



THE CALIFORNIA PRISONER

A Prisoners Rights Union Publication

Sacramento, CA

June 1991

Vol. 19, No. 2

1971-1991: A History of Fighting For Prisoner's Rights



The Folsom strike took place November 2, 1970. A group of Folsom prisoners wrote and distributed a "manifesto" of demands and announced that they would strike until these demands were met. This strike inspired what would become The California Prisoners Union in 1971.

PRU and the Law

"The law in its impartial majesty forbids the rich and poor alike from stealing bread and sleeping under bridges."

By Michael Snedeker

Union's Philosophy

Is the Law a thing to be admired? In California, laws are auctioned off to the interest groups that pay the most. Governor Wilson was given \$760,000 by California's prison guards to run for office; few among us could remain unaffected by such a sum of money. Inside prison, laws are more like suggestions than fixed norms. Still and all, the Bill of Rights has not yet been repealed; the Prisoners Rights Union has always been interested in and involved with changing or enforcing laws.

Our interest arises from the Union's essential nature. Organizations concerned with life in prison may roughly be divided into three types: (1) Abolitionist organizations, who see prisons as the tumors of a sick society that should be surgically removed; (2) Civil Rights organizations, who try to extend and enforce legal principles of fair treatment to prisoners; and (3) Helper organizations, who try to assist individual prisoners cope with life inside and outside of prison. The Prisoners Rights Union has al-

ways been the second type.

These categories are not water-tight; the Union or its volunteers have often tried to help individuals, and have also weighed in heavily recently against the explosive growth of imprisonment as the official solution to a host of societal problems. However, groups that want to abolish prisons or help individuals share an indifference to the legal structure governing prisons, while the Prisoners Union has made this structure its central focus.

The rights closest to our hearts are those guaranteed by the First Amendment to the United States Constitution, and Article I, sections 2 and 3 of the California Constitution; the rights that collectively make up what has been called the *freedom of expression*. The root of this concept is negative rather than positive: it assumes that there is no final truth clear to all about how one should live, or how society should be ordered, and that the best way for truth to emerge is to hear from people with as wide a range of experience as possible.

Without freedom of expression the political process could be frozen solid at any point. There

See HISTORY on page 11

Concrete and crowds: 100,000 prisoners of the state

By Rick Garnett and Vincent Schiraldi

The following is taken, in part, from a report prepared by The Center on Juvenile and Criminal Justice as the California prison population reached 100,000. The study profiles the "typical inmate," examines the cost of incarcerating the inmate, and offers recommendations that would shift these costs to the implementation of more viable alternatives.

On April 15, 1991, the California Department of Corrections announced that the prison population had exceeded the 100,000 mark. As an occasion for reflection and analysis, the Center on Juvenile and Criminal

Justice has constructed a profile of the prototypical 100,000th inmate.

In addition, we have attempted to compute the cost of incarcerating and controlling this prisoner. This figure reveals the true costs of interpreting "tough on crime" as "lock 'em up."

The following is a profile of our 100,000th prisoner. Overall, he contrasts starkly to the stereotypical criminal epitomized by Willie Horton: A young man of color, uneducated, and substance-abusing, our 100,000th inmate is notable more for the desperation of his circumstances than the heinousness of his acts. In fact, although we spent over \$42,000 on his incarceration, supervision, revocation and re-incarceration, the prisoner's

original offense was a property crime, such as larceny-theft, 75 percent of which involve a loss of under \$400. Perhaps most surprising is that this prisoner was sent to the Department of Corrections not by a Judge and not with a new conviction, but by the Board of Prison Terms for a parole violation. We will spend an exorbitant amount of money imposing a term of supposedly rehabilitative inactivity upon this man, yet at no point in the process can he expect to receive drug treatment, education or job skills. As a result, he will return to us arguably more likely to reoffend than when he entered prison.

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LETTERS TO THE EDITOR

The Struggle Continues Say No to visiting cutbacks

Dear Readers,

1991 marks the 20th Anniversary of the Prisoners Rights Union. This issue is dedicated to examining the Union's history in the courts, in the legislature and in the minds of those who committed a year or more of service to the advancement of human rights for all those incarcerated.

Throughout the years there have been a number of rights violations that the Union and its members have fought to rectify. The struggle continues as the Union begins a new decade of service.

In April, the prison population under the California Department of Corrections exceeded the 100,000 mark. This number is staggering, but it does mean that we are at least 100,000 voices strong.

Those voices need to be heard NOW! The Department of Corrections is examining its budget to determine where cuts can be made. Visiting cutbacks will undoubtedly be an option.

It has been proposed that \$6 million could be saved if visits are reduced to just weekends and holidays.

• Our office has received many calls of outrage over this rumored proposal. Letter writing campaigns have been kicked off addressing representatives in the legislature and the Director of Corrections.

• (Incidentally, the *SF Chronicle* reported on May 16 that the one year old locks on cell doors at Pelican Bay State Prison are "flawed" and that the state plans to spend \$6.4 million to fix them. Where is this money coming from?)

It is difficult for anyone to know what is going on in the minds of CDC's leaders. At this publication, there is no written budget recommendation to cut visiting privileges.

However, on June 3 the Department of Corrections did submit a lengthy proposal to the Office of Administrative Law to change Title 15 of the California Code of Regulations "by amending regulations governing the visiting of inmates and access to facilities."

A proposed addition to Section 3171 reads as follows: "Each facility's visiting procedure supplement shall provide a minimum visiting schedule of no less than 12 hours per week."

If this proposal were to be adopted, visiting could legally be cut to weekends and holidays. Exceptions might be made to excuse visiting prisoners from weekend job assignments; however it would discriminate against visitors who work weekends. It would also result in extreme overcrowding and terminated visits.

Comments concerning this proposed change will be considered in writing through August 27, 1991 when a public hearing will be held at 10:00 a.m. (1515 S Street, Room 202 North, Sacramento).

Letters can be addressed to Tony Loftin, Regulations and Policy Management Unit; Department of Corrections, P.O. Box 942883, Sacramento, 94288-0001. Any comments made will be taken into consideration by the Office of Administrative Law before a final decision is made.

Speak now! Let us begin our 21st year unified and strong.

Kimberly
Kimberly Hubert
Editor

No to visiting cutbacks

I am writing this letter in regards to the state possibly cutting back visiting within state run prison facilities to ease the budget deficit. In a recent article published in the *Telegram-Tribune*, San Luis Obispo, dated May 13, 1991, it stated the state would save up to 6 million dollars cutting back weekday visits to weekends only. I truly find that hard to believe since none of the visiting officers would be terminated; they would simply be absorbed into each prison facility and their 35,000 dollar salary continued.

Currently, the state enjoys a revenue being made by the prison visiting rooms. The vending machine companies give the state a percentage of all that is sold inside at visiting. That would be greatly decreased by cutting out 3 visiting days per week. Therefore, the state would have to absorb that loss and ultimately fork out monies to cover that loss.

There are other ways of cutting budgets. The officers need to stop waste. My husband witnessed a guard ripping up a pillow after confiscating it from an inmate. When he asked the officer why, he replied, "Because I'm an officer and I feel like it." There is also so much money lost providing pay numbers for the men to work within the prisons. They all should be required to work, or go to school, or do a vocation. But, the state should not be rewarding them for what should be required of them. The state covers their basic needs of food, toiletries, clothing, etc. The rest is frivolous and should be provided by their families.

Last year the Inmate Labor Initiative was passed. Why has private industry not entered the state prisons yet? There is also an Inmate Welfare Fund which is intended to benefit the inmates, yet it has been used to buy high-way patrol cars and guards pensions, etc. Start using that 1½ million dollar fund for the inmates.

Title 15, Article 7, of the Department of Corrections addresses the rights an inmate has to visit. Section 3170(a) acknowledges the value of visiting as a way to establish and maintain family and community relationships. To cut visiting down to only weekends hinders and strains the already fragile relationship. An inmate with close family ties and a foot in the community is the most likely to succeed at rehabilitation — which is supposed to be the Penal System's objective.

Limiting visiting to weekends only would cause visiting rooms to become increasingly overcrowded and therefore allowing for tense and questionably explosive situations harmful to staff, inmates and free people. Section 3170(c) states visits are to be limited *only* to avoid overcrowding or the unequal allocation of visiting time. The state would be going totally against this directive. "Weekend visits only" would greatly increase overcrowding and local visitors would be discriminated against. Their visits would be continually terminated after 1 or 2 hours while those who travelled farther would be allowed to visit 4-7 hrs. This again allows for tense and

volatile situations.

Section 3170(b) states "visiting shall not be denied except as is necessary for the reasonable security of the prison and the safety of persons." Although the state isn't planning to abolish visiting, it has in fact violated the "spirit" of this section. Visiting is designed to maintain a family unit while trying to cope with a loved one's incarceration. Inmates cannot be a part of a unit with any meaning or substance on weekends only. They have a right and a need to have the availability to participate on an almost daily basis.

Also, weekends only visiting would only be opened to those inmates who worked M-F. Those inmates whose jobs were on the weekends would not be allowed to visit. Therefore, the state would again be violating the Visiting Directive, Section 3170(c) of unequal allocation of visiting time. These inmates would be greatly discriminated against.

I urge you to reconsider your plans to decrease visiting. The state can save a larger amount of money by abolishing the unnecessary pay numbers for menial jobs, by implementing the Labor Initiative, by decreasing the wastes found in food preparations, theft & destruction of state materials by staff, free people and inmates and by releasing first time criminals at earlier dates.

There are other alternatives to the state's budget problem. Visiting is the easiest. Who cares? They are only inmates. But I care, my children care and many other families care. Do not cover the large overall problem with a bandaid treatment.

The family unit is fragile — it needs nurturing to keep it alive. It is also one of the major factors that causes a man or woman to succeed once released. His or her success is due largely to the support, communication and guidance of his family and others within his community.

Karen Peyer
San Diego, CA

Education inside

In this time of financial crisis and proposed budget cuts, I wish that you would please consider the following information on behalf of those incarcerated in the state of California.

What is the value of educational programs to those in prisons? The answer is that education in the correctional system has a contribution to make, but it can also be used as a vehicle to accomplish other objectives such as instilling work habits, gaining the feeling of achievement that leads to self-respect and self-esteem, and learning the self-discipline it takes to acquire new skills.

The goal of education programs in the correctional setting must be to provide inmates with academic, occupational and social skills to help them better function in the institution, and more importantly upon their return to society. Today, rapid and significant change has become a preeminent feature of our society. This requires the cultivation of a creative learning environment. In this environment we should try to motivate inmates to become responsible and

competent citizens through personal, social and intellectual growth.

Institutional programs should seek to establish mutually beneficial partnerships with other educational and scholastic agencies, government and business. Through these partnerships we may look to provide public services to the community through academic, public and private organizations. Simultaneously we may instill a sense of social responsibility and values within those participating in these programs. The building of self-esteem, responsibility, understanding and marketable job skills are necessary to any rehabilitative environment. These individuals can become active and productive members of the community and society.

Education programs will not be the panacea for the problems of crime and incarceration. Yet, equipped with the proper skills and opportunities, there are those who may break the cycle of recidivism and serve as role models for others to break the cycle or avoid incarceration completely.

A program like the San Joaquin Delta College Program offered at Deuel Vocational Institution has provided educational opportunities to inmates for many years. Men in this program have distinguished themselves over the years by being named to the Delta College Honor Roll, President's List, and have graduated with Honors. Much of the perseverance and self-discipline necessary to pursue their education has been developed and encouraged by the Delta College Instructors and fellow inmate students at Deuel Vocational Institution.

Men in this program have been strengthened by the self-confidence gained through continued goal setting and achievement. These inmate students have been steadily and persistently working towards the goal of improving and expanding this program.

These men do not seek something for nothing. They are willing to work for the opportunity and privilege to receive higher education. Many are willing to share their hard-earned life experiences, perspectives and ideas for the benefit and education of others. Many assist their fellow inmates to improve their academic skills through structured or informal remedial and tutorial study. Others have long pursued the idea of establishing an in-house reading program for the visually impaired students and members of the local community. Obviously this program means a great deal to many of these men.

With support and encouragement of programs such as this, and commitment to future expansion and additions of educational programs, many of those in prison may learn to think, nurture creativity, attain a better understanding of themselves and society, and develop career opportunities. Men who accomplish these objectives will be better equipped to return to society as productive and contributing individuals.

John Steelman
Tracy, CA

THE CALIFORNIA PRISONER

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The *California Prisoner* is published bi-monthly for members of the Prisoners Rights Union. Annual memberships are \$5 out of state/CA inmates, \$20 or more individuals, and \$30 or more institutions. Membership includes newspaper subscription and a membership card. Subscription to the newspaper is still available free of charge to California inmates. We accept stamps from inmates as a form of payment.

The Prisoners Rights Union is not able to respond to individual legal requests.

Readers are encouraged to comment on articles, as well as other prison-related topics. Letters received become the property of *The California Prisoner*, which reserves the right to edit and condense.

Advertising space will be sold at the discretion of the advertising department.

All correspondence should be addressed to: Editor, *The California Prisoner*, 1909 6th Street, Sacramento, CA 95814. Subscription requests and all address changes (including new address and old address mailing label) should be directed to: Subscription Desk. Prisoners should inform our Subscription Desk of new cell or facility assignment, otherwise mail will not be forwarded.

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The California Prisoner
ISSN 0884-0075

On the Front

By Jacqueline Heness

Statistics

California now has more men and women locked up in its state prisons than any other state or nation in the so-called free world, nearly twice the number in all federal prisons and four times as many as there were just a decade ago. A study of Justice Department statistics by the Sentencing Project revealed that "the U.S. has moved up from third place to become the undisputed Number One in the world, unsurpassed in the punitive skills of putting its people in prison — more than a million of them at the moment, compared with only 769,000 in all of the Soviet Union." The USSR imprisons 268 persons per 100,000. South Africa, known for its racial prejudice and oppression, has an incarceration rate of 729 out of every 100,000 black males, far behind that of the U.S. where 3,109 out of every 100,000 black males is imprisoned.

Mandated Employment Opportunities for Ex-Offenders

The American Prisoner Rehabilitation from Incarceration Law went into effect on April 1, 1991. This means that employers with over twenty-five employees will be required to include ten percent rehabilitated felons in its work force. By April 1, 1992, this quota increases to fifteen percent. While employers may count executive felons equally with blue collar criminals in achieving their quotas, elected officials are exempt from the act. It is estimated that the law will cost American industry upwards of two hundred billion dollars.

Death Penalty Appeals

A recent decision by the U.S. Supreme Court limits inmates to one federal appeal to prisoners who request a stay of execution. Attorney for Roy Allen Harich,



the first person executed since the decision, remarked that, "The Supreme Court is sending a message to the lower courts that 'we don't care about these problems and don't want to bother with them.'"

Recent CDC Happenings in California

Region III's new Pasadena parole office opened March 13. This means that Pasadena parolees will now be managed in that city instead of the Alhambra office.

Thanks to the efforts of the prison's plant operations staff and the inmate day labor program, CIW, Frontera is opening a new drug treatment program. Barneberg, the 120-cell building, has been completely renovated and will include cells that are fully accessible to wheelchairs.

RJ Donovan's vocational Optical Technology program has, after 14 months of negotiations, received national certification under the American Board of Opticianry and the National Contact Lens Examiners. Successful inmate/students will be "job ready" when they parole.

Food and Nutrition Issues

What goes on in the CDC's kitchens is the responsibility of Eileen Herrin, whose job also includes overseeing religious or special health-related diets for the prison's menu plan. Address questions to her at the Food Services Division of the CDC.

The Mentally Retarded

Laws exempting mentally retarded persons from execution have passed in Georgia, Kentucky, Tennessee and Maryland. Letters to this state's legislators requesting that a similar bill be sponsored could add California to this list of states.

More From CURE

In the last issue of the *California Prisoner* newspaper, it was reported that Citizens United for the Rehabilitation of Errants had formed a CURE For Veterans dealing with needs specific to veterans who are imprisoned. Now comes a chapter to work for the treatment of sex offenders so they can be restored to society (CURE-SORT). For more information contact them at P.O. Box 2736, Kalamazoo, MI 49003-2736.

Lifer Hearings

In response to a request in the last issue of *California Prisoner*, about 40 family members and professional persons recently testified at the Board of Prison Terms hearing in support of allowing persons to attend parole hearings on behalf of the prisoner. Many, who couldn't attend, sent letters to the BPT. I will keep you updated regarding this issue.

Some of our readers have written requesting additional information regarding what they read in this column. I am dependent on various periodicals for my sources of information for this column and the details are not always included. I include as much as is available to me.

Victory in US Supreme Court

By Dick Herman

The PRU's first case to go to the Supreme Court, *County of Riverside v. McLaughlin*, ___ U.S. ___, 91 DJ DAR 5506 (May 13, 1991), was a resounding victory requiring persons arrested without a warrant to receive a prompt judicial review of probable cause for arrest without unnecessary delay, at the outside within 48 hours, with no extension for weekends and holidays. We are all aware that in California the police would often make bogus arrests before a weekend and the innocent citizen would spend five days in jail often without ever being charged or seeing a judge. This is now a thing of the past (when we can get around to suing all of the counties in California). We even had a strong dissent in our favor by Justice Scalia arguing for 24 hours max!

This opinion also resolved a lingering but significant problem for civil rights plaintiffs. In the Los Angeles chokehold case, the Supreme Court held that, since the chokehold had already occurred, the victim had no "standing" to sue to end future chokeholds. *Los Angeles v. Lyons*, 461 U.S. 95 (1983). The defendants in *McLaughlin* argued that since a prompt judicial determination of probable cause for arrest had already been denied, our plaintiffs similarly "had no standing" to sue. Justice O'Connor, writing for the majority, unequivocally held "that by obtaining class certification plaintiffs preserved the merits of the controversy for our review ...



the termination of a class representatives claim does not moot the claims of the unnamed members of the class."

This is true even if the class is certified after the named plaintiffs' claims become moot. "In such cases, the 'relation back' doctrine is properly invoked to preserve the merits of the case for judicial resolution."

This case took two years of work by many people including Jim Glick, our "local counsel" in San Bernardino (no Riverside County attorney would put their name on this case!), and Dan Stormer, who briefed and argued this case successfully before both the Ninth Circuit Court of Appeal and the U.S. Supreme Court. I, of course, was the original trial counsel and obtained the original preliminary injunction. The PRU has truly come of age in this litigation. In addition to all its jail conditions lawsuits, it has prevailed before the U.S. Supreme Court.

Dick Herman is an attorney who works to bring lawsuits on prison-related issues. He is the director of jail litigation for the Prisoners' Rights Union and serves on the Board of Directors.

Ex-cons on the Run unite in San Francisco

By Judy Wahl

Over 100,000 people ran and walked in the 80th San Francisco Examiner Bay to Breakers Fun Run on May 19. Included in the throngs were eight Ex-Cons on the Run, celebrating their 5th Anniversary. Sponsored by Sisters OutSide, now Crossover Communications, Inc., Ex-Cons on the Run began as an annual celebration of the support network formed by four women who became friends while incarcerated at the California Institution for Women in Southern California in the early '80s. These four women became interested in running while in prison in order to deal with the pressures of life behind bars. They spoke and dreamed of running together in the "free world" someday. After serving their time, two of them relocated to the San Francisco area and the other two to Southern California. In the spring of 1986, in order to reestablish their friendship and to strengthen support for each other while in transition, all four met for the first time outside of prison at the 1986 Bay to Breakers Run. Wearing gold and black Ex-Con on the Run T-shirts, they carbohydrate-loaded on pasta and ran together from start to finish.

The news was passed by word of mouth and through Crossover Communications' mother publication, Sisters OutSide, and their current quarterly, TRANSITION NEWS, to ex-cons

throughout the State. The year 1987 saw their numbers double as eight Ex-Cons on the Run crossed the finish line. This year, Ex-Cons on the Run numbered eight participating in the race and an uncounted number on the sidelines, in prisons, halfway houses, at their jobs and at home, cheering them on. Sporting white-on-black Ex-Con on the Run T-shirts they ran side by side with runners from all over the land.

Ex-Cons on the Run is a loosely-formed support network of ex-offenders throughout the State of California. Their first goal is to provide encouragement to each other through on-going communication in person, over the phone and through the mail. The Bay to Breakers run each year provides an opportunity for all participants to reconnect and get our ya-ya's out with people who intimately understand our past pains, present difficulties and hopes for the future. Loved-ones are also welcome at their yearly get-together — children, spouses, lovers — and they feel a part of the support network, which provides them with an opportunity to check-in with family members of other ex-cons and to talk about their special issues.

Ex-Cons on the Run comprise a varied group: college graduates with upper-level degrees, entrepreneurs in business, career-oriented laborers, students, social activists and service providers. Many are married, some to other ex-offenders, and

many have children. This year they participated in the race with a special mission: to raise public awareness about the issues affecting prisoners and ex-offenders in California and the world.

Ex-Cons on the Run are committed to the following goals through the process of public education, individual and group interaction, political and social activism, and visibility in the community as successful ex-offenders:

I. Strengthening and empowering persons at-risk for criminal behavior or re-offending, through a support network of successful ex-offenders and social service agents;

II. Motivating at-risk persons toward socially acceptable behavior;

III. Ending the cycle of abuse by educating the public that offenders, addicts, alcoholics, the mentally ill and homeless people are and have been victims, too;

IV. Changing the media representation of prisoners and ex-offenders. (They are your neighbors, co-workers, relatives & friends. At the current rate of incarceration, 1 out of 10 persons has done time in a correctional facility — they don't stay in prison forever — and you can't tell by looking at them who they are!)

V. Advocating for healing methods of treatment and restitution rather than punishment and warehousing;



Ex-cons who participated in the Bay to Breakers race included: Teresa, Mimi, Judy, Betty, Windi, Jodi and Diana.

VI. Encouraging the criminal justice and social services delivery systems to address the causes of dysfunctional behavior, both episodic and chronic, using a multi-level approach: individual, family, community, and societal.

VII. Forming a voting and lobbying force of ex-offenders to work toward and advocate for the above-mentioned goals.

Ex-Cons on the Run are encouraging all those interested to join and purchase a T-shirt to wear when participating in any running event — or for a souvenir or everyday wear. We will in-

clude ten copies of our purpose and goals with every T-shirt order — for when people ask, "What is 'Ex-Con on the Run' about?" We also have available "I ♥ MY EX-CON" printed in white and hot pink on black 100% cotton Hanes Beefy-T's. Specify M-L-XL. Also, all members of Ex-Con on the Run will receive a free one-year subscription to TRANSITION NEWS in order to keep up-to-date on activities.

Judy Wahl is an ex-offender and founder of Crossover Communications, 433 E. Main Street, Ventura, CA 93001.

PRISON LAW

Capitol Report



By Paul W. Comiskey

The issue dominating the legislature currently is the budget. Each year the legislature must have a bill before the Governor so that it can be signed and in law by July 1, the beginning of the new fiscal year. The state cannot legally spend money unless the budget has been passed. Often enough, however, there is a crisis and the budget does not get passed. When this happens, the legislature stays in session, deals get cut, and they usually get to go home for the Fourth of July and their summer vacation.

The budget this year is particularly troublesome. Last year there was not enough money and compromises with Governor Deukmejian were impossible. The budget that was finally passed simply deferred some payments to this year, allowed counties to collect fees to pay for some costs, and hoped for the best. The best did not come. We have suffered an economic recession since last year and government revenue from taxes is falling about fifteen billion dollars short of what is needed for the government to operate. This means that taxes have to be raised and spending cut. The Democrats and Republicans have different views concerning how this should happen.

Governor Wilson wants to cut welfare and says that welfare recipients will have to do without a six pack of beer. This has infuriated those concerned for the poor. The big questions for prisoners and their families in relation to the budget is whether visiting will be cut and whether some prisoners will get out early as a result of the fiscal crisis. The answers to these questions are unknown.

Visiting Cutbacks

Rumors have been circulating for weeks about visiting. Undoubtedly contingency plans have been drawn to severely cut visiting. The Governor, on the other hand, has pledged that the budget for The Department of Corrections will not be cut. In fact, the rumor is that the CDC will get a fourteen percent increase in its budget. If CDC does decide to severely curtail visiting,

we will do whatever necessary to protect this important right.

Early Release

There is one bill in the legislature that would shorten sentences for some prisoners. This is AB 1089 carried by Assembly Representative Barbara Lee (D), Oakland. It would establish a pilot program whereby 15,000 non-violent offenders would go through an intensive pre-release

program and then get their sentences reduced by 60 to 90 days. It is estimated that the reduction in prison population would save twenty-nine to forty-nine million dollars. Does this bill have a chance? It is difficult to say. It passed from the Assembly Criminal Justice Committee to the Ways and Means Committee. We shall watch its progress.

Governor Wilson recently went

to Folsom Prison and used it as a backdrop to denounce any efforts by the legislature to shorten prison terms. He said that Folsom was full of murderers, cutthroats, robbers, and rapists. These are the people, he warned, that the legislature wants to let out early. Senator David Roberti dismissed the Governor's statements as histrionic propaganda. It does give us indication, however, concerning the governor's position on the matter.

It is important to remember that the California Correctional Peace Officers gave Governor Wilson one-and-a-half million dollars when he was running for office. This was a large chunk of the twenty million it cost to become Governor. They gave Wilson that money to protect jobs. Wilson is also reluctant to reduce incarceration because prisons are popular with the middle class people who vote in California. They think it somehow reduces crime. We shall report further on these matters next issue.

Televising Executions

The Prisoners Rights Union supported a bill carried by Assemblyman John Burton to allow executions at San Quentin to be televised. We took a "pure" First Amendment position on the question. We said that whatever the government does ought to be open to public view and that there have been far more atrocities committed in prison than just executions. This bill died on the floor of the Assembly. Mr. Burton had proposed it as emergency legislation which would have required two thirds vote of the Assembly. He says that he will bring it back again as non-emergency legislation so that it will require a simple majority to pass. This column will update future developments.

Judicial Update

By Steven Fama

The following is a summary of recent court decisions or pending cases of interest to California state prisoners.

Right To Sell Artwork

Limitations on the sales of prisoner art work have been challenged in a petition for a writ of habeas corpus. (*In re Ainsworth, et al.*, Marin County Superior Court No. 149530.) The petition seeks an order prohibiting the Department of Corrections from enforcing the rules which limit the sale of prisoner art to specified locations (such as prison hobby stores) and which prohibit prisoner artwork from being sold on a commission basis or for purposes of resale. Although the named petitioners are San Quentin prisoners, because the petition seeks an order prohibiting enforcement of CDC rules applied state-wide, a favorable ruling will benefit all California state prisoner artists, wherever incarcerated.

The petition contends that restrictions on the location and the manner of prisoner artwork sales violate the guarantees of Penal Code sections 2600 and 2601(a). Section 2601(a) specifically guarantees to prisoners the right to sell art work created during imprisonment, except

that the CDC may restrict or prohibit sales made for business purposes to the extent necessary for reasonable safety and security. The petition further argues that safety and security concerns do not justify the current restrictions on the sale of artwork, and that the restrictions on sales of handicraft items contained in Penal Code section 2813 do not apply to art. Finally, the petition contends that restrictions on sales of visual art violate equal protection because no restrictions are imposed on the sale of the work of other prison artists, such as authors.

Visiting

A habeas corpus petition has been filed in the Kings County Superior Court challenging the policy which prohibits all prisoners housed in Corcoran's Unit 4-B facility from receiving contact visits. (*In re Forbes, et al.*, Kings County Superior Court No. 554A.)

Corcoran Unit 4-B houses more than 900 parole violators serving revocation terms. Although almost all the violators, and all the named petitioners in the lawsuit, were eligible to and did receive contact visits during previous terms or during their present term when housed in other CDC institutions, Corcoran denies them contact visits. Cor-

coran's reason is that Unit 4-B, where the violators are housed, was built without contact visiting facilities because it was designed to incarcerate maximum security segregation prisoners who are ineligible for contact visits. The petitioners in *Forbes* contend that under Penal Code section 2601(d), prison security is the only justification for denial of contact visits, and that therefore the bureaucratic decision to house them in a prison built for other types of prisoners is an unlawful restriction on visiting.

Early Release

The California Supreme Court has ruled that a decision to modify a defendant's sentence may be made on grounds other than a sentence disparity. [*Dix v. Superior Court* (1991) 53 Cal.3d 442.] The decision is of interest to prisoners because currently, a few prisoners, pursuant to Penal Code section 1170(d), are able to convince the sentencing court to modify their prison sentences based on changed circumstances, such as the prisoner becoming terminally ill while serving the sentence. The *Dix* decision reverses a Court of Appeal decision which had held that a judge could modify a sentence only if it was disparate when compared to other sentences for the same crimes.

Incarcerated Parents

The California Court of Appeal has ruled that an order terminating the parental rights of a prisoner under Civil Code section 232 is legal even if the prisoner is not present in court, so long as the prisoner was represented by an attorney. [*In re Rikki D.* (1991) 227 Cal.App.3d 1624.] The court ruled that Penal Code section 2625, which grants prisoners certain rights when facing termination of their parental rights, only requires that a prisoner or his/her attorney be present. In addition, the Court of Appeal relied on the fact that the prisoner had twice refused to be transported to superior court for hearings.

In another case, the Court of Appeal reversed a superior court order declaring a prisoner's child a dependent of the court pur-

suant to Welfare and Institutions Code section 300. [*In re Aaron S.* (1991) 228 Cal.App.3d 202.] The Court held that the law allowing a child to be declared a dependent if the child's parent "has been incarcerated ... and cannot arrange for the care of the minor" requires proof of a prisoner's current inability to arrange for care, not simply proof of past failures to do so.

Miscellaneous Cases

Still pending is the challenge to the CDC's entire Operations based on a failure to comply with the Administrative Procedures Act. (*Tooma v. Rowland*, F015383.)

Steve Fama is a staff attorney at the Prison Law Office, General Delivery, San Quentin, CA 94964.

SHOOT TO KILL

Have you been shot and injured as a result of CDC's "shoot to kill" policy?

If the answer is yes, please send your name and current address along with the date of the incident and institution it occurred at to:

Paul Comiskey

1909 6th Street - Sacramento, CA 95814

A time for change in today's prisons

By Wm. Daniel M. Ravenscroft

California incarcerates more people now than ever...in fact, more people than any other state and most countries in the world. For this reason, we must examine not only the sentencing schemes, but also those that direct and head our Departments of Corrections.

Recently Senator Robert Presley graciously informed the general public that he wants to see wardens of all institutions have appropriate educational backgrounds (master's degrees); that the power to carry out certain medical decisions be delegated to properly accredited medical personnel; and that correctional officials undergo psychological testing to assure their stability to work in today's hideous prison environment.

These three approaches alone proposed by Presley certainly appear noble. I would also hope that Senator Presley is not committing political suicide especially with Governor Pete Wilson and his conservative political force in control.

Let's face it, today's prison system is nothing more than a giant machine gobbling people up and spitting them out left and right without the slightest concern for the staggering cost assumed by John Q. Public, the taxpayer.

If Presley's newfound approach is adopted, it will assuredly make these concrete cesspools

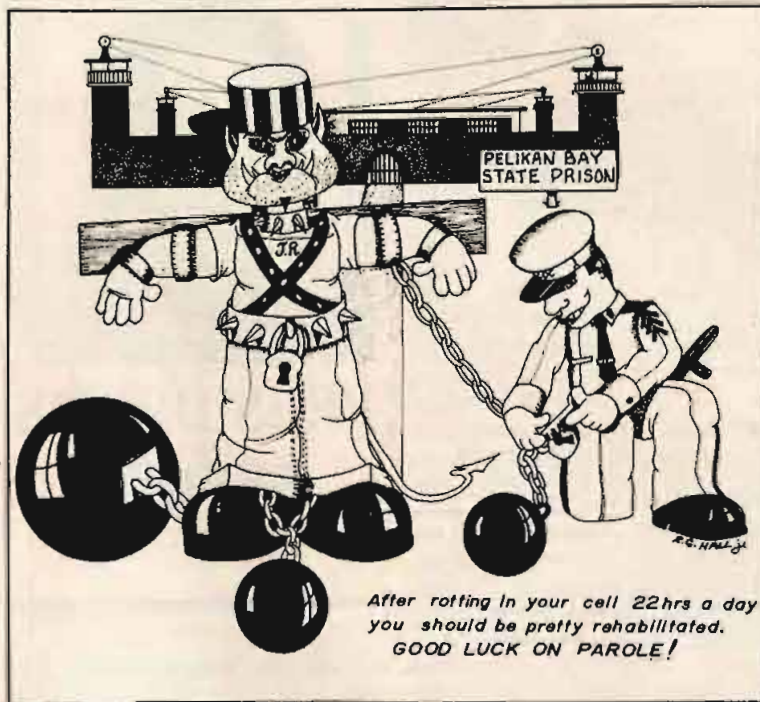
of insanity better places, but most of all, it will require that they be staffed by those with proper credentials and verified experience.

California correctional officers presently do not have to undergo psychological testing in the scope of their job assignments. Paramountly, these very officials have the most intense, personal contact with inmates. Correctional officers' stability to rationally handle any incident is not only crucial to their assigned jobs but also to the safety of inmates and the institution in general.

Obviously, having officials that have passed a properly administered battery of tests to assure their abilities, will enhance the working prison environment and further instill confidence by inmates and staff personnel to handle any and all events.

Furthermore, in any "chain-of-command" working environment, direction and leadership is paramount. Notwithstanding this, correctional facilities seem to have functioned for hundreds of years running rampant and with little control from upper administrative forces. While this is not the intent of upper administrators, they are kept virtually in a "leadership vacuum" at the top by many that do not wish attention brought to their areas of concern.

A warden's capacity must provide hands-on experience, proper educational fortitude to oversee the institution, but most of all, the ability to make



decisions that may affect both sides of the fence. This takes education, not just promotion up through the ranks. Presley's solution is obviously an educated one!

Next, the area of medical attention in all institutions has been one of the most widely litigated concerns for years. Out of all prison facilities in California, only two are certified as medical facilities. This raises great concern when an inmate approaches medical staff, and discovers that no certification exists for that specific facility. While there may be qualified per-

sonnel present, the mere thought alone, tends to dissuade one from pursuing medical attention altogether. Along with this, there have been countless instances where prisoners have successfully litigated medical malpractice cases proving that they received either deficient or improper medical attention.

In some instances, personnel assigned to medical wards in institutions, do not possess the proper training and more often than not, these facilities must rely on outside hospitals to provide emergency and expedient

medical care for those so confined. This reliance on outside resources takes time, is not cost effective, and in some instances, has resulted in either more serious conditions, or even death.

With over 100,000 inmates in the California Department of Corrections, improved medical attention is absolutely necessary and should not be denied for any reason. Once again, Presley's proposal is soundly based.

Finally, even though we have come a long way in our approach to corrections, and those so involved, we need to make even further improvements. We should expand programs of education, counseling by qualified personnel, psychiatric treatment, expanded visitation rights, and other bridges to community understanding since those we choose to confine will at some time be returned to our society.

Senator Presley's approach should not only be supported, but also flatly adopted.

Should you have any comments, or questions, please feel free to contact me c/o The Prisoners Rights Union, 1909 Sixth Street, Sacramento, CA 95814.

Wm. Daniel M. Ravenscroft serves as Executive Director of Legal Associates West, PA, and works with a major defense firm. He has authored seven books pertaining to prisoner litigation and serves on the Board of the Prisoners Rights Union.

CROWDS

— from page 1

The 100,000th Prisoner

- There is a 92% chance that the 100,000th prisoner is male.
- He will most likely be in his twenties. Only twelve percent of new inmates are over 40.
- There is a 70% chance he will be non-white.
- There is a 4 in 10 chance he is from Los Angeles County, and only a 2 in 1,000 chance he is from Marin or Mendocino.
- The odds are over 3 in 4 that he is a graduate of either the California Youth Authority, Jail or Prison.
- There is nearly an 80% chance he has a substance abuse history; and an over 70% chance he was under the influence of an illegal drug other than marijuana at the time of his arrest. Still, there is only 3 in 100 chance he will receive any drug counseling while in prison despite the fact that felony drug arrests have tripled since 1980.
- He reads at the sixth grade level, yet only one in twelve inmates receive academic or vocational education. And although unemployment is one of the main factors determining recidivism, his prison life will most likely be characterized by idleness, or minimal work at a prison job imparting few if any skills useful on the outside.
- He was initially convicted for a Property Offense. The odds are 7 in 10 that he was convicted for a non-violent offense.
- His case was disposed through a guilty plea.
- He initially served 14 months and 10 days in prison, after 135 days in pre-trial detention.
- He was paroled to Southern California, most likely Los Angeles. He received no pre-release programming and no job search

counseling.

• Six months later, his parole status was revoked for a technical violation of the general conditions of parole, such as a failure to report to his parole officer. He was not convicted of a new crime. He was given 5 additional months in revocation time by the Board of Prison Terms. He will probably serve three. It is for this act - or failure to act - that he is currently detained.

Costs

Using public data, CJCJ was able to compute the cost of holding, incarcerating, supervising and eventually revoking the parole of the hypothetical 100,000th prisoner. We have not included the costs of this process for the inmate's prior or juvenile offenses, if any.

Pre-Sentence Detention	\$ 5,265
Incarceration	29,553
Parole Supervision	1,658
Parole Revocation	213
Revocation Time in Prison	6,200
TOTAL	\$42,889.00

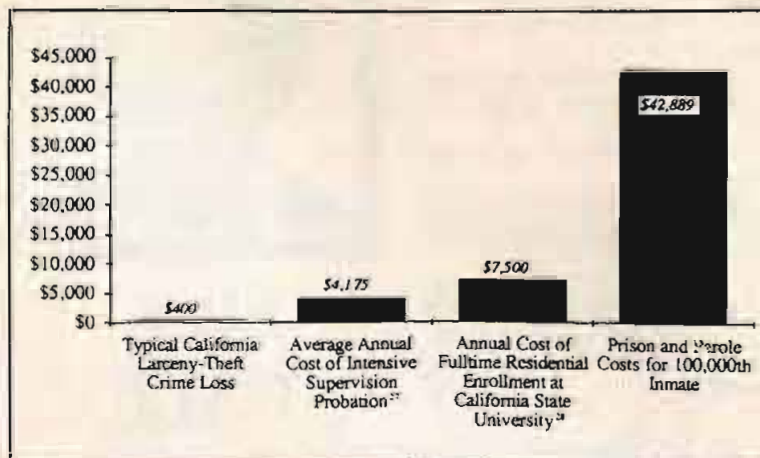
We can therefore expect California's 100,000th state prisoner to cost at least \$42,889. In comparison, 75 of larceny-theft crimes in California involved a loss of under \$400. Moreover, the resultant "total" cost figure does not and cannot claim to be comprehensive. The Corrections Industry, like any other, is burdened with indirect and hidden costs, including capital, fringe benefits, workers' compensation, external oversight, liability, property insurance, transportation and interagency personnel. Furthermore, the cost figure presented does not include the system costs of apprehending, arresting, prosecuting and adjudicating the 100,000th prisoner. It comes, then, as no surprise that according to the National Council on Crime and Delinquency, we spend an estimated \$50 billion on criminal justice, while actual crime losses are \$10 billion.

Recommendations

The California Department of Corrections is spending huge amounts of money administering and expanding a system which

and some specific, are intended to begin a process of dialogue and action which must expand.

• A moratorium on both the passage of legislation that would add to the prison population and on new prison construction.



does not work. The system fails to rehabilitate those it incarcerates and in many ways breeds its future "clients." The siphoning off of monies which could be put into Welfare, Education, Health and Prevention, the unacceptably disproportionate impact of the prison system upon young black men, the over-reliance on unproductive incarcerative warehousing and the lack of programming are issues which policy-makers must address. The unfortunate tendency of criminal justice discussions to degenerate into "Willie Horton" or "tough on crime" rhetoric must not be permitted to distract public attention from the state of our justice system nor to confuse hyperbolic cases with factual "everyday" offender statistics. The "tough" attitude of California administrations during the past decade has effectively been mere posturing, but expensive and harmful nonetheless, the problems of prison overcrowding, recidivism, crime rates, drug abuse and public unease remain, despite more arrests, more prisons, and more money wasted. The following recommendations, some general

• Passage of a comprehensive Community Corrections Act designed to fund a wide array of community correctional programs by utilizing funds that would otherwise be used to construct and fund prisons and jails.

• Comprehensive Sentencing Reform, aimed at reducing the numbers of those serving unnecessary time in prison for minor and non-violent offenses.

• The reallocation of priorities in the state budget process so that Corrections ceases to consume its ever-increasing portion of the General Fund at the expense of Education, Health and Welfare. As the Blue Ribbon Commission on Inmate Population Management noted, dollars spent on the prevention of crime hold the greatest promise for making all Californians safer.

• Initiation of a pre-release program that would offer a good time bonus upon successful completion. Such programs would impact favorably upon a prisoner's successful reacclimation to society by providing much-needed programming, and would pay for itself by reducing the inmate population.

• Expansion of Furlough and Drug Treatment Programs. Within the Department's current master plan, we need to expand the use of furlough/halfway house programs and drug treatment programs for the final six months of a prisoner's term.

• Immediate and significant reductions in the number of parole violators returned to prison by diverting non-violent offenders and funding a continuum of revocation alternatives such as drug treatment, intensive parole supervision, job development and housing options.

• Establish a special commission to examine the high and disproportionate rate of incarceration for African-American and Latino Males.

The priorities expressed in California's fiscal and social policies are skewed. By cutting funds for Health, Education and Welfare to warehouse non-violent lesser offenders in overcrowded prisons, we are effectively committing ourselves to higher crime in the future. The problems of California's underclass act in twisted concert, feeding off of each other. Crime is one indication that opportunity and hope are lacking; education and human services, more than prisons, are needed to supply this hope. As California's prison population tops 100,000, we urge policy-makers to reflect upon the high costs and negative results of our reliance upon jails. The "war on crime" will be better fought if translated into a "war on ignorance" and a "war on poverty." It's time to stop talking tough, and to start getting smart on crime.

Vincent Schiraldi is Executive Director of The Center on Juvenile and Criminal Justice, a private organization dedicated to promoting the safe and effective use of community corrections and conducting research on criminal justice issues. Rick Garnett is a Jesuit volunteer working as a sentencing consultant for CJOJ.

Union Needs You

The following is taken from a letter Paul Comiskey sent to friends of the Union and past donors to kick off our 20th Anniversary fundraising drive. You, our readers, are our biggest supporters. We need your help now.

Last week the prison population in California reached 100,000 men and women. This is five times the number when Ronald Reagan was Governor in 1974. Our state population has only grown by one third since that time. We do not, however, have time to get discouraged. Every day we contact the legislature and the media to express that this is a sinful waste of human and fiscal resources.

We send the *California Prisoner* to 30,000 prisoners, their families, our friends, all California state and federal judges, and all members of the legislature. The paper includes information about legislation, court decisions, prison and parole board policies, visiting, medical care, and much more. For most prisoners it is their only link to the outside world. Many prisoners write us to ask about rumors they have heard about new laws or prison policies. They also tell us our paper is their most trusted source of information. We distribute other publications to prisoners stressing self-

help such as the *California State Prisoners Handbook* and legal materials from Inside/Out Press.

We are relieving jail conditions by our lawsuits against jails in thirteen counties up and down the state. The leader of our litigation is Dick Herman, an attorney and Board member of the Prisoners Rights Union. Dick is a very demanding lawyer. When we sue a jail, we are very comprehensive in our approach. We deal with overcrowding, exercise, visiting, law libraries medical and dental care, psychiatric care, and a number of other issues. Other members of the jail litigation team are Paul Persons, Dan Stormer, and myself. Paul is an attorney and professor of law at Chico State University. He has been doing jail and prison litigation for years. Dan Stormer is from Los Angeles and is a noted civil rights lawyer. We have been able to get injunctions in twelve of the thirteen jail cases and have been able almost immediately to get a drastic reduction in the jail populations. We have many other prisoners asking us to come to their counties to sue their jails for their terribly overcrowded conditions. We will get to the other counties as fast as we can. The lawyers receive no compensation from the Prisoners Rights Union for these lawsuits.

We organize family members



PRESIDENT'S REPORT

By Paul Comiskey

of prisoners to appear before administrative agencies such as the Department of Corrections and the Board of Prison Terms in their rule-making process. Last week we filled the meeting room of the Board of Prison Terms asking them to allow family members to attend life prisoner parole consideration hearings.

The vast majority of prisoners never receive any visits during their entire prison term. Our newspaper and support are their only links to the outside world. We are fighting to reduce the cost

of telephone calls for prisoners and their families, and we are organizing a carpool program to help people visit. Eighty percent of the prison population is black or hispanic and poor. Prisons are located hundreds of miles from families, and visiting costs are prohibitive.

Every day we receive dozens of phone calls from prisoners, their family members, attorneys, and other persons asking us questions about problems in the California prison system. We advise many people and make referrals when we feel that that is a realistic alternative. Much of our advice to people is how to help themselves since there is little help available for them. We also respond almost daily to requests from the media. We give them information about prison issues, and we also refer them to other persons who can help them when they are writing stories about prisons. We also answer hundreds of letters from prisoners each year.

The Prisoners Rights Union has a staff of five college-educated, hard-working people assisted by many volunteers. We are not motivated by money. Our total payroll is less than \$3,000 per month. Five of us are living on what anyone of us would earn in the marketplace. We are not, however, complaining. The

people we work for are much poorer than we are. They give us very little monetary support, but they are rich in appreciation.

At this present moment we find ourselves about \$4,000 in debt to our newspaper publisher, and we have another issue ready to go to press. We also have a broken sewer pipe under the driveway that is going to cost another \$4,000 to repair. We owe approximately \$5,000 in taxes to the government. We are in the process of moving into a new building in Sacramento, and this will cost us approximately \$10,000 in moving fees and legal fees. We have a few hundred dollars in the bank. We do not receive any money from the government or any foundation. We rely totally on our friends. We very much need your help.

We will gratefully accept \$500, \$300, \$100, or whatever you can afford. I will be delighted to call you and thank you personally, take you to lunch, or do anything else I can do to show you my gratitude, including writing you a letter. I will also pray for you, if you wish, so please help us if you can. We have been engaged in our efforts for 20 years. We are in a rough patch at this time and sincerely need your help.

Thank you,
Paul W. Comiskey
Director

DRUG WARS

THE DOCTOR WILL BE OUT

Before I discuss our nation's drug problems, I want to inform you of an important change in my services. Each year from June 15th to September 15th I will not be able to answer any new mail from prisoners asking for medical information or advice. Those to whom I have already been writing will be answered in as brief a way as possible during the summer months. I do this to give myself time to work on new projects and also to take a vacation. The California Department of Corrections (CDC) creates an endless number of complaints from prisoners about medical services. I want to devote more time and effort confronting the CDC's lack of medical leadership, under funding of health programs and over all substandard and illegal medical service. One such effort that the PRU has undertaken recently is a lawsuit that demands that the California Department of Health Services enforce current licensing laws. This would require CDC and county jails to either stop the operation of their now illegal health facilities or bring the clinics and infirmaries up to licensing standards. If we win, this suit might improve health services for all prisoners in California.

DRUGS AND WAR

Many prisoners are serving sentences for drug-related crimes. Still more tested positive for drugs at the time of arrest. Many are now in prison on technical parole violations related to drug use.

Prisoners who write to me verify that, yes, there is a drug war being conducted in the USA. But it is not a war against drugs. It is a war against people, against American citizens. It is a war that is waged against minority communities in complete dis-

regard for the realities of drug-use patterns, constitutional law, public health policy and community need. It is a war that is designed to serve the political ends of our government's leadership:

- 1) the creation of the myth that drugs are a menace to our well being;
- 2) the criminalization of our nation's poor;
- 3) the enhancement of the apparatus of social control over our citizens;
- 4) the diversion of attention away from the important social concerns of education, poverty, unemployment and community development.

THE MYTH

Drug use is a symptom of the despair of the American people. We use drugs to soothe the pain of daily life. A high incidence of drug addiction is proof that Americans are not happy and not fulfilled; proof that we would rather make ourselves oblivious to the suffering of our inner world.

There is a drug crisis in the USA. Substance abuse, as drug addiction is called, takes a terrible toll. There are enormous health care costs, and loss of productivity attributable to drugs. But our leaders choose to ignore the dominant substance abuse issues, using all of their powers of media hype and manipulation to convince us that only illegal drugs - especially crack cocaine - are a problem.

The fact is that 99 percent of the deaths from substance abuse are from tobacco and alcohol. Cigarettes cause 300,000 deaths a year and alcohol causes around 125,000. Added to this slaughter is the 40 percent of the 50,000 annual traffic deaths that involve a alcohol intoxication. In 1985 only 3,562 died from illegal drugs. Among young people ages 15-24 alcohol is the leading cause of drug-related death.



SICK CALL

By Corey Weinstein, M.D.

High school seniors use alcohol 10 times more often than cocaine. Recent studies indicate that cocaine use is down 50 percent among students, while cigarette smoking has declined 25 percent and alcohol use only decreased 16 percent.

President Bush has created the false impression that illegal drugs are our main problem and also that it is a problem of minority youth. The word minority is used to mean African and Latino American youth in our ghettos. Studies of high school students show that drug use including alcohol is most common among white boys and least common among Asian Americans. More than 80 percent of the drug use is done by white people, but 80 percent of the arrests for drug-related activity is of African Americans and Latino Americans. Law enforcement has singled out people of color in what amounts to an attack on these communities.

THE HAMMER

The media and politicians have stigmatized our poor,

minority communities as drug havens and lawless free fire zones. Certainly there is great drama in the tragedy of the brutal drive-by shootings and other gang activities. And inner city residents deserve their fair share of street level public safety resources. But in waging a war on drugs, police are violating citizens' civil rights with a hammer that threatens everyone's constitutional protections.

Street sweeps are commonly used in which all black or brown males who happen to be in a certain area are arrested. They are usually arraigned and detained even though there is no evidence and the probable cause for suspicion was only their skin color.

A drug courier profile is used to identify suspects. This means that people of color who are dressed in a certain manner or are driving a certain expensive car are subject to harassment and arrest. The press reports this when a rich professional athlete is pulled over for no reason.

Greater police power inevitably leads to an increase in police abuse. The police begin to believe that they have the authority of judge and jury to hammer out punishment in the designated communities.

As the arrests for drug offenses increases (250 percent in the last 6 years) and imprisonment rates climb, whole communities are criminalized. The USA has the largest criminal justice system and the highest rate of imprisonment in the world. African Americans are 8 times more likely to go to prison than Anglo Americans. There is a 1 in 4 chance that black men will go to prison. There are more black men between the ages of 20-29 under control of the criminal justice system, than there are black men of all ages in college. African Americans receive more frequent and longer sentences for the same crime as whites and blacks

get the death penalty disproportionately.

President Bush proposes to add new weight to the racist hammer of the drug war. Recently he announced a 10 billion dollar proposal that would fund all that is wrong in our present approach to the problem of substance abuse. Seventy percent of Bush's funds would go to law enforcement. One billion dollars would pay for a program of US military activities in cocaine producing nations of South America. There is little money in Bush's drug budget for drug treatment or education and no money for diversion programs, job training, housing or community development. Cities and counties will have to come up with their own funds for support and treatment of drug users.

A program of community rehabilitation is needed in which the average citizen has a say in the development of treatment, education, housing, job and nutrition programs. Such a program would be a serious effort to deal with the causes of drug use among Americans. The present war on drugs is a clear effort to push aside and contain poor people while eroding civil liberties for all people.

Individual drug use is a medical issue and drug abuse is a public health problem with a solution only through social measures, not the criminal justice system. The most effective drug treatment programs often involve helping addicts become effective actors in their lives through social support and education.

Creative empowered people have less potential for drug abuse. And powerful people will demand their fair share of life's benefits. Our government fear powerful poor people working for self-development and social change. Yet self-development and social change is precisely the solution to the drug crisis.

Hanging in There

With each year that I am involved with the prison circuit, I witness a core of visitors who continue to come, no matter how far or isolated from home the prison may be. The following is my encounter with a woman who has hung in there for several years.

Q: How long have you been visiting, and in what kind of custody?

A: My friend and I have had phone visits for the last seven years and now we have mainline visits.

Q: How did you cope for so long with non-contact? What got you through it all?

A: I knew it would be a long stretch, and I did my best to take it one day at a time. It helped that we wrote each other daily; that kept a sense of continuity. It wasn't important what was said. I just needed to see the envelope in my mailbox. That reassured me that I was being thought about, and that he was ok. Another thing that helped me cope, was finding other women in the same situation, as this relieved the emotional isolation.

Q: What about your friends who couldn't sympathize with your situation?

A: Some people aren't told. I don't have enough energy to confront everyone's prejudice, as the media has presented a distorted view of prisoners and the kind of women who visit them. My close friends are supportive, because they know me on deeper levels.

Q: Have you questioned your motives for continuing such a relationship? He has a lot of time to serve, correct?

A: When women are involved in this situation, it is very important to look deeply within and examine where you are coming from. This is an ongoing process. Part of what I've done is speak to a counselor on a regular basis, which helps me explore the complex issues involved in making a commitment to a man in his situation. This is the main con-

cern when people hear that I am involved with a prisoner. They always question my motives and sanity. It is potentially destructive unless you really know your needs and have the ability to project your confidence outward. Being older helps since I have already been in more typical relationships with other men, and have raised a family. These experiences have made me more fully aware of what is involved in this type of commitment and so I am able to give myself more completely. It takes a lot of strength and maturity to see one's way through the unique hardships of waiting.

Q: What about those weekend evenings, when you see couples out together?

A: It is very hard because I want him with me. At the same time, I know he will get out eventually, and I made the decision that he is what I want and is worth waiting for.

Q: How does it weigh emotionally?

A: During the time behind glass, I spent a lot of time crying. There would be a line in a song, and it would make me cry. Sometimes I'd allow myself just the thought of touching him again, and that would make me weep. It is often impossible to go to the movies because it is too difficult to watch people touching and kissing, and having each other's company.

Q: What do you think of CDC's policy of non-contact, that contact is considered a privilege?

A: I think that prolonged non-contact is the most inhumane aspect of incarceration. Touch is an essential need to maintain mental and physical health. The most painful thought I have about his time in SHU is the ten years he endured without ever being hugged. I can't imagine how anybody cannot be affected on a deep psychological level with this kind of loss.



FAMILY TIES

By Joan Ruiz

Q: Did you worry that after such a long period of time, that when the day finally came to be reunited, that he might have a fear or paranoia about touch?

A: Yes, it crossed my mind; it was a possibility. Especially when any touch in SHU carried with it the chance of mortal danger. I was prepared for the fact that he might not be relaxed with contact, and I was ready to give him as much time as he needed.

Q: How was it for you to hear that SHU was finally over?

A: After all the years of dreaming and hoping, I didn't allow myself to believe that it could end. My experience made me unable to trust or become emotionally invested in the promises of CDC. This would have been the cruellest joke of all.

Q: What was it like driving to the prison for that first contact?

A: I was absolutely terrified and excited. I cried all the way there. All those years of pent-up emotion and now my guard was

down, freeing up a lot of pain. For the first time in so long, I could allow myself to feel the true extent of the misery from visiting behind glass.

Q: Now that it's been a few months of contact, how is it going? Do you have any fears?

A: It's fabulous, better than any fantasies. We are involved in a healing process. There is always the fear that the visit will be snatched at any time. Every moment is absolutely precious. I don't think we could ever take for granted the luxury of a private word or touch.

Q: Do you worry that this relationship can make the transition to the outside world?

A: I recognize that there are no guarantees in any relationship. I also know it will be difficult and there will be tests on many new levels. But, I feel we've already been through so much together, that we can withstand and grow from any challenges that come our way.

Q: Would you argue that prison relationships have a strong one-sided component, with the visitor being the active partner?

A: In many obvious ways this is true. But what I'm getting out of this relationship is on a private level, so for my needs, it is balanced.

Q: Some would contend that inmate/outside relationships are built on a need for control and arms' length intimacy, because you aren't with the person on a 24-hour basis.

A: Let's get this clear. I want him with me. I'm not in this because of the distance created by the prison structure. I love him and want to spend my life with him on the outside.

Q: How prepared are you for society's unforgiveness in giving him an economic

chance?

A: I have a whole life out here which is not dependent on society's attitudes towards him. I believe he will find a way to function productively.

Q: From women you've been visiting, what's a common gripe?

A: That the men don't believe them about fidelity, where it is an issue. I can understand their insecurity. In situations where women have agreed to maintain fidelity, it is hurtful and insulting not to believe the loyalty that is being preserved in the midst of so many temptations and loneliness. The men should honor their woman's struggle in this area.

Q: What impact does your visiting have on other areas of your life?

A: It has heavily impacted every area. I now work part time instead of full time, in order to have free days to visit. I spend more time away from my children and friends. I have the additional wear and tear on my car, as I put over 1,000 miles a month traveling back and forth home to the prison. The expenses of visiting are not just gas and oil, but food and lodging which adds up to quite a sum. And last but not least, I am emotionally drained by prison concerns.

Q: In closing, based on all you've said here, what is the most ongoing difficulty you are coping with?

A: What is the most difficult for me, and I can safely say for many others in my situation, is the serious and ongoing attacks to my self esteem. There is a never-ending barrage of negative remarks based on society's preconceptions regarding the nature of prison relationships.

Well visitor, your loved one inside is quite fortunate to have you in his life.

I wish you both the very best!

Resource Guide Updates

As corrections and updates are made available to the Prisoners Rights Union, they will be printed in *The California Prisoner*. The page number listed refers to the page that the person, court, or organization is found on in the 1991 Resource Guide. Information in bold is the updated or corrected material.

page 4

Metropolitan Detention Center

(This was incorrectly listed as the Medical Detention Center.)

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State Board of Control
(916) 323-3432

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Central District of California

In addition to the Los Angeles Office, there is also an office in Santa Ana. The address is:

751 W. Santa Ana Blvd., Suite 101
Santa Ana, CA 92701-4599
(714) 836-2467/2468

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State Public Defender — Sacramento

801 K Street Suite 109
Sacramento, CA 95814
(916) 322-2676

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Community ENDEAVOR News

Sample issues only of the newspaper will be distributed free of charge. A special prisoner rate of \$9 per year is available for prisoners wanting to subscribe.

page 36

AIDS Legal Referral Panel

114 Sansome St., Ste. 1103
San Francisco, CA 94104
(415) 291-5454

page 40

Crossover Communications, Inc.

433 East Main St. #10
Ventura, CA 93001-2642
(805) 648-3744

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Human Rights Resource Center

Human Rights Resource Center is listed as an informational clearinghouse for criminal justice, education and human rights related topics. THEY CANNOT PROVIDE ANY DIRECT SERVICE. Note this in order to save time and stamps.

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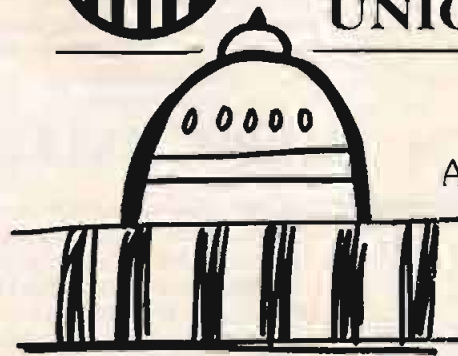
Delancy Street Foundation

Delancy Street was incorrectly listed as providing employment services. They offer a drug treatment program.

Celebrating 20 Years of Progress



PRISONERS RIGHTS UNION



ANNIVERSARY DINNER

Please join us

SATURDAY, JULY 13, 1991

St. Ignatius College Preparatory
2001 37th Avenue, San Francisco

\$50 DONATION

Reservations required by July 7, 1991

Call (916) 441-4214 for details.

ATTENTION PRISON ADVOCACY GROUPS

The Prisoners Rights Union is celebrating 20 years of service and progress in July. Please come and share this time with us on July 13, 1991 at our Anniversary dinner. We would like all Prisoner Advocacy groups to set up a table at the dinner to share services and ideas.

Deadline is near . . . please contact Judith Hedges at (916) 441-4214.

Prisoners Rights Union - A 20 Year Struggle

— Past volunteers and members of the Prisoners Rights Union were asked to share reflections on their experience working with the Union. Here is what four of them had to say...

Strength in numbers

By Kimberly Grob

It had been over 22 years since a death row inmate in California had been executed. History was in the making at the gates of San Quentin as hundreds of men and women converged at candlelight vigils only days before the scheduled execution. Meanwhile, residents in this little Marin County community and commuters on their way through the town vehemently complained about the traffic back-up the peaceful protestors were causing.

The year was 1990. I was a Jesuit Volunteer and editor of *The California Prisoner*. Times were terrifying and trying in

California on the days leading up to Robert Harris' scheduled execution. We thought it couldn't happen here, and yet it was happening right before our eyes. Although I knew I must do something to express my outrage, I felt helpless in many ways.

The week before the scheduled execution, I joined hundreds of protestors in a march across the Golden Gate Bridge in San Francisco. We wore black. We carried a coffin for each person executed since the death penalty was reinstated. We cried. We laughed. We marched. And our voices were heard. We were cheered at as well as supported that day on the bridge. We

created awareness by forcing people to face the uncomfortable and challenge their own beliefs. We made California think, if only for a moment.

That day on the bridge epitomized the importance of the work and sweat that had been put into a year of volunteer service. I learned that we are not alone in our struggle, and that the strength and courage of a small group is tremendously powerful compared to the silence of the masses.

Kimberly Grob served as editor to *The California Prisoner* as a Jesuit volunteer from 1989-1990.

The beginning years

By Frank Smith

In 1960, I spent a month in the Tombs, followed by three more in a penitentiary on Riker's Island for possession of 7 dollars worth of weed. I lost a couple of teeth there to quack dentistry. Less than two years later, I got 5-20 years for possession of 65 dollars worth of smack. An appeal cut this to 2-10 while I was working in Soledad's furniture factory, breathing fumes from a badly ventilated tank of sealant, glad I wasn't working in the paint booth. A year later I was in Soledad hospital with valley fever contracted at a conservation camp, and untreated despite my requesting for three months to see a doctor. Another quack at Soledad botched my diagnosis, and I was sent to the hospital at Quentin to cover the Department of Corrections' medical malpractice. I had been a national class marathon runner before being sent to jail to keep me from hurting myself with drugs, and have

struggled to compensate for the massive lung scarring ever since. I did over four years, and got five parole.

In 1970, still angry about prison health care and working conditions, I joined a collection of ex-cons, lawyers, students and other radical and progressive men and women who formed the core of what was to become the Prisoners' Union. We rode a tide of activism born of minority consciousness, the opposition to Vietnam war and to the exploitation of workers such as grape and lettuce harvesters. We were flushed with the excitement of the potential of change in the most oppressive system in the western world.

I worked intermittently on Union projects until 1974 when I visited many Swedish prisons, where our ideas had been copied and spread to Denmark, Norway and England, as they had been in other states in the U.S. I was able to take off six months then, to work in our old 18th Street office in San Francisco.

Writing for the Outlaw, analyzing prison labor issues, and doing publicity and community organizing helped me to better understand the legislative system, and when I left daily work at the Union, I decided to work on the passage of two then-dormant bills in the State Senate. One would have given workers' compensation to convicts and the other provided unemployment insurance. By 1978, both of these bills had become law, largely because of the political education I received in the Union, and the contacts I had made while there, and the help of Peter Behr and Kare Anderson. I had been running an ex-cons' service center for two and a half years, by this time, and had a staff consisting in large part of Union members and supporters. I was proud to be a participant in class actions against the prison system.

Frank Smith worked with the Prisoners Union during his beginning years in the early 70s.

Years later after the fall

By Catherine Campbell

When I got on the evening train leaving Fresno for San Francisco, I planned to spend the next few hours writing thoughts on the many years I have been a member of the Prisoners Rights Union. Instead, I read the recent Atlantic Monthly lead article: "When the Official Subject is Presidential Politics, Taxes, Welfare, Crime, Rights or Values, the Real Subject is Race." The new domestic line in the sand, accord-

ing to the authors of this piece, is between those who say "I am responsible for my own condition" and those who blame others. Of course, what that means — what it has always meant — is that those whose "condition" is acceptable continue to take credit for their successes, as if they had conquered overwhelming odds to create their lives, while those whose "condition" is unacceptable continue to see themselves as victims of inhumane political design.

After I had read enough to have the shakes, I staggered

through the train toward the rear where the dining car is, and in that crowded space I found a seat across from an absolutely stunning blonde. She woke up just as I sat down, looked around in a way that usually sells shampoo, and wondered aloud why she had forgotten to bring her cellular phone. Then we both noticed that the train had stopped, in no apparent location, and that the conductor and brakeman were conferring by — what luck! — cellular phones. "I wonder if they

See FALL on page 10

Union gives second chance

By Jimmy Price

Approaching the summer of 1982 I felt more and more anxious as my June parole date drew near. I was doing my third number for the Department of Corrections and I really wanted to make it my last — I dreaded yet another "revolving door" experience — but I knew the odds of

my living successfully on the streets were stacked well against me.

That's when I met Art Bergeron, an East Coast corporate attorney who had taken a year from his practice to do some volunteer work for the Prisoners Union. Art had taken an interest in me and my experience as editor of the *San Quentin News*

and he encouraged me to seek work with the Union when I paroled.

Upon my release I met with Paul Comiskey and John Irwin and we worked out an arrangement that would allow me to go to school fulltime at S.F. State while serving as editor of the

See CHANCE on page 10

The Prisoners Union, the name and the organization, originated in the 1970 Folsom strike. That summer, a group of Folsom prisoners wrote and distributed a "manifesto" of demands and announced that they would go on strike on November 2, 1970.

The morning of the second, the vast majority of the prisoners remained in their cells, and by the end of the day the warden had locked down the prison. For four weeks, the prisoners refused to leave their cells. Finally, after they ran out of tobacco and extra food and the batteries in their radios gave out (which cut them off completely from the outside), they ended the strike.

Some of us on the outside who had been supporting the strike by holding news conferences, picketing at Folsom and appearing on radio talk shows considered continuing the effort initiated by the Folsom prisoners by organizing a "union." Their 12th demand was that "inmates be allowed to form or join labor unions." We had been organizing and working with a variety of prisoners' support groups, but not a "union" along labor union lines.

The idea seemed right. At the time, a growing number of prisoners in California (and other states) were becoming involved in collective activities to change the prison system and their situation. Among other things, they wanted the right to work for a wage and more pay for the work they did in prison. We thought that by organizing a labor union, we might obtain these legitimate objectives and the others we had been pursuing, such as expanding the almost non-existent prisoner rights and eliminating arbitrary and highly punitive sentencing systems.

So, in the winter of 1971, a group of 50 or so ex-prisoners and activists who had been working on prison issues organized the "California Prisoners Union."

This was taken in part from an article authored by John Irwin in 1986. Irwin is an ex-convict and a founding member of the Prisoners Rights Union.

PRU makes headlines through the years. . .

WHEN OUR UNION SPEAKS — THE WARDEN FREAKS

Prisoners Union responds to threats to visiting rights

San Quentin Strike Prisoners Union goes to Mexico

Native Americans Seek Sweat Lodge

SB 42 • AB 1440 • AB 2311

THE SENTENCING STRUGGLE

Prisoners Union victory in Soledad access suit

Inmates seek to organize union as voice outside walls

PU MEETS WITH GOVERNMENT

Union rallies opposition to forcible double-celling

Female prisoners at C.I.W. challenge prison's refusal to provide adequate toilet facilities

AIDS In California Prisons

CONVICT UNITY

Legislation improves pregnancy care conditions at county jails

Union developing policy on prison industries

Prisoners Rights Union Takes Lassen County Jail to Court

Join Us — March Against State Killing

PRU lawsuit results in landmark decision

san quentin 6

Union opposes parole restrictions

The strike at Folsom Building 4-A: Prisoners' rights conference bears fruit

NATIONAL P.U. CONFERENCE

Supreme Court victories for Prisoners Union

UNION TESTIFIES

Looking Ahead

By Paul W. Comiskey

What does the next five years hold? Who knows? It's fun to give a try at foretelling the future, but after reading what I wrote five years ago at our Fifteenth Anniversary, I know how difficult it is to predict what will happen.

We are presently completing the move from San Francisco to Sacramento which began in August 1988. We have sold the building in San Francisco and are in the process of selling our present building. We hope to soon announce our new home in Sacramento. It will be larger than our present building, will have parking, and will have a better heating and cooling system.

We are improving our ability to keep up with bills in the legislature and will hopefully gain staff with more experience and more time to devote to legislation. We hope that translates into being a more effective voice.

We are now involved in suits against thirteen counties over the terribly overcrowded condi-

tions in their jails. In the next five years, we hope those suits have successfully concluded and that we have filed an equal or greater number of suits against more counties and also some against The California Department of Corrections.

Inside Out Press has steadily improved since we have taken it over and we intend to continue this important work and expand our offerings.

Our staff has been growing since we came to Sacramento. Our full time staff for years consisted of one or two Jesuit Volunteers. We now have Judy Hedges, Jacqueline Henss, Anna Gregorian, and Cynthia Edmon-ton in addition to our Jesuit Volunteer, Kimberly Hubert. Cynthia is the coordinator and trainer of volunteers and has recently recruited two excellent and dedicated volunteers: Julius Watson and Mike Bunch. Fernando Ferrer also volunteers faithfully by responding to Inside Out manual requests. We hope that in the next five years, we

will retain all of our present staff and continue to recruit more people who will stay with us. A part of that trend will also involve raising more money so that we can give people a living wage.

Anna Gregorian is working on our carpool project and we hope that in five years we will have a successful program established that helps thousands of people each year with their visits.

In the next five years, there will probably be a lessening of the trend to build and pack prisons, but the prison system will probably still be very large. There will be more community based corrections. Unfortunately there will still be a strong trend to solve problems by locking people up. We do not expect to have worked ourselves out of a job.

Paul Comiskey is an attorney and a Jesuit priest. He has worked on behalf of prisoners and their families with the Prisoners Rights Union since 1974, and currently serves as Director of the organization.

A history of jail suits

By Dick Herman

The PRU began a series of lawsuits addressing conditions of confinement in jails, beginning with Lassen County in July 1989 and continuing with Plumas, Nevada, Yolo, Placer, El Dorado, Shasta, Kern, Stanislaus, and Tuolumne Counties in 1990, and Sacramento County in 1991. In every case, except Shasta, there is a preliminary injunction including, at least, a population cap on the jail or jails. We have also addressed medical, mental health, dental, staffing, judicial determination of probable cause, law library, outdoor exercise, dayroom, visitation, telephone access, discipline, and other issues in our litigation. We have obtained orders and enforced orders to see that no prisoners are sleeping on the floor in any jail we have sued. We have tried two cases. Lassen County (a "small jail" case) and Kern County (a "large jail" case) both before Federal Magistrate Judge Moulds in Sacramento. Although the trials are completed, there is not yet a Final Judgment in either.

On May 16, 1991, we recited in open court the terms of a Consent Decree ending the Yolo County Jail litigation which incorporated the end of the use of rubber rooms, daily outdoor exercise for all prisoners including those in disciplinary isolation, CMA accreditation, adequate law library contents and access, and access for plaintiffs counsel to monitor compliance.

In addition, the Prisoners Rights Union is involved in litigation against Riverside and San Bernardino Counties about prompt judicial determinations of probable cause, as decided by the U.S. Supreme Court in our favor on May 13, 1991 in *County of Riverside v. McLaughlin*.

This litigation has been brought by a core group of four attorneys: Paul Comiskey, the legal counsel to the PRU; Paul Persons, a professor at Chico

State and a well-known civil rights advocate; Dan Stormer, prominent "lawyer of the left" in Los Angeles and PRU counsel who successfully argued *County of Riverside v. McLaughlin* to the Supreme Court this year; and myself, Dick Herman, jail lawyer and director of jail litigation for the PRU.

We have had outstanding assistance from local counsel and their staff in many of these lawsuits, including Harold Abbott (a former district attorney of Lassen County); Ramon Magana of Modesto, Stanislaus County; Michael Jackson of Quincy, Plumas County; Steve Munkelt of Nevada City, Nevada County; Eric Berg of Redding, Shasta County; Mike Webb and Hebert Sala of Bakersfield, Kern County; and Jim Glick of San Bernardino in the San Bernardino and Riverside Counties lawsuits.

In our litigation, we have followed the principles of obtaining the best conditions for jail prisoners by being both aggressive and flexible. It is a matter of policy that no prisoner in a county jail sleeps on the floor and in our conditions' litigation we have strictly adhered to this principle. We also oppose beds in dayrooms, and have fought for prompt judicial probable cause determinations. We are opposed to the use of rubber rooms for any purpose and have fought for adequate mental health care for the many in our jails who are in desperate need of care. We are opposed to double bunking, which is, unfortunately, the "solution" we see in many jails. We oppose triple bunks as unnecessary and another indication of overcrowding.

PRU brings the lawsuits seeking justice, seeking humanity, and seeking humanness. Indeed this is the fundamental constitutional principal which is the heart of our litigation. There are conditions in jails which cause the physical and mental

deterioration of prisoners, and which are unsafe and dangerous.

The Prisoners Rights Union has now coordinated many lawsuits. The very name Prisoners Rights Union often draws the response that "prisoners have no rights." Prisoners have rights and the Federal courts are the primary guardian of these rights. The more serious question is, why would anyone enforce the rights of prisoners who are, after all, outlaws? For county jail prisoners, the answer is easy. Anyone can wind up in county jail. Anyone in a county jail can suffer all the abuses, major and petty, without immunity. As important, prisoners in county jails are released back into society. Decent treatment and conditions means that we will not poison our society with maltreated prisoners upon their release.

We also, as a civilized society, have an obligation to see that prisoners, all prisoners, are safe, that they are not assaulted and that their serious medical needs are met. Finally, we must recognize that we are all members of the same society, prisoners and free. Our litigation will not cause the walls of the county jails to crumble, but it should eliminate the most inhumane abuses. If our society is to be a just society, we cannot practice inhumanity to our fellow human beings in the name of our society. The punishment for crime is separation from society, not abuse in a jail or prison. Society is a single entity. The cruelties practiced on any member of our society we practice on ourselves. When a prisoner is degraded, our society is degraded. Humanity and humanness are not empty concepts if the courts will translate them into concrete orders.

Dick Herman is an attorney who works to bring lawsuits on prison-related issues. He is the director of jail litigation for the Prisoners Rights Union and serves on the Board of Directors.

HISTORY

— from page 1

would be nothing to stop a majority of duly elected Republicans from banning all meetings of Democrats and auto workers, forbidding newspapers that criticize Republican actions, and perpetuating itself until Doomsday.

Minorities need free expression in order to convert themselves into majorities. Insular minorities, like African-Americans or prisoners, need constitutionally guaranteed free expression in order to breathe; otherwise, a temporary majority could simply pass a law sealing their lips forever. Although the constitutional guarantees of free expression exist to limit excesses of a majority, they are not elitist. They make no prescription about what is best to do or how to do it. They are the most important laws that we have. The Union's court battles, and most of its lobbying, have aimed at vindicating one aspect or another of the freedom of expression.

Background

Courts had little or nothing to do with prisoners until the post-Civil War Civil Rights Act was made applicable to incarcerated people in 1964 (*Cooper v. Pate* [1964] 384 U.S. 546). Convicts then began to test the judicial waters in a variety of arenas, from First Amendment problems of communication by letters and visits to general conditions of confinement.

As more and more segments of society became alienated from central authorities in the late 1960's, support for prisoners came from people who earlier had never noticed jails or penitentiaries. The Prisoners Union was formed in early 1971, just before the period of greatest strife and bloodshed inside prison walls. The Union's goals were to see three major changes in the law: the abolition of the Indeterminate sentence; the restoration of civil rights to prisoners, including the right to organize; and the payment of a living wage. Our experience has taught us to be careful of what you want, because you just might get it.

The Union's goals were to see three major changes in the law: the abolition of the indeterminate sentence; the restoration of civil rights to prisoners, including the right to organize; and the payment of a living wage.

Voices rise in protest

The Attica massacre took place in November 1971. All through 1972, revelations from the investigation that followed emerged, the most dramatic being that the several guards who were killed in Attica died from bullets that came from the weapons of National Guardsmen. Here in California, an eruption in San Quentin State Prison in August 1971 led to the deaths of two prison guards and four convicts, including George Jackson, an articulate writer who had become an icon to many people who sought to reform or abolish prisons. As public curiosity mounted, a window of opportunity appeared for prisoners to express their point of view.

For decades, prison authorities had been accustomed to getting their way at all times, without the annoyance of having to supply anyone with reasons. Not only was the rule of law beginning to nibble at their heels, but they were haunted with visions of angry hordes of people in the

"prison movement" surging through their gates to release all convicts. After decades of benign neglect, they were being harshly criticized in major media. Prison officials felt besieged, and were quick to censor or ban letters and literature that seemed threatening — in 1972, they were threatened by virtually everything.

PRU goes to court

When the Union began publishing its newspaper, it was called the *Outlaw* in honor of a paper surreptitiously printed behind the walls of San Quentin and distributed to San Quentin prisoners that continued to appear in spite of several full-scale cell searches by San Quentin officials. Folsom Prison flatly refused to allow the *Outlaw* inside, regardless of its content.

In the early 1970's, there were several law firms funded by foundations set up to do nothing other than litigate on behalf of prisoners. It was not difficult for the Union to find a competent lawyer to sue prison officials on behalf of its censored newspaper. The Prison Law Project went into Sacramento County Superior Court and obtained an order that required Folsom to allow copies of the *Outlaw* to reach any convict subscriber.

The Union later became involved in much more complicated and visible litigation, but the most useful intervention on its own behalf ever received from a court was this earlier Superior Court one-page order. The *Outlaw* percolated steadily through prison walls, and soon made the Union known around the entire country.

Litigation, we learned, can also be a swamp of delay that sucks up an infinite amount of energy and resources. In 1972 the Union sued the Department of Corrections in federal court seeking to stop the practice of depositing the interest from prisoners' money and profits from the sale of their paintings into the Inmate Welfare Fund, and to make IWF accounting practices public knowledge. The district court judge threw the case out. On appeal, the Ninth Circuit held that the Union had indeed stated causes of action (*Holder v. Nelson* [1975] 509 F.2d 1091), but the passage of three



By R.G. Hall Jr

Death statute remained on the books in California. These statutes, remnants of the Roman Empire, effectively infantilized prisoners by making it illegal for them to marry, make a will, sign contracts, sue when damaged, read what they chose, or exercise any of the prerogatives of adulthood. Courts had chipped away at its legality by recognizing limits on the powers of prison officials to censor or ban reading material and correspondence. Finally, in 1975, the Civil Death Statute was abolished, and replaced with the Civil Rights statute (penal code sections 2600 and 2601) that is in effect today.

The passage of this law was an unqualified victory that has expanded opportunities to stay alive or grow while incarcerated. The same cannot be said for the other important legislative

Bureaucratic screw-ups abounded; a prisoner would be told to improve his social presence by joining a speech club one year; the next year, he would be told by a different parole board panel that he should have repented and gone to church. Between the deliberate suppression of dissent and the nightmarish confusion over what one should do to get out, the ISL came to be seen as the chief bane of prison life.

The Indeterminate Sentence Law had powerful support from a coalition of conservatives interested in keeping the gorillas locked up forever and liberals interested in getting boy scouts and erring executives out early. The Union argued for equity, and pointed out that those who sorted people into piles of good and bad had no real idea of what they were doing. We were prepared to see slightly longer terms, or more quantitative time, in return for the better qualitative time that certainty provides. The Union worked harder than ever, using all our connections and resources, to undermine the Indeterminate Sentence. We were not prepared for what happened when we got our wish.

With the passage of Senate Bill 42, the ISL was abolished in 1977. It had lasted 60 years; to our horror, its successor lasted barely 60 days. The process of jacking up sentences, of each legislator adopting a pet crime and increasing its term, everyone voting for everyone else's bill, began right away. We have seen the ugliest face of democracy, a nervous pandering to fears in such a way that the fear's roots are ignored. Prison terms are now insanely long, and our prison population insanely high. Would it have been different or better with sentencing power still in the hands of an appointed commission rather than elected officials? We often wonder.

Finally, a little-noticed law passed in 1975 that made the Department of Corrections and the parole board (which has suffered an identity crisis in recent years, going from the paternal Adult Authority to the socially concerned Community Release Board to the stern Board of Prison Terms) subject to the Administrative Procedures Act. Administrative rules and regulations have steadily grown in importance over the past 15 years. These rules cover almost every

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aspect of prison life, and typically have the force and effect of law.

Prisoners fight to organize

In 1975, the Union was able to hire its own lawyer. A statewide campaign to organize California's prisoners into a union was launched. Because the greatest convict response came from Soledad, the Union concentrated its legal fire on backing up the prisoners who actively represented the Union. Union supporters were everywhere in Soledad, inviting Union sympathizers into the prison through various organizations to give speeches, writing newspaper stories about the speeches after they were made, wearing buttons, signing up new members, petitioning for improvements in the prison's workplaces, and submitting proposals to Soledad officials for Union meetings.

The whole concept of unions as a different way to run prisons was much in the air during the early '70's. Failure of the old military models was thought to have been clearly shown by Attica and other prison riots. A quasi-industrial democracy model was discussed in columns and interviews. Law review articles described the pros and cons of organizing prisoners and channeling their expressions of grievances. Judges talked about the idea in the course of deciding whether letters recruiting prisoners as union members could come into prison.

Meanwhile, actual unions of prisoners, both legal and illegal, sprang up in Minnesota, Washington, Ohio, Rhode Island, and North Carolina.

The union debate gathered momentum until the North Carolina Prisoners Labor Union made the mistake of taking its grievance to federal court. It won — but, like frogs waiting for a fly, the U.S. Supreme Court snapped up the case. In *Jones v. North Carolina Prisoners Labor Union* [1976] 433 U.S. 119, the high court made it clear that the Constitution extended no First Amendment rights of association to prisoners.

Because the United States Supreme Court is, for better and worse, the last word, general interest in the topic ceased. Money dried up, discussions no longer appeared in print. Interest in prisons was generally waning.

In Monterey County however, things were jumping. The Union's first foray into Superior Court on behalf of its members blocked Soledad from keeping out letters sent by Union Stewards. This quick success heartened Union activists and helped gain new members and support.

Union members on the outside obtained the right to carry membership cards from the Department of Corrections' top administration. When Union buttons were banned, the Union went to court (*In re Reynolds* [1979] 25 Cal.3d 131). When a leading inside activist, Willy Brandt, was kicked out of Soledad in the middle of the night and sent to an Oakland work furlough center, he succeeded in obtaining a job with the Prisoners Union — and when his mail back to brothers inside of Soledad was blocked, the Union again went to court (*In re Brandt* [1979] 25 Cal. 3d 136).

When University of California labor historian Norm Amundson spoke to Soledad prisoners on the potential advantages of a union, and when the governor's extradition secretary, Alice Lytle, was handed a petition by Union members requesting that a union be formed, articles were written for the Soledad Star-News covering these events. They were censored, and the Union again went to court (*Bailey v. Loggins* [1982] 32 Cal. 3d 907).

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C.D.C.

To improve myself I concentrate on my reality here within
I reflect on all the different people and places I have been

At times I've been a stranger someone I didn't know
prison never scared that guy it was just a place to go.

Now I look around me new faces everywhere
a startling realization few in society really care

I find I'm part of the diet that made this monster grow
state raised and state fed so much I didn't know

I guess I'm still a human at least I'm supposed to be
as I sit and stare at my gray stone misery

So much there is to tell you so much I will not say
so many different reasons I played my hand this way

One thing is for certain with the years I have to go
I'll see many more men numbered as I watch this monster grow

One day when it shakes its head and its roar is heard coast to coast
everyone will blame each other for feeding it the most

Submitted by Jerry King

CHANCE
— from page 8

Prisoners Union Journal. With Bergeron and his aide, Mark Cullinane, completing their year long tour of duty, I spent that first month or so meeting other staff and browsing through files to get an idea what the organization was all about — its purpose, its history and its goals.

The Union was, it seems, born of a radical beginning. Indeed, the very idea of *prisoners* having a *union* to bargain for safe working conditions, a fair wage and humane treatment just seemed like somebody's pipedream. I guess the Supreme Court felt the same; in 1978 the Court ruled against the Union's suit to set up offices within each prison, seriously hindering our ability to effectively organize. While it wasn't immediately clear at the time, the Union had reached a milestone.

The process of growth and maturity is a painful one and organizations are not exempt. The militant voices that had given birth to the Union fizzled out early on, leaving the work of it all to those who were willing to struggle through conflict and compromise. Now it was time to accept our limitations and realistically assess what we could best do with our limited resources as a non-profit organization.

It was apparent that the Union had promoted a vague hope of organizing on a national level, which far exceeded its reach. Symbolized by the change in our publication masthead to *The California Prisoner*, in 1983, we began to narrow our focus to this one state and to expand our perspective beyond the mere plight of prisoners, to include everyone personally affected by the prison system and its ultimate impact on society as a whole.

By now, I think, the old dogs of the Union were tired of butting heads against prison walls and seeing little real change — despite winning a number of major class action suits affecting prison conditions. Bergeron's legacy was in lobbying legislators, mixing in political circles and trying to affect change from the top down. In time, I think, this approach would catch on and help to influence the geographical move of the Union's offices to Sacramento where it could more properly function as a prisoners' rights advocacy — thus the organization's name-change to the Prisoners Rights Union.

Personally, I never could understand why the Union would hire an alcoholic fresh out of prison to edit their newspaper. I was a tyrant. While I can't recall writing anything of any editorial

worth, I do recall being highly critical of anything anyone else wrote. It's a wonder we got a paper out at all — especially since I was usually on a bender from the time copy went to press until the issue was mailed out. Then I'd drag back with my hangover and Paul would fix me up a bowl of his famous soup and we'd pretend I would get better. I didn't.

I was an alien in disguise. I bought a whole box of business cards with my name saying I was important, in case anybody wanted to know, but I spent more time looking at the damn things myself and scratching my head. I loved my school ID, too, and going to class like a real college kid. However, I never did the homework and so never completed a semester. Eventually I went insane, of course, and had to go to the nuthouse where I discovered that the reason I couldn't fit into normal adult society was because I was only twelve years old and that I had to quit drinking if I wanted to get any older.

This is not to say, however, that my experience at the Union was not supremely valuable. On the contrary, it had everything to do with helping me to break free of that revolving prison door.


In between editions of the paper I served as our sort of "resident ex-con" spokesman, which got me into a lot of interviews with the various media. They would ask me questions about prison, crime and the criminal justice system and that would make me think. I was fortunate to have been befriended by a wise old lifer at San Quentin who taught me to think beyond problems and look for solutions. This discipline was reinforced by those at the Union and I found myself trying to communicate from a place of caring.


The folks at the Union didn't just give me a job, they gave me an opportunity to heal. There's a strong tendency to walk away from our prison experience and try to "forget" and write it off as an ugly demon of the past. That's what usually takes me back — the pain, the anger, the abuse, the denial. Working with the Union forced me to deal with my feelings and to use my experience to try to make things better for myself and the world I live in.

Looking back, I didn't do much to change our prisons, nor did I do much in the way of changing those who live in them and work in them. But, I tried. And in trying, I changed. Because of that, the world is a better place. I am deeply grateful to the Union for helping me to change.

Jimmy Price served with the Prisoners Union from June 1982 through January 1984. Clean and sober and living north of San Francisco, he is still working in the social service field.

OUTLAW
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OUTLAW
Journal of the Prisoners Union
OUTLAW
PRISONERS UNION
JOURNAL
THE CALIFORNIA PRISONER

 **THE CALIFORNIA PRISONER**

 **THE CALIFORNIA PRISONER**

FALL
— from page 8

would just let me borrow theirs for a bit..." she murmured.

The train had run over another suicide, the third in my many rides up and down that valley route, a routine event for some of us, a moment of acute disgust and distress for most. The blonde seemed unaffected, even bored. She wanted to talk about herself.

She is successful. Even without a college degree, she had found a high-paying job in the Napa Valley selling wine packaging materials to wineries ("I just love the wine industry — there's so much history!"), dumped her childhood sweetheart who helped her escape years ago from the small, awful Central Valley town she had just visited ("It's not that they're bad people, I've just grown so much since I've been gone..."), snapped a soft body into taut tone ("Exercising to me is just like brushing my teeth!"), and now spends weekends in Hawaii ("I just love Hawaii — there's so much history!"). She had no idea that her beauty, which was simultaneously exceptional and typical, had created this life of superiority to others; she thought she did it on her own.

Back to my seat, back to the Atlantic Monthly, back to reflections on twenty years of being on the Prisoners Rights Union Board, back to thoughts on being

a member of the majority who identifies with the "victimization" of the minority. Cold winds are blowing; I find it harder each day to hew to the understanding I want to guide my life: there are Americans whose social position makes it impossible to succeed, and the rest of us have what we have because we are *lucky rather than better*.

Two weeks ago I met another impressive woman during a peaceful weekend at Tasajara, the Buddhist retreat in the Carmel Valley. I had to entreat her to talk about herself; hers was a story difficult to tell because it had to be pulled from the center of her experience. In truth, a story reluctantly told may be a better story. Eight years ago, Marilyn went to a doctor and was given a prescription which immediately made her rather ordinary, pleasant face break into a horrible rash which didn't go away and actually became much worse over the next seven years. For most of this time, her skin oozed, peeled, scabbed, flaked and turned all hues of red and purple, in ways horrifying to this good woman who, each day, looked in the mirror and could not find herself.

Meanwhile, Marilyn's five children were growing up, she and her husband divorced, minimum wages in Santa Fe weren't enough; she began nursing school, completed a grueling two year course that took her three, and now is a nurse in a Santa Fe hospital. She told me about nursing the way one might describe a

daily confrontation with a grizzly bear.

The blond is like the authors of the Atlantic piece: self-satisfied, insulated from an awareness that privilege is the real source of most American success. Marilyn is everyone who lives without privilege, and with true disability — whether it is race, poverty, or illness; Marilyn is the victim who does, in fact, overcome. And I thought about The Prisoners Rights Union, and our life-long talk about prisoners — most of whom never had what the blond was born with, and who have only the potential for Marilyn's courage.

This has been a long discussion, this nearly twenty years of talking about prisons and crime. In the Atlantic Monthly article, the authors speak of prisoner rights advocates (and ACLU lawyers, and criminal defense lawyers) as if the sane majority of Americans considers them increasingly disgusting nuisances, like dog shit on a clean, suburban sidewalk. Our point of view — which always asks that social benefits be shared more fairly with the powerless — no longer has credibility; it doesn't work economically because it creates larger evils of corruption and dependency, and it doesn't work socially because it doesn't reward self-control and personal effort.

There is some truth in this critique. No one who blames others for his or her situation in life is ever going to change that situation unless that individual either begins to feel personally responsible, or converts that blame into action to help others. The status of "victim" may be true, but defining oneself as victim is but another way to self-destruct.

The fall of the Berlin Wall has left me and many of my friends in similar shambles, uncertain of what — in this rubble — has value. We have experienced the loss of certainty, about ourselves and about what we believe, and we know now how wrong we are capable of being. I, for one, have grown to hate platitudes and maxims and aphorisms of the left. It feels braver, and truer to have thoughts that are unconsoling. There are no bromides for the sick emptiness we feel about our own society; there is only friendship, commitment, and the occasional act of courage. There is only the rare Marilyn, who converts her victimization into triumph.

I have friends who think of suicide. There is reason to despair, these are not good times. In my life, one sweet irony is that some of my best times are at Prisoners Rights Union meetings, where old friends hold each other together in a mood of miraculous survival and plot for better times to come.

Catherine Campbell is an attorney and has been active with the Prisoners Rights Union since 1974. She currently serves on PRU's Board of Directors.

Inmate correspondence restrictions lifted

On December 20, 1990, the Office of Administrative Law (OAL), in response to a request from inmate Donald A. Miller, issued a formal determination, No. 1990/17 (Docket No. 89-024) finding that the memoranda and directives at CDC's various prisons restricting correspondence between inmates are invalid and unenforceable because they constitute a "regulation" and cannot be enforced without being adopted in the Director's Rules in accordance with the Administrative

Procedures Act (APA). The rule in question prohibited approval of correspondence between inmates housed at different institutions unless they were family members or co-litigants. OAL previously rejected the Department's proposal amending Title 15 to include that prohibition in the Director's Rules. OAL held, in effect, the Department cannot impose rules at the "local level" that fail to comply with APA or those rejected by OAL at the central level.

While each warden or superintendent may make and enforce local rules or guidelines, and while inmates may have to apply through their counselors on correspondence approval forms, the applications can no longer be denied pursuant to the invalidated rules, or on any basis except for legitimate security concerns, e.g., documented membership in the same prison gang.

Information submitted by Don Miller.

HISTORY

— from page 1

would be nothing to stop a majority of duly elected Republicans from banning all meetings of Democrats and auto workers, forbidding newspapers that criticize Republican actions, and perpetuating itself until Doomsday.

Minorities need free expression in order to convert themselves into majorities. Insular minorities, like African-Americans or prisoners, need constitutionally guaranteed free expression in order to breathe; otherwise, a temporary majority could simply pass a law sealing their lips forever. Although the constitutional guarantees of free expression exist to limit excesses of a majority, they are not elitist. They make no prescription about what is best to do or how to do it. They are the most important laws that we have. The Union's court battles, and most of its lobbying, have aimed at vindicating one aspect or another of the freedom of expression.

Background

Courts had little or nothing to do with prisoners until the post-Civil War Civil Rights Act was made applicable to incarcerated people in 1964 (*Cooper v. Pate* [1964] 384 U.S. 546). Convicts then began to test the judicial waters in a variety of arenas, from First Amendment problems of communication by letters and visits to general conditions of confinement.

As more and more segments of society became alienated from central authorities in the late 1960's, support for prisoners came from people who earlier had never noticed jails or penitentiaries. The Prisoners Union was formed in early 1971, just before the period of greatest strife and bloodshed inside prison walls. The Union's goals were to see three major changes in the law: the abolition of the indeterminate sentence; the restoration of civil rights to prisoners, including the right to organize; and the payment of a living wage. Our experience has taught us to be careful of what you want, because you just might get it.

"prison movement" surging through their gates to release all convicts. After decades of benign neglect, they were being harshly criticized in major media. Prison officials felt besieged, and were quick to censor or ban letters and literature that seemed threatening — in 1972, they were threatened by virtually everything.

PRU goes to court

When the Union began publishing its newspaper, it was called the *Outlaw* in honor of a paper surreptitiously printed behind the walls of San Quentin and distributed to San Quentin prisoners that continued to appear in spite of several full-scale cell searches by San Quentin officials. Folsom Prison flatly refused to allow the *Outlaw* inside, regardless of its content.

In the early 1970's, there were several law firms funded by foundations set up to do nothing other than litigate on behalf of prisoners. It was not difficult for the Union to find a competent lawyer to sue prison officials on behalf of its censored newspaper. The Prison Law Project went into Sacramento County Superior Court and obtained an order that required Folsom to allow copies of the *Outlaw* to reach any convict subscriber.

The Union later became involved in much more complicated and visible litigation, but the most useful intervention on its own behalf ever received from a court was this earlier Superior Court one-page order. The *Outlaw* percolated steadily through prison walls, and soon made the Union known around the entire country.

Litigation, we learned, can also be a swamp of delay that sucks up an infinite amount of energy and resources. In 1972 the Union sued the Department of Corrections in federal court seeking to stop the practice of depositing the interest from prisoners' money and profits from the sale of their paintings into the Inmate Welfare Fund, and to make IWF accounting practices public knowledge. The district court judge threw the case out. On appeal, the Ninth Circuit held that the Union had indeed stated causes of action (*Holder v. Nelson* [1975] 509 F.2d 1091), but the passage of three



By R.G. Hall Jr

Death statute remained on the books in California. These statutes, remnants of the Roman Empire, effectively infantilized prisoners by making it illegal for them to marry, make a will, sign contracts, sue when damaged, read what they chose, or exercise any of the prerogatives of adulthood. Courts had chipped away at its legality by recognizing limits on the powers of prison officials to censor or ban reading material and correspondence. Finally, in 1975, the Civil Death Statute was abolished, and replaced with the Civil Rights statute (penal code sections 2600 and 2601) that is in effect today.

The passage of this law was an unqualified victory that has expanded opportunities to stay alive or grow while incarcerated. The same cannot be said for the other important legislative

Bureaucratic screw-ups abounded; a prisoner would be told to improve his social presence by joining a speech club one year; the next year, he would be told by a different parole board panel that he should have repented and gone to church. Between the deliberate suppression of dissent and the nightmarish confusion over what one should do to get out, the ISL came to be seen as the chief bane of prison life.

The Indeterminate Sentence Law had powerful support from a coalition of conservatives interested in keeping the gorillas locked up forever and liberals interested in getting boy scouts and erring executives out early. The Union argued for equity, and pointed out that those who sorted people into piles of good and bad had no real idea of what they were doing. We were prepared to see slightly longer terms, or more quantitative time, in return for the better qualitative time that certainty provides. The Union worked harder than ever, using all our connections and resources, to undermine the Indeterminate Sentence. We were not prepared for what happened when we got our wish.

With the passage of Senate Bill 42, the ISL was abolished in 1977. It had lasted 60 years; to our horror, its successor lasted barely 60 days. The process of jacking up sentences, of each legislator adopting a pet crime and increasing its term, everyone voting for everyone else's bill, began right away. We have seen the ugliest face of democracy, a nervous pandering to fears in such a way that the fear's roots are ignored. Prison terms are now insanely long, and our prison population insanely high. Would it have been different or better with sentencing power still in the hands of an appointed commission rather than elected officials? We often wonder.

Finally, a little-noticed law passed in 1975 that made the Department of Corrections and the parole board (which has suffered an identity crisis in recent years, going from the paternal Adult Authority to the socially concerned Community Release Board to the stern Board of Prison Terms) subject to the Administrative Procedures Act. Administrative rules and regulations have steadily grown in importance over the past 15 years. These rules cover almost every

The Union's goals were to see three major changes in the law: the abolition of the indeterminate sentence; the restoration of civil rights to prisoners, including the right to organize; and the payment of a living wage.

Voices rise in protest

The Attica massacre took place in November 1971. All through 1972, revelations from the investigation that followed emerged, the most dramatic being that the several guards who were killed in Attica died from bullets that came from the weapons of National Guardsmen. Here in California, an eruption in San Quentin State Prison in August 1971 led to the deaths of two prison guards and four convicts, including George Jackson, an articulate writer who had become an icon to many people who sought to reform or abolish prisons. As public curiosity mounted, a window of opportunity appeared for prisoners to express their point of view.

For decades, prison authorities had been accustomed to getting their way at all times, without the annoyance of having to supply anyone with reasons. Not only was the rule of law beginning to nibble at their heels, but they were haunted with visions of angry hordes of people in the

years proved fatal to the lawsuit. The attorney had moved on. The world had changed. Some of the abuses complained of in the initial lawsuit had been corrected, while new ones had appeared. The case was not pursued.

New policy made through legislation

Society's interest in prisons was also reflected in the legislature in the early '70's. Some very sensible bills began to pass, only to be vetoed by then-governor Ronald Reagan, but the legislature continued, until Democrat Jerry Brown became governor. Brown did not initiate any laws or rules of import, other than a last-minute effort to salvage the Indeterminate Sentence, but he did allow bills affecting prisoners to become law. The most important of these was the Civil Rights Statute.

In spite of recognitions by both the California and United States Supreme Courts that the state and federal constitutions did not stop at prison walls, a Civil

change during this time period — the abolishment of the Indeterminate Sentence.

It is difficult to recall, in this age of prison sentences that are spiralling upwards beyond all reason, how hated was the Indeterminate Sentence. In the Old Days, between 1916 and 1977, a prison sentence for burglary would be from 6 months to life in prison. The average time actually served varied, depending on the individual and on whether the governor would want to be seen as "tough on crime," or "fiscally responsible"; it was a simple matter for him to direct his appointees on the parole board to loosen or tighten the faucet. Under this system, real power lay in the hands of the parole board, an appointed agency, rather than in the hands of judges or the legislature.

In a politically active age such as the '60's and early '70's, the Indeterminate Sentence meant control. Prisoners who actively opposed the system could — and did — have their stay in prison extended because of that activity.

Prisoners fight to organize

In 1975, the Union was able to hire its own lawyer. A statewide campaign to organize California's prisoners into a union was launched. Because the greatest convict response came from Soledad, the Union concentrated its legal fire on backing up the prisoners who actively represented the Union. Union supporters were everywhere in Soledad, inviting Union sympathizers into the prison through various organizations to give speeches, writing newspaper stories about the speeches after they were made, wearing buttons, signing up new members, petitioning for improvements in the prison's workplaces, and submitting proposals to Soledad officials for Union meetings.

The whole concept of unions as a different way to run prisons was much in the air during the early '70's. Failure of the old military models was thought to have been clearly shown by Attica and other prison riots. A quasi-industrial democracy model was discussed in columns and interviews. Law review articles described the pros and cons of organizing prisoners and channeling their expressions of grievances. Judges talked about the idea in the course of deciding whether letters recruiting prisoners as union members could come into prison.

Meanwhile, actual unions of prisoners, both legal and illegal, sprang up in Minnesota, Washington, Ohio, Rhode Island, and North Carolina.

The union debate gathered momentum until the North Carolina Prisoners Labor Union made the mistake of taking its grievance to federal court. It won — but, like frogs waiting for a fly, the U.S. Supreme Court snapped up the case. In *Jones v. North Carolina Prisoners Labor Union* [1976] 433 U.S. 119, the high court made it clear that the Constitution extended no First Amendment rights of association to prisoners.

Because the United States Supreme Court is, for better and worse, the last word, general interest in the topic ceased. Money dried up, discussions no longer appeared in print. Interest in prisons was generally waning.

In Monterey County however, things were jumping. The Union's first foray into Superior Court on behalf of its members blocked Soledad from keeping out letters sent by Union Stewards. This quick success heartened Union activists and helped gain new members and support.

Union members on the outside obtained the right to carry membership cards from the Department of Corrections' top administration. When Union buttons were banned, the Union went to court (*In re Reynolds* [1979] 25 Cal.3d 131). When a leading inside activist, Willy Brandt, was kicked out of Soledad in the middle of the night and sent to an Oakland work furlough center, he succeeded in obtaining a job with the Prisoners Union — and when his mail back to brothers inside of Soledad was blocked, the Union again went to court (*In re Brandt* [1979] 25 Cal. 3d 136).

When University of California labor historian Norm Amundson spoke to Soledad prisoners on the potential advantages of a union, and when the governor's extradition secretary, Alice Lytle, was handed a petition by Union members requesting that a union be formed, articles were written for the Soledad Star-News covering these events. They were censored, and the Union again went to court (*Bailey v. Loggins* [1982] 32 Cal. 3d 907).

NEWS FROM INSIDE

Lompoc Correctional Institution

Well, the long awaited "new camp" has finally been approved and the ground breaking has begun. It will be located outside the FCI on the west side. It will cost close to a million dollars to start with and will hold a couple of hundred minimum security inmates. Some of the people from the FCI without custody will be housed here. It will consist of a few modular trailer type facilities as the living quarters. The positive side of living in the camp will be relaxed security, being able to wear street clothes, possibly better visiting privileges, and less overcrowding. The down side as we see it will be longer work days as the camp is being built, little recreation (there will be no softball, gym, racquetball, and a limited weight pile) and those of us with medium sentences (5 years and over) will be doing time with short timers, which is difficult.

A newspaper article in the LA Times yesterday caught my attention. They said that a congressional study has concluded that double bunking is the way out of prison overcrowding and that there is no need for new prisons. I would like to know who did this so called study and if they visited any prison. This place is double bunked to the limit with six men occupying 10x15 foot rooms. This includes 3 bunk beds and 6 lockers. If you throw a small table into this room, you barely have enough room to get to the door. It is getting harder and harder to have privacy and a lot of rooms have banned visitors and have designated the rooms as "quiet rooms", for reading only. This sounds pretty radical, but in a situation when there is so much crowding, it makes a lot of sense.

The Bureau of Prisons is recommending that statutory good time be increased from the present 54 days a year to 108 days. A reluctant Congress turned down the request last

year during the election year. This seems to be a viable solution to a few of the problems that the BOP is now faced with. Under the new guidelines, a Federal Prisoner is given a non-parolable sentence with very little good time available and no time off for working. There is very little incentive for people doing 10 or 20 years. This is an average sentence now being handed out for a drug offense. Since over 50% of all Federal Prisons are drug offenders, there will be very few people leaving in the near future and they are still piling them in phenomenal numbers. A bottleneck is occurring. These people will be hard to manage as their hopelessness increases and overcrowding continues. The way I see it, Congress has to do something to ease this overcrowding by getting non-violent first time offenders out of prison and on to probation or home monitoring. They can save face by offering some incentives in order to reduce a person's time.

A Federal Prisoner

Folsom

I am happy to see that Sacramento City College has expanded the available graduate classes here at Folsom Prison. Until last year we were only offered general education courses, without the graduate accredited program for an AA, BA, or BS degree, or applied classes that would assist us actually upon our return to the streets.

I am happy to report that we are now seeing those classes necessary which have not previously been offered. Many of us had taken all the classes available without a degree. Now we have applied Business Management, Business Law, Anthropology (physical and cultural), and the graduate courses that may actually assist us in making it out there and "beating the odds".

The return rates are too high. I would hope further education and training would be examined



as the legislature had intended rather than building more prisons. Alternatives such as this might be the best way to save those of us who would like to have a chance one day!

Michael W. Riggs

Central CA Women's Facility

I would like to share a little

with you about the place I live and work, CCWF. There are approximately 2000 women here and I am a Law Clerk, stationed in the center of the prison at the library.

Throughout the day we deal with every kind of legal question including family law, bankruptcy, taxes, post-conviction law and institutional problems. I am not well trained for this position and there seems to be no other women prisoners here trained in the law. Our library resources are limited to those that are state mandated and those required per departmental policy. No free staff can advise or in any way help an inmate legally. One day last week, however, there was a flicker of hope in what was seemingly a no win situation. It came through a group of women lawyers.

There is one other problem in a women's prison that author Collette Dowling calls "The Cinderella Complex." The women are dependent. They believe that somehow they will be taken care of. They don't come to the law library for help until too late

sometimes because they seem to think that somewhere there is a "daddy" or "prince" standing by that is looking out for them. So many with serious medical problems patiently wait and slowly deteriorate as they are put off or ignored by medical negligence in the name of cost efficiency. The women just assume that if it were important or dangerous that some medical staff surely would have responded to the problem. Meanwhile, a lump on the breast becomes a death sentence and the woman is told that it is her fault and/or it could not have been avoided. She believes them.

Those of us who try to act on behalf of our fellow prisoners to address these issues of mistreatment are threatened, harassed and intimidated. However, there are still some of us who will continue to do it. We have found out that we are not alone. I saw the first tears of joy that I have seen in a long time after our visit from the Women Lawyers last week. Our thanks to the Women Lawyers of Fresno.

Linda Eageron

Let's hear from the Women

Women Prisoners — We know you're out there. Tell us what special issues and concerns face you while incarcerated. We would like to start a women's page to examine what is happening inside women facilities.

Let us know what issues need to be covered and indicate whether you would be willing to write or contribute artwork.

Address comments and suggestions to:

Editor

Women Speak

1909 6th Street

Sacramento, CA 95822

The Broken Man

By Patrick Nolan

I warn you before reading any further that I write from a strictly biased stand-point concerning a subject very sacred and close to the heart; that my reasoning comes from experience not to be found in books or institutions of higher education; that my story is of a breed, whether mythical or real, that played a major part in the shaping of the who that I am.

The "Convict," to those that have not had the experience of knowing beyond what they see on T.V., is not what now fills the cavities of prison today. For the "Con," prison was a way of life — a way of life built upon a foundation of inner-strength, self-control, and self-respect. It was built by men, and women alike, who looked down on all that society, and its system represented — lifeless cogs in a machine that cared nothing for the individual who didn't meet a certain social level. In hard times, these men and women walked with heads held high, very much aware that, no matter what, they, because they were Cons, had some amount of respect coming to them from those that shared in the hard life with them, and even from those that confined them to it.

As a youngster, I was always enchanted by the free spirit and

the open rebellion of the Convict, who, in an environment both cold and callous, survived. Their code was honorable: be yourself, believe in yourself, and show to others the respect you want shown to you. Though they didn't fit in with most of society, they were recognized — even secretly envied. I admired how Cons stood for their beliefs — regardless of the circumstances — existed in an oppressive environment, and created their own world.

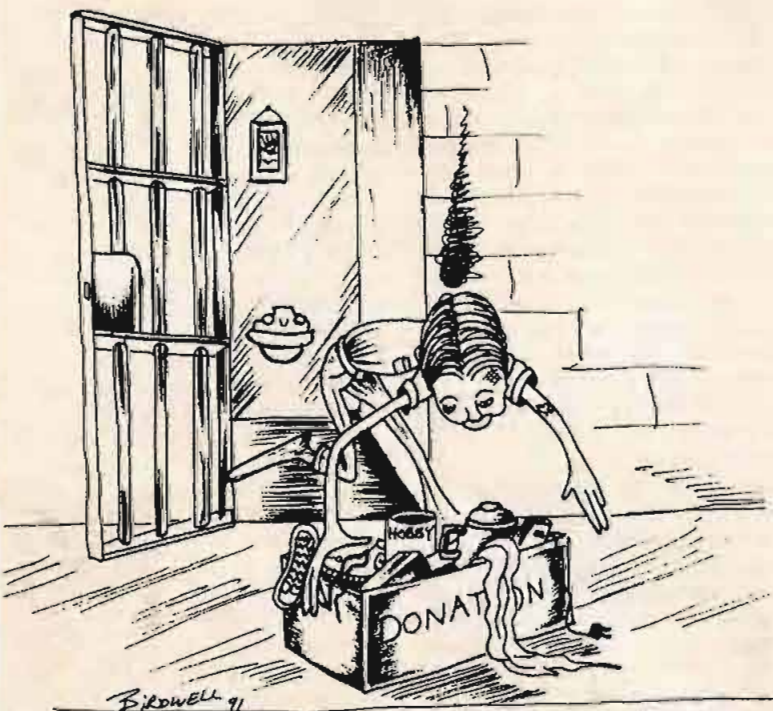
I set out in search of this strength of soul and pride that was so much the fiber of this rare breed. I wanted to live the life of the Con, and through this fellowship of real people, rise up against a system I believed unjust, inhumane — a lie with a thousand faces. I saw myself in the ranks of a movement that would slay the Machine — "real people" that felt the pain at the sight of the old lady dressed in rags, huddled in some crevice of a building, oblivious to the world, as are the people to her that pass her by. I wanted to fight the injustice of the old man who walked down slush-filled streets, head bowed, softly mumbling as the cold wind bit into his face, reliving battles once fought in honor of his country.

Times have changed, as have the days of the Convict. Reaching up into the epoch of totality not

only rigid, but extreme the Con has been replaced by a sallow-faced Inmate. No one really knows from where he came, though some — old timers lost in the shadows of this New Age — say we can thank the dissension of the seventies. Whites, Blacks, Mexicans and others say it was the drugs. Either way, in a short span of years, prisons that were once a society within a society, controlled by Convicts, became controlled confinement. Inmates, spread-eagle and were raped daily of the self-respect and individualism that took so long to gain. The reign of the Convict died...

I've learned the difference between romance and reality. In my youth, through aged eyes, I see the reality, and with heart heavy with sadness, I grieve the dying breed. I may have missed that day and age, but the spirit of the Convict, whether mythical or real, lives within me, still shaping me, and someday I will rise up against the system in a movement of real people. I am not some faceless smear, but a thinking, feeling individual that cares for people, and someday I will "Notch the stick of time!"

The Machine grows, as do the prisons of confinement — our warehouses — out of control, for control, sucking life from limb till one day, all that will be left is an empty shell, lifeless.



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Speaking frankly about AIDS

Prison AIDS Resource Center Note

By C'ia Lynn

This is the first of several articles designed to provide basic information about HIV (Human Immunodeficiency Virus), the virus believed to cause AIDS (Acquired Immune Deficiency Syndrome). Prison AIDS Resource Center (PARC) was established in 1989, in part to provide information about HIV/AIDS to incarcerated people and their loved ones. Due to lack of funding PARC has had to close the office, curtail its activities, and reorganize pending additional funding.

All individuals associated with PARC work full-time jobs, have other personal responsibilities, and work on PARC activities solely on a volunteer and part-time basis. We have received many requests for information about AIDS in prison and jail from health care and custodial staff, from family members, and from prisoners. We regret that we simply are not able to respond to all correspondence due to lack of staff and funds.

We intend to use the *California Prisoner* and this space to provide as much information as possible in response to requests we have received. This article will address prevention, that is, how not to get infected with HIV. The information is compiled from a number of sources and is based on education sessions done by the author with people incarcerated in prison and jail. We welcome responses, requests, and suggestions, but most likely will be unable to respond individually. Future articles will include information about symptoms, resources in the community, and other issues raised in correspondence.

While we intend to provide a list of resources, for example, for each state, we cannot guarantee that you will get a response from a particular organization or even that listed resources address AIDS in prison. Absent a resource, we recommend you write your governor and request assistance. First, as the highest elected official in each state, that office should be able to refer you to someone, even in the state public health department. Second, your correspondence helps to educate the governor, who likely is not familiar with prison conditions, at least from the perspective of a prisoner. If you are not satisfied with the response, or get none, write back and invite the governor to visit to see for her/himself what the conditions are. If you don't know the address, simply write:

Governor

State Capitol

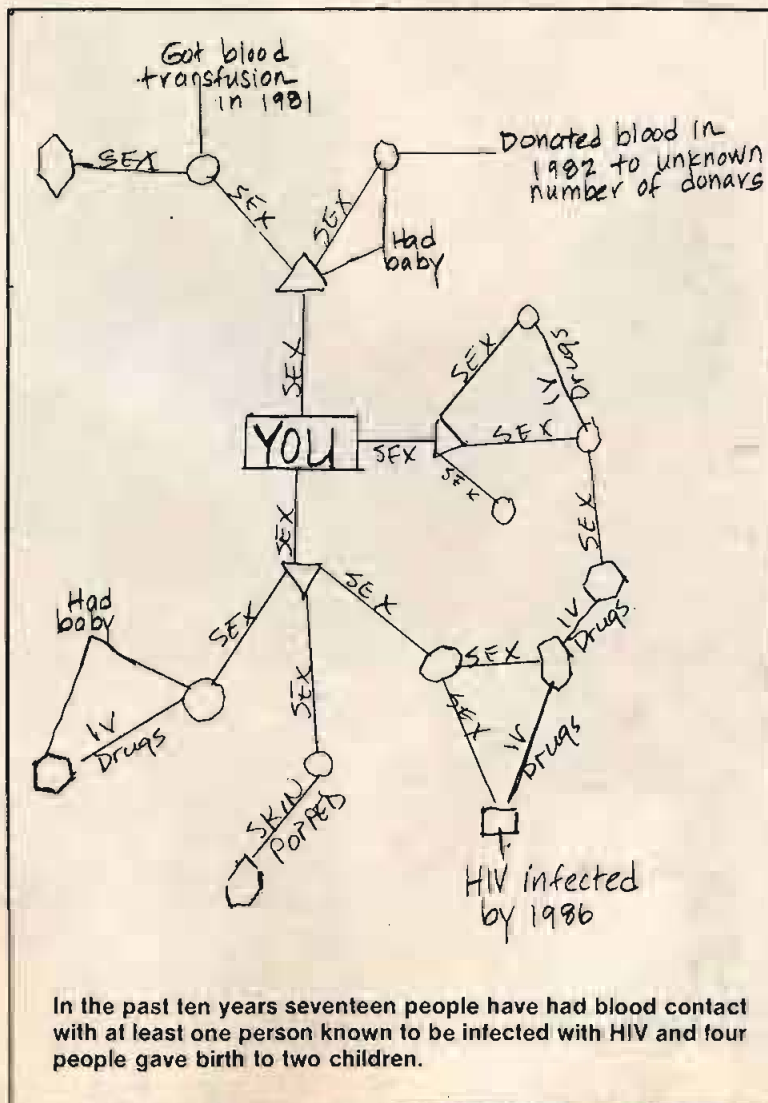
State (name of your state)

and don't worry about the zip code. Or, look up the address in your law library. Prisoners and prison families assume elected officials 1) don't care and 2) intentionally oppress us. While that sometimes is true, my experience is that most folks simply don't know about prison; the walls keep others out and ignorant. You have information, get it out to the community.

□ □ □

What do you need to know? Attitude and behavior change

AIDS is about sex, drugs, and rock and roll. Actually, rock and roll itself is safe, but sex and drugs are not safe activities. This isn't new; folks get addicted to drugs, and sex often results in



unwanted pregnancy. But the AIDS epidemic has brought the chickens home to roost and people have to get serious about their attitudes and behavior.

HIV AND AIDS CAN BE PREVENTED.

In order to prevent infection, however, you have to know what to do, you have to want to make the necessary changes, and you have to keep practicing new behaviors. It comes down to an individual thing — taking responsibility for yourself. That is not easy, especially in a society where we often do what we're told, where we often do what others do so we'll be like them, and where people are raised to think that it's okay to hurt other people.

HIV prevention, then, is about learning; getting information; reading; talking; and thinking about what HIV, AIDS, sex, drugs, and people are all about. Many of us do things, simply because that's the way our people do it — our family, our community, our culture. That process is called socialization, learning the behavior of our group of people. One of the most immediate effects of socialization when dealing with HIV is that we were all raised not to talk openly about sex.

Even when we're growing up, for example, when we're teenagers (also known as "hormones in tennis shoes") and perhaps at the time we're most curious about sex because our bodies are growing up, we don't really talk openly. Most parents were raised not to talk, are embarrassed and maybe even ignorant, and our friends really didn't know any more than we did. So, there we all are, hugging, and kissing, and groping, and poking, and feeling all kinds of good things. And we don't have a clue what we're doing, but other people do it so it must be good. Teenagers are like lemmings; they follow the crowd even into death.

Many of us become adults still doing what we're told and still

following the crowd. Maybe also along the way we've been mistreated, beaten up, molested by someone in the family, we've started getting angry. Most people in prison are angry; committed crimes behind anger; got angrier while locked up; and if released and back again, became even angrier. Part of that anger is self-directed and comes out in not knowing how and not being able to take care of oneself.

The fancy word for taking care of yourself is "self-esteem." Self-esteem basically means you like, respect, care about, and love yourself enough to spend time knowing who you are, what you want to do, and learning how to do it effectively. Most of us don't have a clue how to do that since most of us were raised in a society that raises people to feel stupid, ugly, afraid, angry and confused. Faced with something like HIV and AIDS, most folks just retreat into denial, pretending that if the problem is ignored it will go away.

But HIV and AIDS is not going away. The latest statistics indicate that while the epidemic is not spreading as rapidly in this country as was feared, more people may become infected during the 1990s than since the epidemic began in the 1970s.

At this time there are approximately 650 people in the California prison system who have been diagnosed with HIV infection, with a rate of increase of 3 percent or even higher per year. And HIV, which never was a "gay" disease, is hitting the poor, people of color, drug users, and young women in increasing numbers.

HIV is spread through human behavior, specifically through the spread of infected blood when doing particular things. The ways you can get infected are through a transfusion of blood products (which rarely happens now as the blood supply is tested), through engaging in unsafe sexual activity (which means without the use of things that can prevent the virus from spread-

ing), through sharing unsterilized drug using equipment (hypodermics, spoons, etc.), through sharing other objects (tattooing, ear piercing, etc.), and from a woman to her baby during or after pregnancy.

The next several columns will address HIV prevention (how to not get infected), symptoms and treatment (what to do if you are infected), and epidemiology (who gets infected). Most people are at risk for getting HIV infected, either because they use drugs, are born to woman, or, most commonly, have sex with someone else. Think about it this way, if you have had sex or shared IV/skin popped drugs in the past ten years, you have done those same things with every person that your partner has or partners have done those things with. If you have not had a transfusion, have not had sex, have not used drugs, and have not shared blood in any way with any other person in the past ten years, you're probably not infected.

But if, for example, you have unprotected sex today, you may be infected because the person you're with may be infected and not know it. The first thing about HIV and AIDS, then, is getting information. The next thing is being able to talk about it. The state doesn't like people to talk

openly and especially not to use explicit words (also known as "dirty" words). But AIDS requires us to talk about things we haven't openly talked about before, at least while we still have the First Amendment to the Constitution.

Since the state itself is in denial, it is up to us to define our problems, identify our needs, and develop our own resources. No one is going to come save us; we have to educate ourselves and work together to change our attitudes and behavior. Change comes from our own experiences and the knowledge we gain through analyzing what we already know and testing it with new ideas. What we're talking about here is saving our lives and the lives of those we love.

Finally, many people in prison can't read well enough to read this paper. We request that you share information with others, try to get discussions going, and read this article to someone who can't read. Before this epidemic is over, each of us will know someone who is HIV infected, and many of us will be infected.

This column is authored by C'ia Lynn, director of Prison AIDS Resource Center, P.O. Box 2155, Vacaville, CA 95696.



Sacramento — shouting "Healthcare, not death care" members of the ACT UP protested inadequate health care for AIDS patients in prisons and jails. Demonstrators gathered on May 6 to coincide with AIDS Budget Lobby Day. Stand-ins also took place at Department of Corrections headquarters in the offices of Director James Gomez and chief medical officer, Dr. Nadim Khoury.

ATTENTION ALL CONVICTS

Prisoners Rights Union is celebrating 20 years of progress and caring for the men and women behind the walls. In honor of this celebration, we are asking ALL READERS and members to donate \$2. We would love to start the 21st year out of the RED. Keep Strong!

Contact Judith Hedges
Fundraising Coordinator

Freedom near Judge forced to change ruling in Hooty case

By Luis Talamantez

People Power and the continued presence of supporters in Auburn Courthouse won a victory for Shasta-Karuk Indian Patrick Hooty when Judge Richard Gilbert was forced to review his earlier action and question his own brand of justice in his original ruling that sentenced Patrick Hooty Croy to life in prison. As a recent result, Hooty's life term was again put on hold and his probation reinstated.

On March 6, a stunned courtroom witnessed Placer County Superior Court Judge Richard Gilbert return Patrick Hooty Croy to state prison custody after an abrupt probation revocation hearing. Hooty was charged and convicted for the minor offense of smoking pot when several samples of court-ordered urinal tests proved positive for marijuana substance.

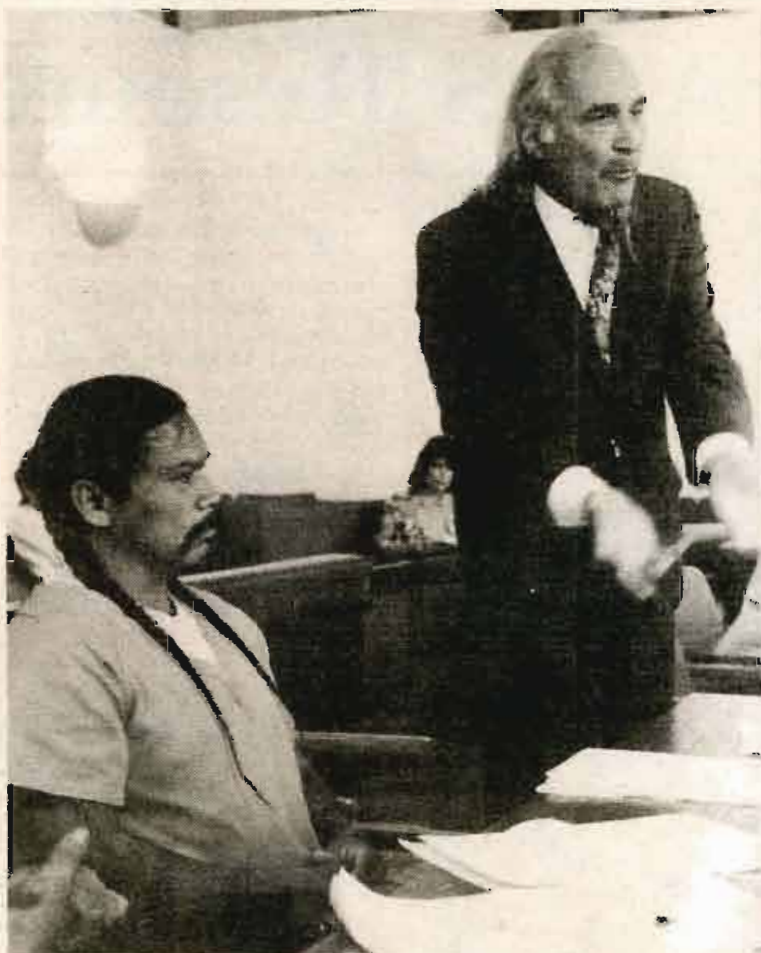
At a re-hearing on April 3, defense attorney Tony Serra, in a dramatic courtroom test of wills with Judge Gilbert, won for his client, 36 year old Patrick Hooty Croy, a new evidentiary hearing.

Retaking the witness stand on April 30, in the same courtroom in his second bid for freedom, Hooty testified calmly that he never believed he could be sent back to prison for life for smoking pot. He told the watching courtroom — among whom sat his father, Charlie Redhawk Thom; newly born baby brother, Chaley Sawauk ("Under the

Eagle"); Cora Bramwell, the baby's mother; and a host of other staunch supporters — that he would like a second chance to be granted by the court. He believed that being released from death row directly out to live and work in East Oakland had called for a tremendous adjustment which he had been unprepared for. He explained that his only real slip of probationary terms was having smoked pot to ease the social transition and stress, especially after long hours of work, and when bills started mounting up and he encountered problems meeting financial obligations and family support. It had troubled him greatly that he was always having to borrow money from his friends, which contributed to his loss of self-esteem. All of these things caused him much stress and depression, which "smoking a joint" seemed to alleviate temporarily.

The judge listened attentively as did most of the packed courtroom while Hooty testified during the morning session.

After a whole day of testimony and a weak prosecution bid to keep him in prison, the judge admitted having acted too severely on March 6, when he returned Hooty to prison to serve the remainder of a life sentence. Gilbert went on to say that he had been lax in his original ruling on terms of probation granted in October 1990, by allowing Hooty to be released directly into the world, expecting him to adjust on



Attorney Tony Serra argues before Judge Gilbert at Auburn Courthouse on April 3, 1991 for rehearing on revocation of parole.

his own.

Therefore, the judge concluded that a slower transition into society would be the condition for allowing Patrick Hooty Croy to resume his freedom. The court

thereby reinstated his probationary status, and ordered Hooty to spend six months in the Placer County Jail with time served (three months), three months at a substance-abuse program in Manteca, and a six-month live in

program at a state rehabilitation center in the East Bay.

The stringent terms of probation originally set by the court will again be in operation once Hooty is released from custody. Once again, weekly urine testing will be required for ten years and constant surveillance and the control of his life will still rest with the court's arbitrary discretion.

Hooty never belonged in prison in the first place. Hooty has been a target of judicial and police racism for thirteen years — ever since he killed a police officer in self-defense following a massive police chase and shoot-out at his grandmother's cabin in Rocky Gulch, Siskiyou County. His sister, Norma Jean, continues to languish in prison in Chowchilla on a life sentence for the original offense on which Hooty was acquitted by his re-trial on May 1, 1990. Hooty and Norma Jean's struggle for self-determination and freedom will not end soon.

Supporters wishing to stay in touch with Hooty should write to: Patrick Hooty Croy, E89465, Placer County Jail, 2775 Richardson Drive, Auburn, CA 95603.

Luis Talamantez is an ex-prisoner who spent 11 years at San Quentin Prison (from 1965-1976) and was tried as one of San Quentin Six Trial Defendants. Talamantez currently works with the Political Prisoner Project, 1218 Jackson Street, San Francisco, 94109.

Cases and Actions Affecting Life Prisoners

By Don Miller

UPDATE

In *re Danilo Dayan* and *In re Ledgrue Pearson*, reported in our April column, are fully briefed and await disposition by the California Court of Appeal and Supreme Court, respectively. Both petitioners, new lifers granted parole, claim entitlement to Penal Code § 2931 (good-time) and § 2933 (work-time) credits to reduce their terms of imprisonment and advance their parole dates, once set by the Board of Prison Terms.

We also await the decision from the U.S. District Court in Sacramento in *Miller v. Estelle*, a federal habeas corpus claim that new lifers who executed the P.C. § 2934 waiver agreement are entitled to § 2933 work-time credits for the remainder of their imprisonment due to the irrevocability clause in the waiver contract and the language of § 2934, neither ground being adjudicated to date. Discovery is proceeding in *Lillard v. Estelle*.

Please refer to our April column for further details of these cases.

McCLESKY v. ZANT

Meanwhile, our United States Supreme Court has fulfilled the administration's fondest dream with its holding in *McClesky v. Zant*, (Daily Journal of 4-18-91, DAR p. 4340; U.S. Supr.Ct. No. 89-7024, 4-16-91) which limits state prisoners to a single federal habeas corpus petition. *McClesky* holds, in effect, that even new discovery of crucial evidence illegally withheld by the state may not form the basis of habeas corpus relief if it entails a second federal petition. The only excep-

tions specified in *McClesky* are certain claims of ineffective assistance of appellate counsel and grounds not previously asserted enabling the petitioner to prove his innocence, a rare situation indeed.

In view of *McClesky*, all prisoners pursuing habeas relief, especially lifers, are urged to (a) carefully study *McClesky*, (b) include all arguable claims in their first federal habeas corpus petition, regardless of the delay imposed by first asserting such claims in new state habeas corpus petitions, and (c) assert and argue to the extent possible, in situations where a previous federal petition was heard, one of the exceptions specified in *McClesky*.

TRANSFERS OF LIFERS

In December, CDC published notice of its proposed amendments to the Director's Rules (Title 15, Code of Regulations, Division 3) modifying the language and provisions of several key regulations governing the classification and transfer of prisoners. Of particular concern to lifers is the Department's proposed deletion of 15 CCR § 3375.2, subsection (a)(8)(B) [formerly § 3375(e)(8)(B)], which currently prohibits the transfer of life prisoners without an established parole date of five years or less to level-II facilities. Since Level-II facilities consist almost exclusively of dormitories housing up to 100 or more prisoners, the proposed deletion creates substantial concerns among lifers of being transferred to live perhaps ten years or more in large dormitories rather than 2-man cells and of various other safety and security concerns.

Several lifers submitted objections to the proposal prior to March 14th, the deadline and

date of the hearing. The Office of Administrative Law, which reviews all such proposed regulatory enactments proposed by CDC and BPT and has the final decision whether to adopt or reject them, indicates that, to date, CDC has not submitted their rulemaking file on this action for review. Since the proposed deletion of this key transfer regulation will affect thousands of lifers, our next column will update the situation.

OLD PAROLE BOARD REGULATIONS

In cases such as *Lillard v. Estelle*, reported above, litigant life prisoners rely on the older AA, CRB and BPT regulations to argue their due process and *ex post facto* claims. Those of us who have tried to obtain the older rules from the Board come to realize it practically takes an act of Congress to obtain them. Although I've accumulated about 200 such old rules, guidelines, resolutions and directives, it has been difficult to secure those governing the parole hearing and determination procedures applicable to lifers in existence prior to 1975. If any reader has or knows of availability of such 1950-1975 rules, I'd appreciate receiving that information.

POWELL V. GOMEZ — A NEW APPROACH

Fed up with political parole denials and rescissions, attorneys for Gregory Ulas Powell have filed for habeas corpus relief in the U.S. District Court in Sacramento in *Powell v. Gomez*, No. 91-684-DFL. The federal petition renews Powell's 10-year effort to be released on parole for a 1963 murder of a police officer. After a sensationalized version of his offense was depicted in "The Onion Field" on national

television, BPT rescinded his 1982 parole date three years retroactively, based mainly on a report by a psychologist who never interviewed Powell. The California Supreme Court upheld the Solano Superior Court's order vacating rescission and ordering Powell released from prison. However, immediately following the 1987 defeat of Rose Bird and

her two Supreme Court cohorts, and 3 days before the decision would have become final, the newly constituted Supreme Court ordered the case reheard and, as expected, voted 6-1 to vacate its earlier decision, affirm rescission, and cancel parole.

See LIFE on page 16

Appeal to Convicts

Dear Brothers and Sisters Behind The Wall,

I am writing this letter to all of you to express these concerns that have been on my heart for a long time and that I need to share with you. First, my name is Judith Hedges. I am the Fundraiser and Advertising Coordinator at the Prisoners Rights Union. I have been involved with prison issues for 20 years. The only reason I state the amount of time is to show you that I am not on the bandwagon for prison reform just because I am married to a lifer behind the walls. I am married to a wonderful man named Bruce, we have a beautiful seven year old daughter named Jean. Last week Jean and I went shopping for summer clothes and she had to remind me what she could and could not wear to visit daddy. Being a prison family is a way of life for us and I am not complaining. My husband always tells me, I knew the gun was loaded when I picked it up.

I do, however, have some questions that have really bothered me. Why is the Prisoners Rights Union not the strongest union in the State of California? There are 100,000 men and women inside. As you know, no one is born of themselves. You all have families. The Union should be so strong. The political figures should be watching every move we make because with the numbers we should have as members, we could change the vote. We take about 200 calls a week at the Union. We tell the families not to complain if they don't vote. We are out here trying to change laws and when we get a bill on the ballot, we need your vote and not just your mouth saying it is a good idea.

In closing I will ask and plead for you to encourage everyone you know to send \$20.00 to become a member. Let's become so strong that CDC has to sit up and listen to us as well as the politicians. Let's get back the fire of the Sixties and fight for what we feel is right even if it's not the popular issue of the day. When I speak publicly, I always tell people "You should hope prison works whether you are for reform or not because some day all these convicts do come home and they will be your neighbors."

Keep strong,

Judith Hedges

HISTORY

— from page 11

Finally, when the Union's petition requesting that its members be allowed to meet to the same extent as alcoholics and Catholics and other groups of convicts who were then meeting on a regular basis was denied, the Union went to court (*In re Price* [1979] Cal. 3d 442).

The Price case was the climax of the Union's effort in Soledad, and its effort to create itself inside prison in the teeth of correctional resistance. Witnesses testified from around the country and from inside the prison. The Union argued that group meetings are an essential part of the freedom of expressions, guaranteed by the freedoms of speech, association and the right to petition the government for a redress of grievances. In a prison context, group meetings are essential for defining common issues and reaching positions. Convicts or attorneys cannot know which class action lawsuits are important without knowing how the class itself feels. There is simply no way for a consensus to emerge about a common problem in the absence of group meetings and discussion.

The Union's case was solid; during a year's ferment and activity, incidents of violence in Soledad had virtually disappeared. The Director conceded that no violations of security had occurred as a result of Union activity, and that prisoners did regularly meet in groups, as students, or alcoholics, or Catholics/Protestants/Muslims, without problems. However, the Jones case loomed over the proceedings, and notwithstanding its claim that the California Constitution and particularly

Penal Code section 2600 made a law different in California, the Union lost.

Outside support of prisoners organizations, whether from centers of power and influence like courts, and Legislature or the press, or from centers of money like foundations, were slip-sliding away. In the wake of the judicial and legislative retreat from vindicating the rights of convicts, the Union turned to the family members and friends of prisoners. Our sources of information developed over the years kept us well-informed about all aspects of prison life and about official plans or California's prisoners -- changes in rules relating to visitation, plans for new prisoners, etc. The people outside who care most about such changes are the family members and friends of prisoners. Where could they be found?

No doubt they could have been reached by 60-second spots on prime-time TV, but the costs of such commercials could be borne only by multinational corporations. The Union was starved for money. A much more selective way to reach the family members and friends of prisoners was to meet them at the gates of California's prisons, or in the prison parking lots. Accordingly, Union members began to distribute leaflets and literature outside the gates of prisons.

They were ordered by Vacaville, Folsom, and Soledad officials to stop. The Union went to court and eventually prevailed (*Prisoners Union v. California Department of Corrections* [1982] 135 Cal. 3d 930). Now, any group seeking to reach prison visitors may do so, provided it gets in touch with its prison of interest and gives sufficient notice.

The Present

The Union continues to work with and for the family members of prisoners; most recently we have been working in the legislature and at administrative hearings to gain the right of released prisoners to join their families wherever they have the best chance of making a new life rather than being confined to the county of their commitment offense.

Our interest in doing it yourself has always been lively, and lately, with only one poorly funded law office in the entire state devoted to prison law, doing it yourself has become a necessity. The Union worked closely for years with Inside/Out, a Fresno organization originally devoted to changing jail conditions in the Central Valley that became a major provider of self-help literature to people faced with criminal trials or who already have been convicted. After the untimely death of Inside/Out's moving force, Dave Davis, the Union has taken over the project of updating and distributing Inside/Out publications. Our big bomber in the self-help area is the **California State Prisoners Handbook**, a comprehensive and practical guide to all aspects of post-conviction law that is available for half price to incarcerated people. The Handbook was entirely updated by Steve Fama and the Prison Law Office in 1990. There is nothing else remotely as good at summarizing all aspects of the appearance over the past two plus decades of Law in the discretion-ridden environment of state prisons. Check it out.

Michael Snedeker is an attorney and has worked on behalf of prisoners' rights since 1974. He currently serves on the Union's Board of Directors.

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If you are concerned about the rights and welfare of the men and women in California prisons, become a member of the Prisoners Rights Union today.

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agency, etc.; second line, Name of person/recipient (personal letter), business, agency, etc.; third line, street address, Post Office box, or route; and fourth line, city, state and zip. The reason for all of these instructions is that mail is sorted by a scanner machine that is unable to rearrange address information that is improperly sequenced. Also, a bar code used to process mail faster is printed by the Post Office on the lower edge of the envelope.

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LIFE

— from page 14

It certainly does not take a genius to understand what has been going on for years with Powell and scores of lifers like Powell who have had their parole dates rescinded in the wake of adverse and oft-distorted publicity about their offenses or impending release, usually on the alleged basis of "new" information which was available to the Board all along or some other conveniently manufactured ground. Since the Board is held to have almost God-like "discretion," it is next to impossible for the prisoner to overturn the ad-

verse decision or even set the record straight.

In seeking federal relief, Dennis Riordan, Powell's attorney, likens the procedure to the time when Congress allowed Black prisoners to appeal their death sentences to federal courts rather than rely on all-White, former confederate judges for relief: "There are cases, perhaps few in number and extraordinary in nature, that are too politically hot for elected state court judges to handle in the fashion the Constitution requires."

Since the Bird court judges were replaced due to alleged "undue solicitude for the constitutional rights of criminal

defendants," and since those appointed by Duke to replace them and to the Board of Prison Terms were selected for the very purpose of denying parole to those in Powell's parole years retroactively is inherently unfair: "This case cries out for dispassionate constitutional adjudication that, in the extraordinary circumstances surrounding petitioner's claim, can only be provided by the ultimate guarantor of the Constitution -- the federal judiciary." While, in my opinion, the odds are against Powell, a number of cases are emerging that will challenge the Board's (a) abuse of discretion and reliance on public opinion masked as irrelevant or manufactured grounds for parole denial or rescission, and (b) refusal to set a parole date by merely reciting that the facts of the 15- or 20-year old case were "heinous" (What murder isn't) and thus indicate the prisoner is currently "unsuitable" to have parole determined.

OTHER CASES

Several letters have been received mentioning pending proper lifers' actions in various stages in the state and federal courts, but I'm hesitant to report prematurely on such cases in their early stages or with little chance for success, for fear of inappropriately raising lifers' hopes. I've reported on those cases in which there is some indication that a result favorable to lifers is reasonable, and on those final decisions substantially affecting lifers. I would be grateful for information on any cases affecting lifers, however.

Don Miller is a lifer and a jail-house lawyer.

Donald S. Altschul

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The California State Prisoners Handbook

Summary of Chapters

- Ch. 1: Administrative Appeal Procedures of the Department of Corrections and Board of Prison Terms
- Ch. 2: Rights of Prisoners
- Ch. 3: Classification and Transfer
- Ch. 4: Determinate Sentences, Time Credits and Release Dates
- Ch. 5: Life Prisoners
- Ch. 6: Disciplinary and Segregation Procedures
- Ch. 7: Medical and Mental Health Care
- Ch. 8: Detainers and Extradition
- Ch. 9: Workers' Compensation and Other Benefits
- Ch. 10: Early Release, Temporary Release, Work Furlough, and Special Prison Programs
- Ch. 11: Parole
- Ch. 12: Writs of Habeas Corpus and Mandate
- Ch. 13: Federal Civil Rights Actions and State Law Actions
- Ch. 14: Direct Appeals of Convictions
- Ch. 15: Legal Research

Included, also, are appendices with sample cases and forms as well as a table of authorities.