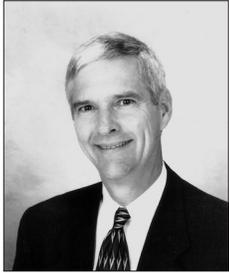




Illustration by Madeleine Keller

LIFE INSIDE PRISONS

by Hon. James P. Gray



This article has its roots between 10:00 p.m. and midnight Pacific time last July 4 when I was a guest on George Noory's radio show "Coast to Coast AM." The general topic was our country's Criminal Justice System, with the more specific subject being our failed policy of Drug Prohibition.

As a direct result of this show I received letters from eleven men who are presently serving time in prisons all around our country. Two of them claimed they are factually innocent of the charges against them, with one of those enclosing a copy of a signed and sworn declaration by a man who ostensibly was recanting his jailhouse snitch testimony that he had given against the writer of the letter in exchange for a prosecutor's promise of a lighter sentence. My response was to send a copy of this material both to the Agent in Charge of the local office of the FBI as well as to the local head of the Innocence Project for their investigation. (I realize that most people in prison claim factual innocence, but this one seemed worthy of extra attention due to the enclosed declaration.)

Another letter came from a man who said he was Jewish and that there had been a "hit" taken out on him by some "skin heads" in the prison. He further said that even though the warden and other correctional officers had been aware of the threat, they had done nothing to protect him. So, soon thereafter, the writer of the letter said that he had been stabbed seven times with a shiv, or homemade knife, by these two skin heads, who were all the while yelling, "Die Jew, Die!" One of the stab wounds pierced his liver, and he was lucky to survive. But he also enclosed an official-looking prison medical record that claimed that the wounds had been self-inflicted in an attempted suicide. (Can you imagine anyone attempting to commit suicide by stabbing himself in the back — seven times?) So, I wrote a letter to the warden saying that I was sure he agreed with me that all people in our custody, whether they are Al Capone or even Jack the Ripper, are entitled to receive reasonable protections against being assaulted, and would he please investigate.

(When I received no response, I forwarded my request to the warden's boss, who is the Governor of the state, with copies to some local media and the Director of the local ACLU. After I sent those letters, the warden responded.)

Life in Prison from the Prisoners' Perspective

Fyodor Dostoevsky once said "The degree of civilization in a society can be judged by entering its prisons. A society should be judged not by how it treats its outstanding citizens, but by how it treats its criminals." So I have often wondered, how well are we doing? Although when I was still an active trial court judge in California I had the opportunity of visiting both Norco and San Quentin State Prisons, those threshold tours hardly showed me what prison life was really like. So I took the opportunity to request each of the eleven inmates voluntarily to provide me with their thoughts and experiences of prison life — both the good and the bad. Eight of them agreed, and that is what they did. Take it for what you will, but I strongly believe it is incumbent upon each one of us as citizens to do what we can to ensure that everyone in our custody is treated within reasonably humane degrees of safety, nutrition and welfare. In other words, we all have an obligation to do what we can to make the prison system work. What follows is a compilation of the reports from those eight inmates, as well as my recommendations for making some changes.

Of course, life is different in prison depending upon many things, but the biggest difference comes from the level of security of the prison. Those in low-level security prisons mostly live in military-style barracks, with two-man rooms mostly with bunkbeds and without doors. The days start early, with inmates getting up usually around 5:30 a.m., with breakfast being from 6 a.m. to 7 a.m.. Then, jobs, education, physical exercise and other activities go from about 7 a.m. to 3 p.m. There are frequent body counts during the day in which the inmates must remain standing, and the rest of the day they use "move times" to change locations on the prison "campus." Then dinner is from 6 to 7, with extra time often being given to the cell block that has been judged to be the cleanest for the past week. After dinner most prisons go into lock-down.

As a further representative example of daily prison life, one inmate reported as follows: The majority of

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his time is spent to work out each day to maintain his health and mental wellbeing. He does his yoga and practices his Buddhist faith, and tries to get as much law library time as possible so that someday he might win 1983s for the benefit of all. (Section 1983 of Title 42 in the United States Code is known as the Civil Rights Act of 1871, which was enacted to combat post-Civil War racial violence in the Southern states and is a primary means of correcting Constitutional violations by state officials.) Everyone complains about the quality of the food, saying it is often stale and even moldy, and mostly a heavy concentration of unhealthy carbohydrates instead of fruits, vegetables and protein, in order to reduce expenses. Sack lunches are usually given out after breakfast and often consist of a bologna sandwich (one slice) and things like pretzels. Dinner often consists of a pressed chicken patty or gravy over white rice with Kool-Aid and Jell-O on the side.

Generally, holidays are not something really celebrated at most prisons, with the exception of a slice of pressed turkey at Thanksgiving, the addition of a slice of ham at Christmas, and two hot dogs on the 4th of July. In addition, frequently the inmates are kept at lockdown during significant holidays because the prisons are usually short-staffed due to their workers trying to take their vacations during those times. But, as one inmate candidly stated, "Can we blame them?"

Most inmates do have access to movies and small televisions, many of which require an FM radio to hear the sound. If internet is available for songs and entertainment, it is "Pay as you go." And weights are also frequently available which, in a men's facility, is often deeply appreciated and they are heavily used. Several inmates stated that often the best time of the week is chapel services, with chaplains addressing all denominations — and often they have libraries!

Many said that in the lower security facilities the walls were cracking, some buildings were condemned and simply abandoned, and other places reeked of raw sewage. To strengthen those points, many inmates

said that the prison staff would routinely bring in their own water bottles, because of the poor quality of the drinking water. In addition, many expressed the desire to have functioning microwave ovens at

their facility to heat their food. As one man said, 190-degree water can be used to cook noodles, but it doesn't work for anything else. And functioning air conditioning was also a common complaint, particularly since many prison facilities are located in desert or semi-desert areas. Some inmates would purchase small fans to help with the heat, but at a cost of \$10.95 for a fan and \$2.55 for a set of batteries, many could not afford that "luxury." And virtually all of the inmates that responded said they only had access to law libraries for a one-hour session once per week. In addition, most have no access either to the Internet or even to computers. So those men must still write letters and briefs by hand or on typewriters. (One of them sent



Illustration by Aurelio Ceccacci

me a list of items for sale showing that it cost \$8.95 just to purchase a typewriter ribbon.)

As to discipline and fighting, the standard response was that during the day at any given moment if an alarm sounds all inmates, whether in the yard or in the dayroom, must get down on the ground or prostrate on the floor. The alarm sounds when there is a riot on any of the yards, when an inmate has a heart attack or has overdosed, or if any inmates get into a fight. The frequency of these fights and riots depends upon the institution and mostly its racial environment. The norm for most prisons is about two to four fights per week — mostly just between two individuals trying to knock each other out with fists or stab each other with a homemade shiv. The usual causes of fights are disputes over drug or gambling debts not paid or from allegations of theft. The way mostly to avoid trouble is to respect people, be polite and say you are sorry if you are wrong (pretty much like life on the outside). Solitary confinement is used at most prisons for various rule violations and misconduct. Of course, inmates often state that the guards can

sometimes really be petty about its use as a sanction, and probably sometimes they are right.

As to substance abuse and overdose problems, all responders consistently said that these are huge problems. In that regard, the standard response is that the illicit drug business is primarily dominated by the Mexican Mafia. It is easily observable that an enormous amount of crystal-meth, heroin, fentanyl, tobacco and cannabis can be seen daily, both being sold and used around the yard and in the dayrooms. Hypodermic needles, sold by or stolen from diabetics after administering their insulin, are sold on the yard for between \$20 to as much as \$100 each and are also being shared by other users. A piece of heroine smaller than a standard pencil eraser sells for \$50 to \$60.

How is it that these drugs enter the prison yards? It's mostly not the mail because it most often is heavily scrutinized. Instead mostly the substances are inserted into balloons which are, in turn, inserted into the body cavities of visitors who, after visiting for a while, go to a bathroom to retrieve the substance, conceal it in clothing and then hand it to the inmate who then swallows it and awaits it to be retrieved later from his bowel movements. They are also brought in by staff, correctional officers and nurses — the same people who also bring in contraband cell phones. Why? Simple economics. A typical \$49.95 Wal-Mart cell phone sells for between \$1,000 and \$1,200 inside the prison. So it's hard to resist a 2,000% profit for one day's work. One inmate said that

some of the staff bring as many as half a dozen phones at a time in the bottom of their sack lunches, and he estimates that at least 10 percent of inmates in his yard own cell phones, which are mostly used to coordinate drug smuggling.

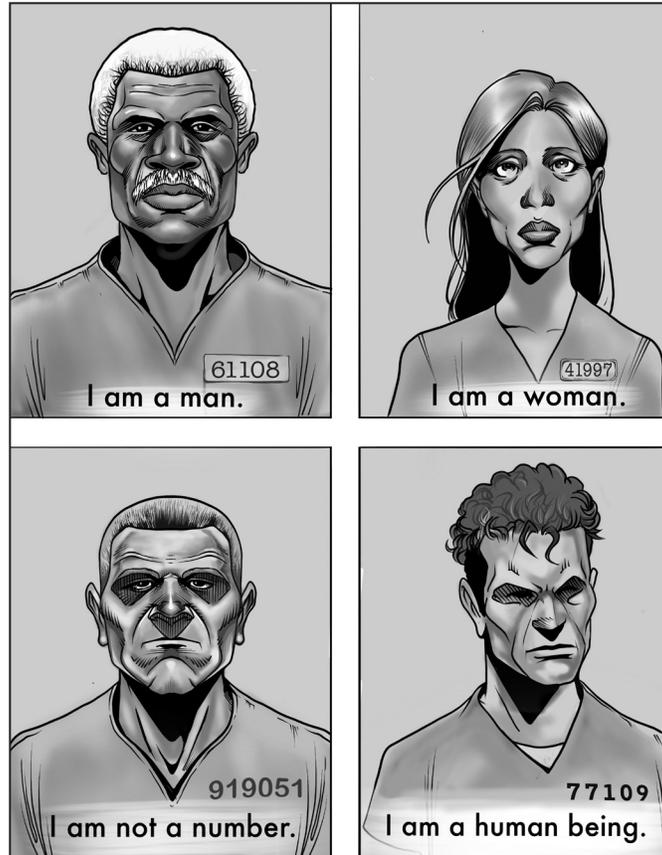


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In addition to smuggled drugs, it also seems that each prison has full-time psychiatrists who freely prescribe “mountains” of psychotropic drugs. There are long lines for these “brain drainers” three times daily, which often leave inmates with serious mood swings. According to the inmate correspondents, these drugs are provided simply to keep the mentally ill in a docile state of mind, which makes it easier for the staff to manage them. But an additional problem is that it is very common for “druggies” to be “celled up” with non-users who are eventually robbed and beaten up by drug users to support their habit. “A very unsafe environment.”

Generally it is understood that there is nothing “correctional” about any of the “correctional facilities.”

A further theme was that many inmates use their time in prison to plan how not to get caught the next time, which makes prisons quite useful in creating better criminals. But there is a larger group that simply wants to have a better life. So, since it costs about \$80,000 per year to keep one inmate confined, it would be highly cost-effective for the taxpayers to provide the means to help inmates from being returned to custody after they are eventually released.

Recommendations

So what should be done? How can we make the system work better? Based upon my experience as a criminal defense attorney in Navy JAG, a federal prosecutor in Los Angeles and my 25 years as a trial court judge in Orange County, California, and as augmented by the comments from my eight inmate correspondents, here are my suggestions for changes to our prison system:

- We must on an institutional and regular basis shine a neutral light upon life inside our prisons. The

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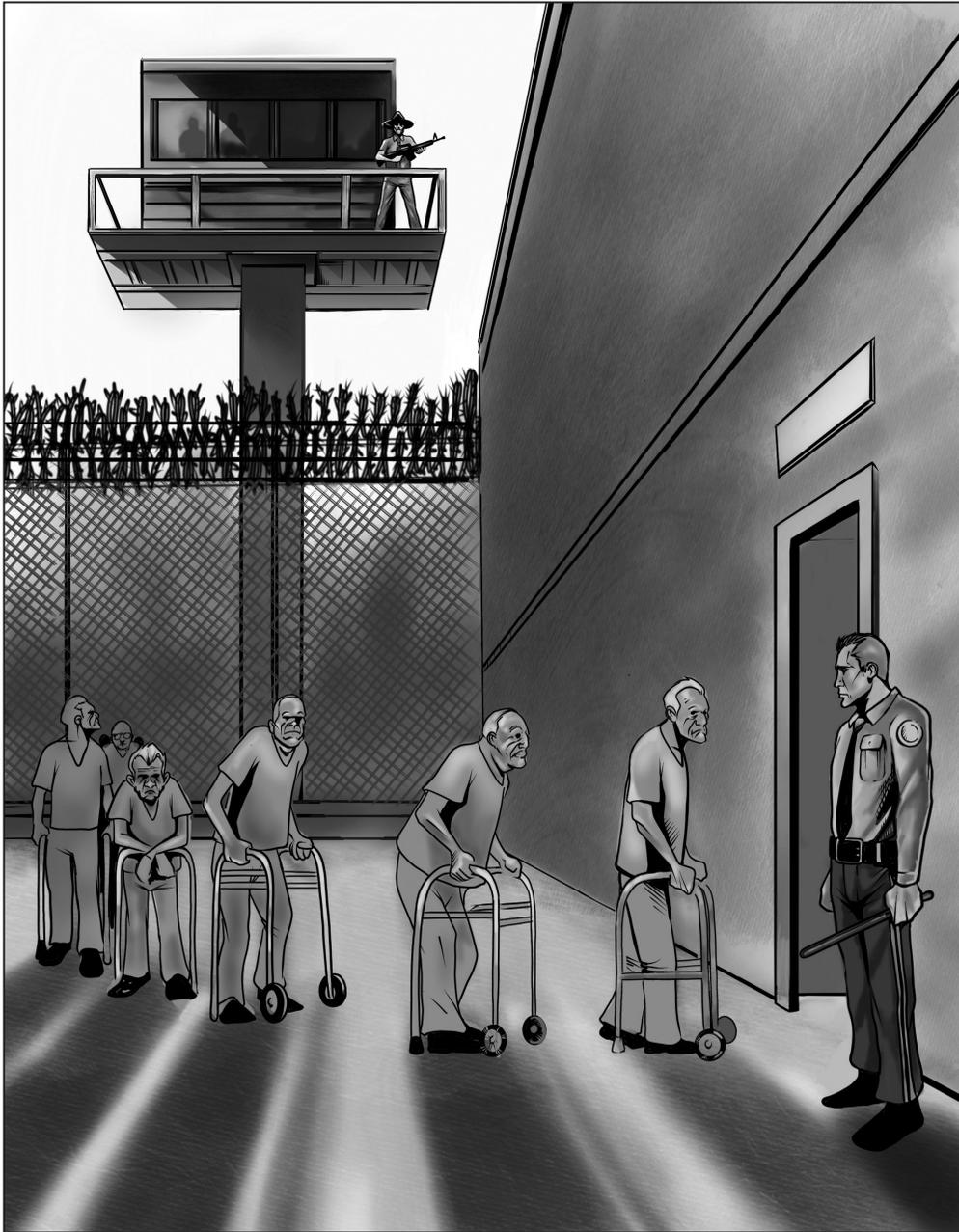


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policy. As a result, today there are literally tens of thousands of people in prison who simply should not be there, and that must be changed. This can be addressed by empowering governmental review boards to determine whether, all things considered, some inmates have served enough time. In addition, by repealing things like “Three Strikes and You’re Out” laws, mandatory minimum sentences and many existing sentencing enhancements, we can re-allow more judicial discretion in sentencing to make the punishments better fit the crimes. Yes, there are some people in our world who see us as their natural prey, and they by rights should be removed from society. But most people should not be defined by the worst thing they have ever done. As a judge I was in the “Responsibility Business.” But I ask you the reader; please close your eyes, right this minute, and contemplate how you would feel if you knew you would be spending the next ten years of your life wasting away behind bars — much less 20 years or 30! Particularly non-violent or first-time offenders! Too many people who are not a threat to us are facing that future, and it should be re-evaluated — on a case-by-case basis!

best way for this to be done is to allow, for example, an association of media outlets to appoint one of its members to have free access to each prison (obviously taking security and safety issues seriously). Then those representatives would be free to research and publish stories about whatever they find. But that should be tempered by requiring the media outlets also to publish rejoinders by the prison wardens whenever they so desire.

- The United States of America has 5 percent of the world’s population, but 25 percent of its prisoners. How did that happen? Beginning in the 1970s with the so-called War on Drugs, we converted the political slogan of “Tough on Crime” into governmental

- A large segment of people in prison are mentally ill who are not receiving necessary treatment to address their “demons.” That is both inhumane and counter-productive for both the security of those inmates as well as everyone else involved.

- Many prison inmates are geriatrics who couldn’t hurt anyone even if they tried to throw their walkers at them. In addition, many of these older inmates are often preyed upon by gangs of younger inmates. So if they cannot be released, then separate facilities should be set aside for those who are, for example, 55 and older. Not only will this be safer and more humane, it will also be much more cost-effective to gather these older inmates in the same places.

- Of critical and humane importance, eligibility for parole must be returned to the federal system! People can change in prison, and those who have become prison role models and otherwise shown they are no longer threats to the rest of us or our property should have a chance to be released before their entire term has been served.

- In my podcast interview of Mr. Justin Brooks, who is the director of the San Diego "Innocence Project," he told us that he himself in the past 20 years has personally escorted 29 people out of our prisons who were "factually innocent." Even one person in prison who is factually innocent is too many, but 29? Another reason to allow a member of the media to have free access to our prisons.

- Inmates should have reasonable access to law libraries, as well as computers and copy machines. Every one of the inmate correspondents brought up this issue, and they have a valid point.

- All studies show that the key to not being a repeat offender, i.e., a recidivist, is having a job. So, if only for taxpayer relief, job skills must be taught before the inmates are released for those who want them. Furthermore, since many states require licensing for many trades, such as hair braiding, tree trimming, plumbing, mechanics and even dental and medical assistants, many released inmates are disqualified from even applying for those licenses. This must be changed for many of them. One example of a successful approach is being implemented by a group called Open Gate International, which provides training in culinary arts without cost, not only to inmates who have been released after serving their sentences, but also to some inmates while they are still in prison. And this wonderful group has a 75% success rate in getting good jobs for their graduates as chefs and other similar positions. Just think of the benefits to society that this group obtains. These programs should be replicated.

- The good news is that there are often work opportunities available inside prisons, such as janitorial, maintenance, plumbing, electrical helpers and general workers at inside factories. But, unfortunately, there are also large disincentives for inmates to participate. For example, most say that the wages range between 5 and 16 cents per hour. And further disincentives are found because many inmates have been court-ordered to pay restitution to their various victims. So often 55% of their wages are garnished for those restitution payments, and that often doesn't even cover the interest that is charged for the outstanding balances. "So why should I work?" is often the understandable feeling. Changes should be made to provide more incentives for inmates to work.

- Virtually everyone agrees that inmates should not be pampered, but some reasonable air conditioning should be provided in prisons that are located in desert or semi-desert locations.

- Given the situation, meditation classes would be wonderfully fitted to prison life, where there are generally no tools available, lots of pent up anger and the inmates have lots of "time" on their hands. These would help everyone to "keep the lid on."

In summary, as a humane society, we must guarantee that anyone who is in our custody is treated with at least a minimum threshold of decency, nutrition, health and dental care and physical protection from being attacked. All of the inmate responders brought up examples of an absence of medical and dental care, to the degree that several said that not even Poli-Grip was available in the commissary store for inmates with dentures. That is not humane. Let's all join together and treat those people subject to our custody in a fashion that would assure Dostoevsky and anyone else who cares that walking into our nation's prisons would reflect well upon us as a humane and caring society. Because it appears now that this is not the situation.

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