invite positive life-changing events. While at first I was at a loss as to how I was going to manage the drastic changes incarceration brought about, I was pleasantly surprised to discover a sense of community, resourcefulness, deeper critical reflection and the power to create change.

CONSIDERATIONS FOR ACADEMICS

From an academic lens, I challenge scholars to open their minds to the importance of tuning into the needs and experiences of families, friends, and communities of people who have an imprisoned loved one, particularly in the political era of mass incarceration and prison expansion (Piché, 2015). Within the discipline of social work, I observe a lot of effort being put forth into studying various dynamics of families, albeit child welfare, impacts of immigration, family violence and so forth. What is often absent is a focus on the intricacies and nuances of population-specific ways that incarceration impacts families within a Canadian context.

When considering this avenue of study, I recommend approaching it with critical race, critical feminist, intersectionality, social justice and anti-oppression theories in mind. Such theories will serve as tools to frame research designs in ways that work towards minimizing harm caused by pathologization, while emphasizing strengths, honoring wisdom, and embracing teachings of loved ones of imprisoned people.

Most importantly as academics, we should always give weight and serious consideration to the saying “nothing about us without us” (Charlton, 1998; Riessman, 2008). This slogan signifies that research should be conducted in consultation, and with guidance from the population of interest. Some examples of how this can be done are through the formation of advisory committees, engaging with member checking, and incorporating core values of community-based, Indigenous,
and participatory action research methods whenever feasible. Doing so will help to ensure the research being conducted remains relevant and meaningful to loved ones of imprisoned people.

CONCLUSION

While I engage in various styles of writing as forms of self-expression, I have never before considered revisiting my writing to delve deeper into meanings embedded within my words. Doing so has proven to be a poignant critical reflexive exercise, which has put me in touch with personal work that needs to be continuously attended to. Through the use of a thematic and structural narrative analysis of components of the poem “Crying”, I was able to see just how much the experience of being a family member of an imprisoned person has changed my life. From this reflection, my first aim was to speak to loved ones of incarcerated people by providing examples of maintaining hope, via transforming negative experiences into positive perspectives. Secondly, I ensured allocation of space towards offering insight into academic implications related to my findings, with the desire to ignite and/or contribute to existing critical conversations in regard to conducting research with my population.

When initially constructing the poem “Crying”, I talked about my experiences of challenging emotions, as well as physical, financial, practical and spiritual hardships, most of which have been discussed within academic literature. However, in shifting perspectives through re-scripting and challenging pathologizing ideologies, I became attuned to the fact that supporting an imprisoned loved one has brought forth purpose into my life. While clearly understanding that my lived experiences cannot speak for other women who are family members of someone serving a provincial prison or federal penitentiary sentence, my narrative, written poetically and suspended temporally in a period of being deeply involved with a secondary type of criminalization, has served to solidify the importance of my life’s work that was born out of the womb of this very struggle.

REFERENCES


**ABOUT THE AUTHOR**

Natasha Brien is a PhD student at the University of Toronto studying social work. She has been a loved one of people very dear to her, who have been incarcerated both federally and provincially in Canada throughout various periods in her life. Her areas of interest include the intersections of social work, law, criminality, and applications of critical race, Indigenous, feminist and queer theories. Natasha currently works as a research coordinator and course instructor at the University of Toronto, and her PhD research is supported by a Social Sciences and Humanities Research Council of Canada Joseph Armand Bombardier Canada Graduate Scholarship. Natasha is the founder of Supporting Ourselves While Supporting Our Loved Ones (SOSOLO). SOSOLO is a peer-based organization geared towards supporting friends, families and communities who have loved ones currently or formerly in conflict with the law. Natasha can be contacted by email at n.brien@mail.utoronto.ca or nbrien@sosolo.org.
PRISONERS’ STRUGGLERS

Prison Legal News: Advocating for Prisoners’ Rights for 25 Years
Alex Friedmann

Founded in 1990 in a Washington state prison cell by Paul Wright and Ed Mead, Prison Legal News is a monthly print publication, which has been in print for almost 25 years. The journal covers news and legal issues involving prisons, jails, and criminal justice-related topics with an emphasis on prisoners’ rights.

The first issue of PLN was hand-typed, photocopied and ten pages long. It was mailed to 75 potential subscribers. At the time PLN had a budget of $50. The first three issues were banned in all Washington prisons, the first 18 in all Texas prisons.

Now a 64-page magazine, PLN reports on a broad range of issues that include prison labour, rape and sexual abuse, the misconduct of prison and jail staff, prisoners’ constitutional rights, medical and mental health care, disenfranchisement, rehabilitation and recidivism, prison privatization, prison and jail phone rates, prison censorship, the death penalty, solitary confinement and control units, civil litigation against prison and jail officials, criminal justice politics and policies, wrongful convictions, and much more. Around 70 percent of PLN’s approximately 9,000 subscribers are incarcerated. PLN is now a project of the Human Rights Defense Center (HRDC), a non-profit based in Lake Worth, Florida.

Paul Wright, HRDC’s executive director, served 17 years prior to his release from the Washington prison system in 2003. He edited and published PLN for over a decade while incarcerated. PLN’s managing editor, Alex Friedmann, served 10 years behind bars, and all of PLN’s contributing writers are current or former prisoners. The organization has 14 full-time staff members with offices in three states.

PLN is unique in many respects. It is the only independent, uncensored national magazine edited and produced largely by prisoners and former prisoners. It is also the longest-running publication devoted to prisoners’ rights in American history. Unlike the vast majority of the mainstream media, PLN challenges the censorship of PLN’s publications and books sent to prisoners by prison and jail officials. Further, PLN is one of a few publications that offer a class-based analysis of the criminal justice system.
HRDC and PLN are dedicated to protecting the human rights of people held in detention facilities, and oppose the exploitation of prisoners and their loved ones. PLN has reported extensively on the prison industrial complex, prison slave labor, the so-called war on drugs, racial and socioeconomic disparities in the criminal justice system, and the privatization of correctional services. HRDC and PLN believe that prisons should be reserved only for those who need to be incarcerated because they pose a threat to the public, that prisoners should be treated humanely and provided with effective rehabilitative programs, and that correctional services should not be privatized or monetized.

PLN distributes a number of self-help and educational books for prisoners, including titles such as the *Prisoners’ Self-Help Litigation Manual* and *Protecting Your Health and Safety*, as well as three anthologies of PLN articles. Additionally, PLN has published three books: *The Habeas Citebook*, *Prisoners’ Guerrilla Handbook to Correspondence Programs in the United States and Canada* (3rd ed.), and most recently, *The Disciplinary Self-Help Litigation Manual* (2nd ed.).

Over the years, PLN has aggressively defended its First Amendment right to send its monthly publication and books to prisoners, litigating challenges to censorship by prison and jail officials nationwide. As a result, ten state prison systems and numerous jails are under consent decrees or court orders to ensure that prisoners can receive PLN and other publications. HRDC’s litigation project remains a priority, as prison and jail officials continue to engage in unjustified and unconstitutional censorship.

Further, PLN litigates public records cases against local, state, and federal agencies that refuse to comply with public records laws and the *Freedom of Information Act*. It has brought groundbreaking, successful lawsuits against private prison companies, including Corrections Corporation of America and the GEO Group, that do not comply with public records requests even though they are the functional equivalents of public agencies.

HRDC has also represented prisoners and their family members in wrongful death suits, including cases where prisoners have died as a result of suicide, homicide, and medical neglect. HRDC employs a general counsel, staff attorneys, and paralegals and co-counsels with law firms nationwide.

PLN received the First Amendment Award from the Society of Professional Journalists in 2013, and has continued to publish comprehensive
articles on all aspects of the criminal justice system. For example, last year, PLN’s cover stories included an extensive exposé on Corizon Health, the nation’s largest for-profit prison medical care provider; coverage of violence in Georgia’s prison system; an interview with Noam Chomsky; an article on the murder of Colorado’s corrections director and resulting reforms in the state’s prison system; PLN’s successful lawsuit on behalf of the family of a Washington prisoner who died due to gross medical neglect; and an examination of the pervasive problem of prosecutorial misconduct.

In addition to litigation, book publishing and distribution, and publishing Prison Legal News, HRDC has long engaged in advocacy efforts relating to prisoners’ rights and criminal justice reform. In 2011, PLN co-founded the national Campaign for Prison Phone Justice to reduce the high cost of phone calls made by prisoners. Following extensive lobbying by HRDC, the campaign and allied organizations, the Federal Communications Commission voted to cap the cost of interstate prison phone calls in 2013, and is currently considering similar rate caps for intrastate calls. HRDC continues to help lead the fight to reform the prison phone industry.

HRDC staff members have spoken at hundreds of conferences, conventions, and similar events, have been quoted extensively in news media ranging from The New York Times and CNN to the Wall Street Journal and Politico, and have appeared on numerous radio and TV news shows, as well as in documentaries. PLN has submitted written testimony to Congress on subjects that include solitary confinement and the school-to-prison pipeline. HRDC staff members have testified before a congressional committee and state legislative committees on criminal justice issues, and were instrumental in having the Private Prison Information Act introduced last year. HRDC has filed formal comments with government agencies, including the National Prison Rape Elimination Commission, EEOC, U.S. Department of Justice, U.S. Commission on Civil Rights, and departments of corrections at the state-level. Further, HRDC’s litigation project has joined amicus briefs on numerous occasions.

HRDC receives no government funding and currently does not receive any foundation funding. Instead, the organization is funded by donations and income from PLN subscriptions, book sales, advertising, and its litigation project. PLN’s website contains the most extensive collection of criminal justice-related articles, publications, and legal documents on the internet.
CONTACT INFORMATION

Prison Legal News
P.O. Box 1151
Lake Worth, Florida 33460
USA

(561) 360-2523

www.prisonlegalnews.org
www.humanrightsdefencencenter.org
INTRODUCTION

Jericho is a political organization with chapters and members throughout the United States (U.S.) that directly sponsors and represents roughly 60 political prisoners whose names and addresses can be found on its website www.thejerichomovement.com.

From its inception in 1998, the Jericho Movement’s primary intent and focus has been to free all political prisoners and P.O.W.’s from the nationalist movements of the 1960/70s who courageously fought against white supremacy, police repression and violence, and who struggled to build new societies based on self-determination, freedom, justice, and peace. These women and men represented organizations such as the Black Panther Party, Black Liberation Army, American Indian Movement, White Anti-Imperialist/Weather Underground, Puerto Rican Nationalists, Republic of New Afrika, and more. These women and men were also prime targets of the FBI’s illegal Counterintelligence Program (COINTELPRO). One of the main objectives of COINTELPRO was to undermine and destroy all credible black leadership and to ensure that no “black messiah” arose from among the people to lead them to freedom. Thus, many movement leaders have remained in prison now for over 40 years.

The overall objective of Jericho is to:

- Develop an effective process and campaign to educate and organize national and internal support around the issue of freeing political prisoners;
- Present the goal of freeing political prisoners before the federal government and before the state governments wherein political prisoners are held; and
- To demand the amnesty and release of political prisoners.

Jericho believes that it is imperative that people and organizations involved in human rights advocacy, community development, and organizing against mass incarcerations and continued political and racial repression understand the need to support all campaigns to free political prisoners. The point is that, if those remaining captives who stood up and sacrificed, organized actions, and fought against racism, exploitation, and the repression of people of colour and
poor communities across the U.S. are not supported, the door remains wide open for present and future soldiers/activists/revolutionaries/educators to be politically persecuted and incarcerated with impunity without expectation of any support. The State and status quo would have the green light to continue repressing, exploiting, and committing injustices unabated.

CORE INITIATIVES

1. National Assata Shakur Liberation Day
This initiative was started by Jericho in 2013 to establish November 2nd of every year as National Assata Shakur Liberation Day throughout the United States. This initiative was developed in response to the FBI’s designation of Sister Assata as a terrorist, the State of New Jersey’s decision to increase the bounty on her from $1 million to $2 million, and the United States’ total disrespect and disregard for Cuba’s sovereign international right to have granted her political asylum. Communities and organizations across the United States are asked to hold annual events celebrating Sister Assata’s liberation from prison on 2 November 1979, and to educate and organize communities around the issue of political prisoners, mass incarceration, the prison industrial complex, torture and solitary confinement, racial profiling, and the like. In time, National Assata Shakur Liberation Day will be a well-established holiday throughout the U.S.

2. The National Coalition for a Truth & Reconciliation Commission (NCTRC) to Free U.S. Held Political Prisoners and P.O.W.’s
The objective of this initiative is to generate national and international support in calling for equitable and unbiased investigations into the infractions and violations of the U.S. Constitution and the U.N. Universal Declaration of Human Rights perpetrated by official organs of the U.S. Government – particularly the FBI’s COINTELPRO and other similar programs – in perpetrating discrimination, racism, exploitation, and crimes against humanity against people of colour, and in particular, people of African descent.

The NCTRC will seek to persuade and pressure the United States Government to respect and acknowledge the need for similar processes here in America in order to address the years of Jim Crow segregation and brutality – akin to the South African Apartheid Era – as essential to
acknowledging and reconciling that page in history in a peaceful, dignified manner. Reconciling that page in history would necessarily entail freeing all of the COINTELPRO era political prisoners.

3. Political Letter Writing
This initiative entails writing very strategic letters to government officials and to the United Nations requesting their support in acknowledging the fact that there are political prisoners being held in the United States and to compel the powers that be to grant them complete amnesty.

4. International Support
This initiative entails soliciting international support primarily through involvement with the United States Human Rights Network (USHRN) and its committees/task forces. These committees collaborate and network with committed activists from organizations and communities across the U.S., and investigate and prepare shadow reports targeting the many various human rights violations committed by the U.S. Government. Participants have the opportunity to represent and present their issues and to network for international support in Geneva. The U.S. Government recognizes USHRN and its attempts to cite human rights violations. Jericho’s involvement in USHRN ensures that the issue of domestic political prisoners and the U.S. human rights violations surrounding them is represented. These violations include the failure of the U.S. Justice System to recognize the legitimacy of the Civil Rights and Nationalist struggles of the 1960s and 1970s, the role of the FBI’s COINTELPRO, as well as long term confinement, isolation, and medical neglect, all of which are considered torture by the United Nations, and according to human morality and logic.

All of these core initiatives reflect Jericho’s mission to free all political prisoners. Jericho’s activities involve support from and collaboration with sister organizations and individuals, which, in turn, work towards establishing a national movement to defend against all forms of human rights violations and abuses.

Jericho’s representation of political prisoners is genuine. It maintains direct communications and relationships with political prisoners on an ongoing basis through personal or legal visitation and letter writing. These political prisoners are directly involved in the movement’s planning, idea sharing, and self-criticisms.
Jericho has a Medical Department that addresses the increasing medical needs of political prisoners and collaborates with other organizations and communities to pressure prison authorities to tend to prisoners’ health concerns. With the support of its doctors and staff, the Medical Department has established a process of direct communication with prison medical staff in order to address any given prisoner’s medical needs, and to provide outside opinions, advice, recommendations, and pressure when and where needed.

Jericho recognizes that, post-11 September 2001, there are dozens of Muslims charged and convicted under false, ridiculous and nebulous accusations of conspiracy, rendering material support to one of the many countries and movements on the U.S. terrorist list, or allegedly plotting some action contrived by government agents, paid informants, or provocateurs.

Let it be known:

- That as a matter of principle, and in accordance with the United Nation’s Declaration of Human Rights, Jericho supports all people and nations that stand for true justice, fairness, freedom, and the right to live in peace and opposes all forms of imperialism and foreign aggression;
- That Jericho recognizes that many of the hundreds of post-11 September 2001 Muslim cases, known and unknown, are, in fact, political cases, and that many of the Muslims involved are political prisoners and victims of now legalized COINTELPRO-style practices;
- That Jericho joins with all human rights organizations, activists, and attorneys working on these cases in demanding their immediate release and vindication; and
- That as Jericho develops its organizational capacity, it will render more specific and decisive support to those political cases it determines fall within the scope of its mission, goals and objectives.

Jericho openly invites freedom-loving persons to join. Jericho also openly invites and encourages public involvement in any and all of its initiatives. Jericho has non-profit status through its financial sponsor, IFCO/Pastors for Peace – the Interreligious Foundation For Community Organization. Thus, for tax deductible donations, create subject line: “Jericho/IFCO” and send to:
Ashanti Alston/Jericho
162 Miller Avenue
Providence, Rhode Island 02905
USA

In struggle,
Jihad Abdulmumit
Chair, National Jericho
Political Prisoners!

CONTACT INFORMATION

www.thejerichomovement.com
https://twitter.com/Jericho4PPs
jihadabdulmumit@gmail.com
Une galerie consacrée à l’art carcéral
Daniel Lamoureux*

IL ÉTAIT UNE FOIS...


C’était le 11 février 1980, à 20 heures, rue Isabella, chez Andrée Lachapelle. Il y avait là outre l’hôtesse : Marie Boissonnault, Ginette Potvin, Michel Brière, Raymond Goyer, Daniel Lamoureux et Alexandre Zelkine. Ce soir-là fut conçu le *Mouvement pour la Diffusion des Arts Carcéraux du Québec* (MDACQ), qui naquit officiellement le 2 mai suivant et fut enregistré à Québec le 9 juin 1980. Sa mission, tant sociale que culturelle, s’articulait sur trois plans :

- contribuer à stimuler la créativité artistique chez les détenu(e)s et les ex-détenu(e)s ;
- contribuer à la diffusion d’œuvres littéraires, musicales, picturales, photographiques ou audiovisuelles traitant de la prison, des prisonniers, ou de matières connexes ; et
- contribuer à la diffusion de productions littéraires ou artistiques de détenus(e)s ou d’ex-détenu(e)s.

Sur les neuf années suivantes ce mouvement allait :

- réaliser dans les principales villes du Québec plusieurs centaines d’événements qui se déclinent en termes d’*expositions* (solos ou collectives) de sculptures, de peintures, d’artisanat ou de photographies, de *spectacles* de musique, de chansons, de théâtre, de poésie, de *lancements* de livres, de *conférences*, de *présentation* de vidéos ou de diaporamas, de *coordination* de plusieurs éditions de la *Semaine du prisonnier* et l’organisation d’un bon nombre de leurs activités respectives ;
• se doter d’une bannière exceptionnelle en la Galerie Maximum, modeste local situé au 123 ouest, avenue du Mont-Royal, à Montréal, qui deviendra au fil des ans le lieu de rendez-vous des groupes et individus intéressés par l’art carcéral ;
• mettre sur pied le groupe Évasion, constitué principalement de Sylvie Painchaud et de Réjean Bébé Ferland, qui allaient ponctuer la tournée de nombreuses villes du Québec de leurs prestations énergiques et touchantes ;
• participer à de nombreuses conférences de presse, émissions de radio ou de télévision, reportages et articles parus dans des journaux ou des revues ;
• encourager de manière tangible la production d’œuvres d’art chez les artistes suivants, notamment via leur exposition publique : Yvon Auclair, Rolland Berthiaume, Bill Bickerkike, Marcel Blanchette, Jean-Mario Cédilotte, Louis-Philippe Chamberland, Normand Champagne, Alain Champoux, André Côté, Florent Cousineau, Marcel Crevier, François De Lucy, Abdellatif Derkaoui, Louyse Doucet, Pierre-A. Dupuis, Martine Fourcand, Chin Kon Fong, Jean-Louis Lapierre, Jean Le Breton, Guy Lépine, Donald Milliard, William Papier, PDG (Pedneault, Desautels, Gaudreau), Miguel Angel Polanco, Lise Rose, Yvon Roy, Michel Soly, Marcel Soucy, Yves Thrace, Jacques Tourigny, René Tremblay, Maxime Uomobono, Armand Vaillancourt, Mario Viboux et Chu Hong Wai.

LES ANNÉES 1980

Ces événements remarquables s’inscrivent dans le cadre d’une décennie d’effervescence à la fois culturelle et politique, qui vit s’épanouir un Québec ouvert sur le monde et fort de ses racines identitaires, fier de sa jeunesse et confiant en son devenir économique. Les causes du sabordage de la Galerie Maximum en 1988 sont bien sûr liées aux conséquences du krach d’octobre 1987 et à l’austérité qui s’ensuivit au Canada, mais surtout au sentiment de lassitude des piliers du MDACQ, qui entreprirent dès lors des carrières personnalisées.
UNE GALERIE VIRTUELLE

Quelque trente ans plus tard, une poignée des pionnières et pionniers de l’édition initiale de la GALERIE MAXIMUM relancent bénévolement le projet, un projet de galerie virtuelle cette fois, sans limite de langue, d’espace, de main-d’œuvre. Dans cette perspective un site web a été créé durant l’été 2015 (www.galeriemaximum.ca). D’ici peu des photographies d’œuvres d’art carcéral y seront affichées peu importe leur provenance. Les communications reçues de la part de visiteurs via ce site seront retransmises intégralement à l’artiste concerné, par courriel ou par courrier. Aucune commission ne sera prélevée par la GALERIE MAXIMUM s’il y a vente, aucun coût d’affichage ne sera facturé aux artistes, aucun frais ne leur sera imposé pour photographier leurs œuvres. Trois conditions réglementeront les participations artistiques :

- les exposantes ou exposants sont détenu(e)s ou ex-détenu(e)s
- les œuvres affichées, ou leurs titres, ne contreviennent pas, dans leur nature ou leur caractère, aux lois canadiennes
- les auteurs doivent préalablement signer une autorisation d’affichage de leurs œuvres sur le site de la GALERIE MAXIMUM conformément à la lettre et à l’esprit de la loi sur les droits d’auteur, accepter qu’un professionnel en prenne des photographies, et dégager la GALERIE MAXIMUM de toute responsabilité à l’égard de l’usage que pourraient éventuellement en faire des internautes mal intentionnés.

Il va de soi que l’actualisation de ce projet reste conditionnelle à son financement, si minime soit-il, par un bailleur de fonds gouvernemental ou privé.

NOTES

* Dans ce document, le masculin désigne tant les femmes que les hommes et, le cas échéant, n’est utilisé que pour alléger le texte.

NOTE BIOGRAPHIQUE

En 1980, peu après une libération conditionnelle, il reprend ses études et fonde le Mouvement pour la diffusion des arts carcéraux du Québec, dont sera issue depuis 1983 la Galerie Maximum. Parallèlement, il publie *Y a rien là !* et sa traduction *No Big Deal*, une pièce de théâtre créée en 1977 par des détenus du pénitencier Archambault, un établissement à sécurité maximale où il séjourna durant six ans. Il entreprend dès lors une carrière de 30 ans en gestion d’organismes communautaires oeuvrant dans les domaines des arts, des jeunes sans-abri et surtout de la représentation politique. Dans le cadre de cette carrière il résidera à Montréal, Yellowknife et Iqaluit. De retour dans sa région natale aux côtés de ses garçons âgés (début 2015) de 9 et 10 ans, il relance une Galerie Maximum à la fois virtuelle et internationale, ce qui est l’objet de l’article publié dans le présent numéro. On peut joindre dès maintenant la Galerie Maximum en s’adressant à Daniel Lamoureux par courriel (galeriemaximum@hotmail.ca) ou par la poste à l’adresse suivante:

Galerie Maximum
Casier postal 49
Saint-Sauveur, Québec
J0R 1R0
Canada
PHOTOS PERTINENTES

Vittorio Fiorucci, designer graphique, Pierre-Paul Geoffroy, directeur de la GALERIE MAXIMUM, André Gourd, Québecor, Armand Vaillancourt, sculpteur, au vernissage du 31 janvier 1984

Marcel Blanchette, 1985 : Les parapluies acides

GALERIE MAXIMUM, 1987 : le ministre Gérald Godin, le poète Michel Bujold, Daniel Lamoureux, directeur général

Yvon Roy, février 1986 : Aubain téléphonique

Michel Chartrand et Pierre-Paul Geoffroy, le 31 janvier 1984

Yvon Deschamps, spectacle collectif On s’en sort, 4 juin 1982, Place Laurier, Québec

Le ministre Gérard Latulippe, Fort Chambly, le 14 avril 1986

Première prison à Québec 1812-1867
Louis-Philippe Chamberland, novembre 1985 : Évasion

6 septembre 1983 : la présidente Andrée Lachapelle inaugure la GALERIE MAXIMUM

Florent Cousineau, décembre 1983 : Solitude

11 février 1980 : les fondatrices et fondateurs du MDACQ et de la GALERIE MAXIMUM

Rolland Berthiaume, avril 1982

Miguel Angel Polanco, mars 1986 : Vendredi saint salvadorien
Nicole Kubatova is a European-born Canadian citizen, mother, artist, trained nurse and former prisoner. Nicole recently gave birth to her second daughter, and is on a journey of recovery from mental illness and drug (mis)use. During her incarceration, Nicole was touched by the struggles of others and participated in forming safety plans and successfully interrupted self-harming behaviours of fellow prisoners suffering from mental illness. This piece titled “Freedom and Peace” is representative of her journey, and the hope she holds for her children and future life.

Front Cover:  “Freedom and Peace”
2015 black stencil sketch on white paper
Nicole Kubatova