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★ Working to Extend Democracy to All ★

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## PRISON DOCTOR BLAMED FOR EXCESSIVE STERILIZATIONS

**Excessive sterilizations, unhealthy methods alleged  
Dr. James Heinrich continued to work despite allegations.**

*Corey G. Johnson, Center for Investigative Reporting, 2-15-2014*

A prison doctor investigated by the California medical board after ordering tubal ligations without state approval is responsible for hundreds of other sterilizations of female inmates, the Center for Investigative Reporting has found.

Dr. James Heinrich also has a history of medical controversies and expensive malpractice settlements both inside and outside prison walls. Female patients have accused him of unsanitary habits, medical malpractice and trying to dictate their reproductive decisions.

Despite that history, Heinrich was not only hired by the prison system, but also kept on once a federal judge appointed a receiver to clean up the prison's medical system.

Heinrich, 69, retired from Valley State Prison for Women in 2011 after working for six years. Federal authorities rehired Heinrich as a contract physician, and he continued treating inmates at Valley State though December 2012.

An earlier Center for Investigative Reporting story, published in July, found that more than 100 tubal ligation surgeries took place in the California prison system without the required state approval from 2006 to 2010. The women were signed up for the surgery while pregnant at the two prisons that housed pregnant inmates, the California Institution for Women in Corona (Riverside County) and Valley State Prison for Women in Chowchilla (Madera County).

Newly obtained state prison data indicate that 74 of those surgery referrals were made at Valley State. More than two-thirds of those referrals came from Heinrich or a nurse on his staff, according to the prison's medical service request records.

### **Saves on welfare**

Heinrich previously said the money spent sterilizing inmates was minimal "compared to what you save in welfare paying for these unwanted children, as they procreated more."

In addition to tubal ligations, Heinrich arranged other types of sterilizations 378 times from 2006 to 2012. These included hysterectomies, removal of ovaries and a procedure called endometrial ablation, which destroys the uterus' lining to stop excessive menstrual bleeding.

Although these sterilizations are not banned in California prisons, the quantity attributed to Heinrich ultimately caused federal administrators to take note, said Dr. Ricki Barnett of the federal receivership.

Dr. James Heinrich does a prenatal exam on an inmate in footage for a documentary at Valley State Prison for Women in Chowchilla (Madera County).

The state Department of Corrections and Rehabilitation hired Heinrich in December 2005 to head obstetrics and gynecology at Valley State. A few months later, U.S. District Judge Thelton Henderson appointed a receiver to take over inmate health care, after ruling that the state's medical treatment of prisoners was so poor that it violated the constitutional ban on cruel and unusual punishment.

Overall, the number of sterilization surgeries sharply increased after Heinrich joined the prison system and the federal court began oversight.

From 2006 to 2008, Valley State averaged 150 sterilization surgeries of all types annually - six times that of the Central California Women's Facility, the largest women's prison in the state.

### **Barred from prisons**

Heinrich declined to be interviewed for this story. His attorney, Ronald Bass of Walnut Creek, said he couldn't comment on Heinrich's role in the increased number of sterilizations because he hadn't seen the data reviewed by the Center for Investigative Reporting.

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But Bass insisted that Heinrich had followed proper medical procedures and standards. He said the likely reason for the spike in sterilizations was that Heinrich “saw more patients in an effort by the state to provide better care.”

After the center’s initial story was published in July, the federal receivership barred Heinrich from future prison work, according to spokeswoman Joyce Hayhoe.

Female patients have accused Dr. James Heinrich, shown in 2007 at Valley State Prison, not just of trying to dictate their reproductive decisions, but also of unsanitary practices and botched surgeries that injured them and their infants.

### Patient’s regrets

Several former inmates said Heinrich pushed hysterectomies and other sterilizing surgeries during routine visits, often giving misleading information about the medical reasons.

Tamika Thomas, 36, of Stockton saw Heinrich in 2006, during a stint at Valley State for assault with a deadly weapon. Thomas said she wanted birth control to better regulate her menstrual cycle.

Heinrich instead recommended surgery that would stop the bleeding by heating the inside of her uterus. Thomas, paroled in 2007, said Heinrich never told her the surgery would sterilize her. Thomas agreed to the procedure and regrets it, she said.

Bass dismissed Thomas’ contention, saying she would have learned about the sterilizing effects of the procedure from at least one of the medical providers or from consent forms.

By late 2007, federal officials discovered problems with Heinrich’s care.

A team of federal examiners visited Valley State to investigate the death of two inmates’ babies during childbirth. They found one newborn died, in part, because Heinrich, staff and another prison doctor each gave the mother the wrong prenatal medicine.

The other death resulted from Heinrich failing to perform a routine prenatal test for bacteria, according to court documents.

Heinrich maintained in his written summary of the case and via his attorney that the test was overlooked because the inmate had numerous unscheduled medical visits with emergencies that required immediate attention.

Depositions of Heinrich and staff, taken by lawyers for the child’s mother, established that the inmate wasn’t in critical

condition during every visit.

### State settled

In 2010, the attorney general’s office and the state prison system filed documents acknowledging that Heinrich had been negligent. The state paid the woman \$150,000 to settle her claims, documents show.

Prison officials also investigated Heinrich in 2008 after then-inmate Michelle Diaz accused him of unprofessional and unsanitary behavior during a Pap smear.

Diaz, 36, told Heinrich she had irritation outside her vagina, but she said Heinrich inserted his fingers inside her. Diaz noticed Heinrich wasn’t wearing a glove and exploded in anger. Then without warning, she said, Heinrich applied a burning chemical to her vaginal area.

Diaz filed a complaint against Heinrich on March 28, 2008. One of Heinrich’s nurses confirmed that he hadn’t warned Diaz before treating her, according to notes of the interview that became public in a federal lawsuit.

The nurse also said it was Heinrich’s practice to use a glove on one hand but not the other when doing Pap smears. Using one glove is not considered a standard practice.

Prison officials concluded that Heinrich violated policy and that he should have warned Diaz about the chemical procedure, a May 2008 memo filed in court shows.

### Negligence cases

Other controversies dogged Heinrich in the years before he joined the state prison.

From the mid-1990s to 2004, Heinrich paid \$342,000 in legal settlements related to claims of negligence and incompetence during surgeries and deliveries at NorthBay Medical Center in Fairfield.

Lawsuits are common among ob-gyns because of the sensitive nature of their work, and Bass, Heinrich’s attorney, said the settlements don’t represent the quality of the doctor’s care.

Bass said Heinrich performed about 8,000 procedures over his career, “99.875 percent” of which didn’t lead to lawsuits.

State officials declined to comment on whether they knew of Heinrich’s past medical settlements before he was hired, citing personnel privacy laws. •

## WHAT’S BEHIND THE HUNGER STRIKE AT NORTHWEST DETENTION CENTER

The hunger strike at Northwest Detention Center reveals a human-rights crisis

By Dan Berger and Angélica Cházaro, *Seattle Times*

More than 700 people detained at the Northwest Detention Center in Tacoma began a hunger strike on March 7 in protest of their conditions. Those still reported to be on hunger strike are on medical watch and have been threatened with force-feeding if they continue to refuse food. According to their attorneys, participants have experienced other reprisals for the strike, including solitary confinement and threats to their asylum efforts.

In a public statement, the hunger strikers demanded an end to deportations and the



Art by Robert Garcia

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separation of families. They also demanded better food, medical care and wages for work inside the facility (they currently receive just \$1 a day for their labor), and an end to exorbitant commissary prices. Detainees pay \$8.95 for a bottle of shampoo and \$1 for a single plastic plate.

These problems are not limited to federal detention centers. Along with people being held in local jails and state and federal prisons, the detainees have launched what may be the most urgent human-rights movement in our country today. Just this week, a New York inmate died on Rikers Island when his jail cell overheated.

The U.S. prison system is the largest in the world. With 5 percent of the world's population, we have 25 percent of the world's prison population. Sentences are longer and conditions harsher than at many prisons throughout the world.

The use of long-term solitary confinement — where some 80,000 Americans now spend 23 or 24 hours a day without human contact and are often denied adequate nutrition, reading material or visits with loved ones — has sparked a growing series of lawsuits, legislative hearings and demonstrations.

In California, prisoners have staged a series of hunger strikes since 2011. At its height in the summer of 2013, 30,000 people in prisons around the state refused food.

Similar to the Tacoma detainees' demands, the California prisoners call for an end to group punishment and for prison officials to follow United Nations protocols on the use of solitary confinement as well as adequate food. Similar smaller hunger strikes have occurred in prisons in Ohio, North Carolina, Illinois and Virginia since 2011.

Deportations have expanded dramatically in recent years. According to the Pew Research Center, the number of deportations has increased from approximately 165,000 people a year in 2002 to almost 400,000 people annually for the last five years.

Soon, the Obama administration will have deported 2 million people, who are processed through a network of detention centers. By congressional order, these detention centers must hold 34,000 people on any given day. Many of those facilities are privately run. The Northwest Detention Center, one of the biggest in the country, is managed by The Geo Group, a company that describes itself as the "world's leading provider" of private prisons and detention

centers.

Such investment in detention and deportation has sparked a series of efforts among undocumented workers and youth around the country. The hunger strike in Tacoma follows a two-week hunger strike that activists, many of them undocumented, staged outside a Phoenix detention center starting Feb. 24. This week, citing Tacoma as inspiration, migrants in the Conroe, Texas, detention center launched a hunger strike.

Nonviolent civil-disobedience actions have prevented deportations in 16 cities around the country, including at the Northwest Detention Center in Tacoma days before the hunger strike began.

Such activism has prompted a series of legislative hearings, judicial rulings and conversations about long-term isolation, mass incarceration and the force-feeding of detainees. Still, there is much work to be done. While the United States may like to be a world leader in human rights, its routine practices of confinement violate both international standards and human decency.

We do not often look to prisons and detention centers to understand the social and political needs of our generation. But we should. Some of the most passionate advocates for fairness, justice and human rights are incarcerated. •

*Dan Berger, a historian of activism, teaches ethnic studies at the University of Washington Bothell. Angélica Cházaro, an immigrant-rights attorney, teaches at the University of Washington School of Law.*

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## AMERICAN EXCEPTIONALISM CRIME-AND- PUNISHMENT EDITION

*By Andrew Cohen*

**O**n February 23rd the U.S. Senate Judiciary Committee held its second hearing in eight months on the topic of solitary confinement. Two simple facts about it tell you what you need to know about how far the issue has come in the past few years. First, the title of the proceedings is "Reassessing Solitary Confinement II: The Human Rights, Fiscal and Public Safety Consequences." Second, public interest in the hearing was so great that the venue for it had to be changed to a

bigger room.

The hearing in Washington comes one week after New York state agreed under pressure from civil rights litigators to revamp policies and practices employing solitary confinement against juveniles. It comes one week after *The New York Times* published a remarkable op-ed piece from one of Tuesday's witnesses, Colorado Department of Corrections chief Rick Raemisch, who spent 20 hours in solitary in late January to try to better understand its terrible toll upon the inmates under his control.

Durbin and company (the Bureau of Prisons will be represented by its director, Charles Samuels, whose federal prisons are among the cruelest) will gather one week after the Smithsonian Magazine published a piece titled "The Science of Solitary Confinement." It is indisputable, the scientists now say, that putting people into prolonged isolation jeopardizes their ability to ever assimilate back into society once they are released." We also learn from this piece, sadly, that "no U.S. prison is willing to allow its otherwise isolated prisoners to take part in research."

And the Senate will consider solitary confinement one month after the largest prison guard union in Texas called for the curtailment of the use of solitary on the state's death row. Let me say that again: Prison guards in Texas, the world's nation's epicenter of capital punishment, have come to believe that isolating prisoners in this fashion is self-defeating. As the title of the Congressional hearing suggests, there is today, indeed, a great deal of "reassessment" of solitary confinement not just in moral terms but in practical, political, economic and legal ones as well.

Something clearly is happening here and it's not just based upon some slight uptick in public acknowledgment of the immorality of confining fellow human beings to such cruelty no matter what their crimes. There is movement here because there is growing evidence that the inhumane treatment of prisoners is neither safe nor efficient. There is movement here because there is now a strong economic case for prison reform. There is movement, in other words, even though there still is an overwhelming lack of empathy toward the punished.

But to understand precisely what is happening, and where this new reformist sentiment might lead, it's important to understand how deep is the American penchant for punishment—and especially for cruel

punishment. It is important to appreciate how conservative an industry the corrections industry is, how much institutional and emotional inertia exists blocking reform to it, and how much lobbying power and money exists to keep people in prison. And it is important to know how stacked the law is against the inmates themselves.

Although you likely won't hear much about it Tuesday at the Senate hearing, the truth is that the abuse of solitary confinement is only one of many intractable problems that exist within our prisons. Lucky for us, at this potential hinge of history, with hearts and minds seemingly open for the first time in a generation to new ideas about crime and punishment, comes a book that offers crucial context and perspective about the history and meaning of punishment in America. It is the right book at the right time.

*Inferno, An Anatomy of American Punishment* by Robert A. Ferguson, a professor law and letters at Columbia University, will be published next week by Harvard University Press, and if I had won the \$400 million Powerball lottery last week I swear I would have ordered a copy for every member of Congress, every judge in America, every prosecutor, and every state prison official and lawmaker who controls the life of even one of the millions of inmates who exist today, many in inhumane and deplorable conditions, in our nation's prisons.

The book is potentially transformative not just because it offers policy makers some solutions to the litany of problems they face as they seek ways to reform our broken penal systems. It is transcendent because it posits that America needs a fundamentally revised understanding of the concept of punishment itself if it is to save its soul in these prisons. Why, Ferguson asks earnestly, "does the average American citizen show little concern about prison systems that are harsher in practice than those in any but totalitarian countries?" Why, indeed?

This book forces prison officials and lawmakers to look inward and see within themselves the dark, unremitting reasons why things have gotten as bad as they have inside our prisons and jails. It says squarely to these political and legal and community leaders (and by extension to their constituents): in seeking to bring retributive justice to bear, in seeking to diminish the prisoner, you have also diminished yourself in ways you are unable or unwilling to admit. Even today, with the whiff of reform in the air,

this is a brave and honest message.

So is this one: "Prisoners in this country have been put away, silenced, beaten, sadistically tormented, and most of all forgotten--frequently enough for their entire lives. They have been relegated to conditions and circumstances and physical degradation that shame us as well as them and that no one wants to recognize even though the failure in recognition defines a part of us. No human being deserves that much punishment." This is all true, Ferguson writes, of self-defeating prisons that "now create more criminals than they reform."

Here then is Ferguson, early in the book, addressing the idea of the "slippery slope of retributive thinking" with a passage that ought to be chilling (and familiar) to anyone who follows criminal justice. America doesn't just punish its criminals. It demonizes them. It turns them from men into monsters so that it then may feel justified in treating them so. We see it on our airwaves. We read it online. We hear it from elected officials, and from the police, and it's all sanctified by our courts of law. This passage struck me square:

The transitions from "because your act and your mental state at the time were blameworthy, you deserve punishment" to "you have a vicious character" to "you have a hardened, abandoned and malignant heart" to "you are evil and rotten to the core" to "you are scum" to "you deserve whatever cruel indignity I choose to inflict on you" is, of course, not a logical transition. No single step logically follows from its predecessor. I fear, however, that the transition is *psychologically* a rather common and in some ways compelling one, one that ultimately may tempt us to endorse cruelty and inhumanity" (emphasis in original).

As a matter of law and politics, Ferguson asserts, the concept of retribution clearly has won in America. But what a terrible price to pay for such victory. With a few notable recent exceptions-- including New York's brave new foray into education as a defense against recidivism-- we are a nation that seeks to punish, not rehabilitate, our prisoners. In this respect we have gone back in time, back to a dark age in our penological past, back to where in the 21st Century we justify locking away a mentally ill teenager in solitary for 17 years.

So where do we go from here?

Professor Ferguson isn't just a law professor but a literary scholar and his use of

literary references in *Inferno*, reminiscent of The Atlantic's own Garrett Epps in his work, is profoundly helpful. The arc of the moral universe may be long, as Martin Luther King Jr. said, and it may bend toward justice, but many great works of Western literature have focused instead upon the most heartbreaking components of crime and punishment. These works also help us understand how America came to be where it is today in the treatment of its prisoners.

Aristotle, Bentham, Calvin, Foucault, Hobbes, Kant, Locke, Mill, Nietzsche, and Rawls all make cameo appearances in *Inferno* and Ferguson's use of them reminds us of how old these problems are and for how many centuries so many brilliant men and women have argued over them. But in the end all of the high literature, and all of the new-found insight about the scope of the problem, still leaves us all wanting to know how we can begin to fix it. Ferguson nudges us in a direction even as he suggests a stiff wind in our faces as we set off.

The essence of Ferguson's proposal, what he wants to see done differently, is that "the life of the recipient of punishment must continue to be worth living." Here is what that means to him: "It stipulates the avoidance of unnecessary pain and degradation in the name of human understanding. It tells everyone that what is held in prison is a person ... The addition asks for a more basic level of recognition: that of a human bond between the inherently destructive and hostile one-sided vigilance of guards guarding the guarded."

And here is what Ferguson believes such a concept would mean for inmates. First, he writes, it would represent "the need to retain some idea of self, and from it some small but defined area of self-control; second, the desire for productivity in some form; and third, the prospect of continuing growth. The most abominable phrase in the popular language of punishment," Ferguson writes, "is 'Let 'em rot!'... The idea behind the phrase takes away the very nature of existence as intelligence has allowed anyone to define it and want it."

So there "must be an incentive system with rewards that encourage productive behavior" in prisons, Ferguson proposes, there must be reforms to the parole process, and there must be a deal more education and training for correctional officers. And of course there must be a shift away from retributive justice toward rehabilitation and restoration. Each of these suggestions is perfectly reasonable. Each would be a step

toward redeeming America's prisons. And were each made even five years ago the response in Washington would be the sound of crickets.

But that was then and this is now. At Tuesday's hearing don't just listen to the words the witnesses speak from their prepared remarks. Don't just listen to the speeches the Democrats make. Listen to what the Republican senators-- those that attend the hearing, anyway-- ask of the witnesses. Listen to what the GOP otherwise says about the need to reform solitary confinement. Sentencing reform today has bipartisan support. But such support has not yet materialized when it comes to prison reforms that cut to the core of the problem.

### Postscript

Over the weekend, I asked Professor Ferguson to help me understand, again, what accounts for the degree of passion so many Americans express when they justify or defend policies like solitary confinement or the abuse of mentally ill prisoners—and also why there is so much official denial about the nature and scope of the problem today. “We do not believe that the current carceral system is broken,” he wrote in his book, “because we do not want to think about much it violates the basic principles that supposedly define us as a culture.”

On Saturday, via email, Ferguson was just as direct:

Cruelty is an instinctual part of us, and we have to learn not to inflict it. Otherwise we will. Any crowded playground will demonstrate the truth of this proposition. In a corollary, punishment is pleasure or at least a satisfaction in a punisher. It follows that all punishment regimes tend toward greater severity unless there are very strong institutional safeguards against it.

I have covered these “institutional safeguards”—our nation's courts—for the past 17 years and it is manifestly true that our judges have consistently failed to stop even the worst excesses of punishment in our prisons. The worst aspect of this failure isn't just that it is happening—that officials who abuse and neglect inmates aren't immediately stopped or punished. But rather that it is happening because judges hide like cowards behind procedural, technical barriers to justice. As a matter of law, of law handed down by judges and legislators, it is virtually impossible to get a prisoners' rights case before a jury.

This cynical approach to a rule of law is

nothing Senator Durbin can remedy with a hearing. Restoring spine to America's “institutional safeguards” ultimately has to come from the United States Supreme Court, from the justices themselves, who have for the past generation countenanced one Eighth Amendment violation after another against prisoners in the name of federalism or some other hoary measure of respect for legislative fiat. With one decision, the Supreme Court can send a ripple of hope to abused and neglected inmates. Don't hold your breath.

Don't hold your breath on fundamental reform also in part because of the racial implications of the problem. “Penal theory and empirical evidence also demonstrate that it is easier to relegate someone to such a secular hell when that person appears to be different from you,” Ferguson writes in his book. This sad fact doesn't just help account for racial disparities in sentencing or in drug arrests but also in the lack of political empathy for inmates once they arrive in jail. Anyone else remember Karla Faye Tucker?

Ferguson also over the weekend offered this additional perspective on the news of the day as it relates to his book. The hearings and smart new reform laws now wending their way through Congress treat the symptom but not the underlying disease, he wants you to know. “Current reform efforts to restrict solitary confinement and to reduce drug law penalties are laudable initiatives,” he told me, “but they are not going to solve the larger problem:

In the scale of things and in the structure of our current punishment regimes they are drops in a very large bucket and the bucket has a hole in the bottom of it. That hole is the overly retributive context of legal punishment in America.

This mirrors the pessimism in Ferguson's book. Is there a constituency more forlorn in America than convicted criminals? No. Is that going to change anytime soon? Don't bet on it. “Most of the [prison] problems that the United States faces today are solvable,” he writes, “but they are not solved because its citizens do not care enough about the collectivity to act, and the greatest negative symbol of that indifference is the forgotten inmate who is treated worse than anyone else and certainly worse than anyone should tolerate.”

So it is encouraging to see this indifference transformed, even for just a few hours, on Capitol Hill. It is encouraging to

see lawmakers seeking to lead here instead of waiting for some measure of public support that never is going to come. But these hearings will have to transform themselves into laws, and those laws will have to transform themselves into meaningful remedies for inmates, for the change to come. The inferno is here. It exists everywhere. It burns all of us. And if we are to extinguish it we first have to admit that we caused it. •

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## INEQUALITY GETS WORSE

**The richest 1% gain over \$6.1 trillion in the past five years.**

*By Paul Buchheit*

Anyone reviewing the data is likely to conclude that there must be some mistake. It doesn't seem possible that one out of twenty American families could each have made a million dollars since Obama became President, while millions American families' net worth has barely recovered. But the evidence comes from numerous reputable sources.

Some conservatives continue to claim that President Obama is unfriendly to business, but the facts show that the richest Americans and the biggest businesses have been the biggest beneficiaries of the massive wealth gain over the past five years.

From the end of 2008 to the middle of 2013 total U.S. wealth increased from \$47 trillion to \$72 trillion. About \$16 trillion of that is financial gain (stocks and other financial instruments).

The richest 1% own about 38 percent of stocks, and half of non-stock financial assets. So they've gained at least \$6.1 trillion (38 percent of \$16 trillion). That's over \$5 million for each of 1.2 million households.

The next richest 4%, based on similar calculations, gained about \$5.1 trillion. That's over a million dollars for each of their 4.8 million households.

The least wealthy 90% in our country own only 11 percent of all stocks excluding pensions (which are fast disappearing). The frantic recent surge in the stock market has largely bypassed these families.

### Evidence of Our Growing Wealth Inequality

This first fact is nearly ungraspable: In 2009 the average wealth for almost half of American families was ZERO (their debt exceeded their assets).

In 1983 the families in America's poorer half owned an average of about \$15,000. But from 1983 to 1989 median wealth fell from over \$70,000 to about \$60,000. From 1998 to 2009, fully 80% of American families LOST wealth. They had to borrow to stay afloat.

It seems the disparity couldn't get much worse, but after the recession it did. According to a Pew Research Center study, in the first two years of recovery the mean net worth of households in the upper 7% of the wealth distribution rose by an estimated 28%, while the mean net worth of households in the lower 93% dropped by 4%. And then, from 2011 to 2013, the stock market grew by almost 50 percent, with again the great majority of that gain going to the richest 5%.

Today our wealth gap is worse than that of the third world. Out of all developed and undeveloped countries with at least a quarter-million adults, the U.S. has the 4th-highest degree of wealth inequality in the world, trailing only Russia, Ukraine, and Lebanon.

### **Congress' Solution: Take from the Poor**

Congress has responded by cutting unemployment benefits and food stamps, along with other 'sequester' targets like Meals on Wheels for seniors and Head Start for preschoolers. The more the super-rich make, the more they seem to believe in the cruel fantasy that the poor are to blame for their own struggles.

President Obama recently proclaimed that inequality "drives everything I do in this office." Indeed it may, but in the wrong direction. •

## **ADX ON HUNGER STRIKE, CONS BEING FORCE-FED**

By James Ridgeway

According to reports this morning from inside the U.S. Penitentiary, Administrative Maximum Facility (ADX) in Florence, CO, eight to nine people held in the super-secret H-Unit are on hunger strike and are being force-fed. While run by the Federal Bureau of Prisons (BOP), the unit has strong FBI involvement in its management.

Mahmud Abouhalima, convicted of taking part in the 1993 World Trade Center bombing, was sentenced to 240 years in prison. After serving some time in general population prisons within the federal system, he landed in H-Unit at ADX, the federal government's only supermax prison.

In November of last year, Solitary Watch published a court document it obtained containing a statement compiled for Ayyad v. Holder by Abouhalima. In it, Abouhalima challenges his confinement, asserting that it violates his constitutional right to due process. He also claims the Federal Bureau of Investigation (FBI) is heavily involved in managing H-Unit, with its authority overriding that of BOP administrative staff. By law, the FBI is not authorized to run prisons in the U.S.

The BOP's internal audit of its own solitary operations — now under way — specifically exempts H-Unit from firsthand visits by its investigative team.

### **I have lived in a prison cell for the last ten years that is the size of a closet. I am fed like a zoo animal through a slot in the door....**

Below are excerpts from Mahmud Abouhalima's court declaration:

Since September 11, 2001, through today, I have been in administrative detention and faced brutal and systematic mental, spiritual, and psychological cruelty. I never believed that such an unusual punishment would be extended up until today, where I have lived in a prison cell for the last ten years that is the size of a closet. I am fed like a zoo animal through a slot in the door, and manacled and chained at the hands, waist, and legs when I leave the cell. A black box with heavy lock is placed on top of my wrist chains in addition to this when I am escorted out of the unit, like to the hospital or to a visit...

Sitting in a small box in a walking distance of eight feet, this little hole becomes my world, my dining room, reading and writing area, sleeping, walking, urinating, and defecating. I am virtually living in a bathroom, and this concept has never left my mind in ten years. The toilet only works if you flush it once every five minutes, so if I press the flush button twice by mistake, I have to wait for up to an hour, with the smell of urine and defecation still there, everywhere I go, sit, stand, or sleep. •

### **Quote Box**

"We will bankrupt ourselves in the vain search for absolute security."

*Dwight D. Eisenhower*

"Think for yourselves and let others enjoy the privilege to do so, too"

*Voltaire*

"The eye sees only what the mind is prepared to comprehend."

*Henri Bergson, French Philosopher*

"Just look at us. Everything is backwards. Everything is upside down. Doctors destroy health, lawyers destroy justice, universities destroy knowledge, governments destroy freedom, the major media destroy information, and religion destroys spirituality."

*Michael Ellner*

"It is no measure of health to be well adjusted to a profoundly sick society."

*Jiddu Krishnamurti*

"The liberties of a people never were, nor ever will be, secure, when the trans-actions of their rulers may be concealed from them."

*Patrick Henry*

"In America, the government belongs to the people. Inherent in our system of self-government is the idea that the People have the right to know what our government and government officials are doing and to hold them accountable for their actions"

*Citizen Access Project*

"Nothing so diminishes democracy as secrecy."

*Ramsey Clark*

"No experiment can be more interesting than that we are now trying, and which we trust will end in establishing the fact, that man may be governed by reason and truth. Our first object should therefore be, to leave open to him all the avenues to truth. The most effectual hitherto found, is the freedom of the press. It is, therefore, the first shut up by those who fear the investigation of their actions."

*Thomas Jefferson to John Tyler*

# LETTERS

## Stamp in support of the expansion of participatory democracy

Enclosed please find a total of two hundred and fifty-five first class stamps. The stamps are a collective effort by all of us here in "A" facility who support the California Prisoners' Human Rights Movement. Were we aiming at the Shout Out Box? Perhaps the quantum of the contribution gives away our intent. Either way, we express our full solidarity the struggle to bring a measure of humanity, fairness, and reasonableness to the conditions in which the prisoner class of this state and nation are held in. That our struggle has so far taken us through brambles and over jagged stone littered ground does not escape us—but, neither does this reality that we've managed to carve out some very notable inroads. Those of us that can imagine a better existence take heart in that small but undisputable success. We remain forward looking and focused.

Take strong care. Pleasant days, health, and expansion to the spirit to the heavens and earth—forever revolution.

*Name Withheld*

## Conditions at Corcoran

The physical conditions here at Corcoran ASU/SHU have improved to a very small degree. To have a TV in one's cell is worth many other discomforts. That is the only change of major worth.

I've been in prison 43 years and the physical cell conditions are basically the same. Filthy! Here at Corcoran it's about 20 degrees in the cells, no heat. And no hot water! By the time a person can exhaust appeal remedies it will be summer. It's freezing now!

For the last two months we haven't had any laundry exchange except old t-shirts. Sanitary conditions are terrible. Literally, caked dirt on the ventilation ducts, bats and bat guano in the loft. We can't see out the "sky-light" tiny windows because of the thick dirt. And we're breathing all this stuff!

Corcoran though is the second worst hole I've ever been in. Vacaville, a so-called medical facility is the worst. The cells are inhuman. Take three steps, that's the extent of the cell. Dogs have more space in the pound. Cells are encased in Plexiglas

which is claustrophobic. There are no outtake vents for air circulation.

Take it from me. The only difference in the hole today and the hole in the '70s is they look prettier! Freezing cold is still used as a punishment. Reading is still discouraged by a two book limit. That's when there is any book program exchange at all? TV is the only plus that helps keep a person sane. Whatever idiot designed these cells should spend several days inside them.

*Name Withheld*

## More on the PAC

I wanted to write more on the proposal on the "PAC" or Political Action Committee that came out in the *Rock* newsletter and other publications. I spoke on this before but I wanted to be certain I was clear so that hopefully I can add something to this conversation. My opinion is just another voice with ideas but without hearing different ideas we wouldn't see things from different points of view. Nobody knows it all so it's important we hear from different voices that allow us to entertain different possibilities.



First I want to highlight the difference in approach to our situation. There are two paths to our predicament. In order to combat torture we can struggle within the system or by unconventional means. In U.S. prisoners we can use the appeal system, lawsuits or the bourgeois political system to help resolve our torture. This may help in some ways to get some reforms—or it may not. And then we can take matters into our own hands as we did with the previous hunger strikes and collaborating with outside activists which moved mountains compared to a 602 or pleading with the governor to help us. These are two different paths and one is revolutionary and the other is bourgeois.

If we look to history no oppressed people have ever fully liberated themselves via the ballot box. If we were in a Third World country we would have a better chance at

success but even then not totally. We live in the super-parasite and we should not fool ourselves to believe bourgeois politics will alleviate our oppression because as heartfelt as a bourgeois politician is, he or she is still working for the system. We cannot assume that our hunger strike wasn't heard all the way to Washington D.C.—but they don't care. What's more, the state actually needs the oppressed nations to be locked in these dungeons because we threaten the state apparatus because as lumpen proletariat we are some of those who are not tethered to the state and thus exist as a potential revolutionary population.

That said, there may be some positive aspects to a prisoners PAC forming and for this I would support a PAC at this stage. By me supporting a PAC does not mean I believe it will solve our problem in itself because we face a class struggle. As Mao put it, U.S. imperialism will not "step down from the stage of history of their own accord."<sup>1</sup>

I don't pretend to know all there is about a PAC, but what I do agree with is in building on our momentum rather than just sitting here until the next hunger strike arrives. I also think the possibility of having a PAC fund to donate money to our publications like *Prison Focus* and other such pubs is great because these are publications that support us with their own time and money and we should find ways to support them as well.

It should not be forgotten that reliance on the courts for lawsuits like the *Madrid* or *Castillo* cases took years and yet our conditions didn't really change. With the legislature the governor can veto anything that does come about.

We know the Republicans could care less if we are tortured, but most would be surprised to learn that Democrats may not be that prisoner friendly either. Our present governor is a Democrat and he sat back while prisoners starved (and died) and said nothing to change his 'tough on crime' approach. We have a "Democratic" president and yet more folks have been departed under his watch than any other Republican. Both of these parties are a part of the U.S. bourgeois politics which we will never

1. Mao Zedong "Carry the Revolution Through to the End", Selected Works, Vol. IV, pg 301.

change via the ballot box.

Our power to transform our conditions will come from our own efforts at the grass roots level. We need to not just nurture our pubs like *Prison Focus* but go further and create independent institutions that work in our interests. A PAC is good for now, but we also need Barrio Action Committees and Hood Action Committees, *not* to fund bourgeois politicians but to fund our independent institutions that operate *outside* of bourgeois politics. The BAC and HAC should work to mobilize our communities where we come from. Our independent institutions should be things like newsletters, papers, websites, community schools that have workshops and events that educate our communities on mass criminalization and the national oppression that we face.

A prisoners PAC is a start but the real fruits in a PAC will not be in what kind of legislation we can put on the ballot, but in building on our momentum and providing another mode of cooperation in the concentration camps. We just can't see a PAC as the way forward, rather it should take a back seat to people's power—which is our ability to exercise our own means of making change. The BACs and HACs should be the real vanguard in our efforts, and a prisoners' PAC should be seen as a supplement to our other work and efforts.

If a prisoners' PAC is created, the fund should be managed by those who have been there for us since the beginning, our most fervent supporters "The Prisoners Hunger Strike Solidarity coalition." There is also the Bruce Seidel Memorial Fund, which helps political prisoners and who would allow us to temporarily use their account for our PAC fund. Ed Mead and Mark Cook are the founders of this memorial fund that has given thousands of dollars to long-term political prisoners being released to the streets. Bruce Seidel was killed by police in a shootout with police during a GJB bank expropriation, which seems all the more fitting for our war chest. SHU prisoners are political prisoners because we are held in this concentration camp not for nothing other than "thought crimes."

These are just my thoughts that I would like to share to be kicked around and hopefully they add to our path forward.

Jose H. Villarreal #H-84098

## Feedback on Cynicism

Throughout Ed's hard work, time, and dedication to printing out these issues of *Rock* there always seems to be simple

minded, nearsighted, and selfish opinions which are either stated with delusional grandeur, mind frames, or are simply attempting to plant seeds of dissent.

Take the last issue of *Rock*. Someone stated they "disagree when the publisher states that the movement is strong and doing well." Do you have internet? Attend rallies? Receive newspapers near and abroad? Unless you do, you cannot form a well-informed opinion as to whether or not the movement is strong. So for those who assume such, or those who maybe considering such cynical statements as true, here's some *facts* that show the movement is strong and well.

First is the fact that you are reading this issue of *Rock*. The movement is what sparked Ed to put on his beret and put money, time, and effort into spreading the gospel. You have prisoners' mothers, wives, sisters, brothers, children, and cousins taking time out of their lives and money out of their pockets to keep the movement strong. We've got lawyers and activists across the world, not just the state, *but the world*. We have food and condiments to bring some measure of taste to our food. We have legislators putting bills to cap SHU to three years and give those of us with release dates (such as I) our credits back. So hell yeah the movement is doing well!

So my suggestion to those who take up space in the *Rock* with cynical put downs and selfish thoughts is that unless you have productive opinions, strategy, or ideas to contribute, put a sock in it.

On to the PAC. Mr. Perez's PAC suggestions is perfect, and something I'm going to be setting up in Colton, California upon my 2017-18 release, along with non-profit and for profit websites. Once a PAC is setup in accordance with federal law, long pockets will come, once they see how effective and trustworthy our PAC is, they will contribute.<sup>2</sup>

Let's take Del Norte County for example. Judge Follett is scared of CDCR because he know they can vote him off the bench. He's also friends with them. So we'd find

2. Ed's Note: A primary rule for prisoner activists is that of self-reliance in all things. "Deep pockets" may or may not come along, and either way that's okay because it is prisoners and their families and friends who would fund any such PAC. When you rely on anyone outside the prison community you become dependent on them. That's what happened to the prisoners' union in the 1970s. They got grant money, paid themselves, got a fancy office, etc. When the grant money was gone, so where they.

a local lawyer like George Mavris. We'd get our PAC money to hire an investigator to find any and everything on Follett. It will be used to purchase fliers, posters, and commercials to vote for Mavris. We'd have families and friends flood Crescent City with protests against Follett, and help pass out fliers, leaflets, posters, and such to vote for Mavris.

So we'd knock Follett off the bench. Other judges across the state will hear about this. They will know we are a force to truly reckon with. Then we will do the same in Lassen, Kings, Kern, and any other county where the same judge always hears the writs we write and always denies them. This will serve three purposes. One is to remove corrupt judges from the bench. Two is to send a message to other judges that we can and will vote them off the bench. Finally, it will pave the path for real Due Process instead of Screw Process. The PAC is one of the many political tools present and necessary to carry our struggle for humanity forward.

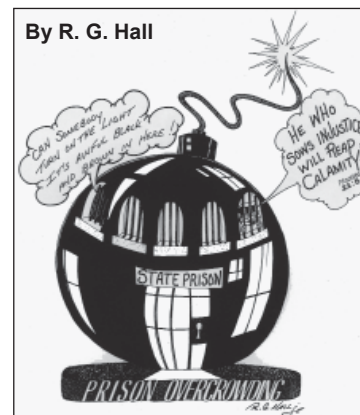
On another note, I filed a lawsuit on the hunger strike in the Northern District. The judge denied Lewis and Kernan's motion to dismiss, and found we have a right to hunger strike. See *Treglia v. Nenan* (Aug 15, 2013, ND Cal. 2013) U.S. Dist. Lexis 115842.

Finally, I want to give a big gracias/thank you to all of the families, friends, and supporters here and abroad for keeping our struggle for humanity alive, long, and well.

Daniel "Loonie The Lawyer" Treglia

## Rule Changes?

I'm sure by now folks have read the rules changes in regards to STG/SDP policy and know that we didn't get *anything* we asked for. If anything, we are all getting screwed worse than we were before. And yet people are tripping over each other to get to it! Are we done?! Are we just going to accept this latest fucking for a few extra items sold





on canteen and no real progress towards getting us *all* out of the SHU?!

The way their policy reads, those that they want in the SHU will *always* be there for “gang-related”, gambling, or some other bullshit charge. This is a joke and we should not stand for it! Maybe someone else has already expressed a similar thought and that’s why I haven’t gotten a recent newsletter. Who knows? Enclosed are a few more stamps. Hopefully it helps.

*Name Withheld*

### **On AB 1652, Plus Two Good Gang Validation Rulings**

I would like to get the word out there about assembly bill No. 1652 that was introduced by assembly member Tom Ammi-ano on February 11, 2014. People can write to the Legislative Bill Room, State Capitol Room B-22, Sacramento, CA 95814 or go to [www.leginfo.com](http://www.leginfo.com) to bet a copy of said bill. This bill, if passed and implemented, would limit the time an inmate would spend in the SHU for validation to a determinate term of not more than 36 months, as well as to restore a validated inmate’s right to earn good time credits. We must all help to get the word out to our families and friends on the outside in an effort to have them to push to get this bill passed into law. We cannot rely on the next man to put forth the effort, otherwise we will let this bill fail because we hoped the next guy would do the work for us. We many never get a chance like this again. Also, last year two favorable validation cases were published that many do not know about. *In re Cabrera*, 216 Cal. App. 4<sup>th</sup> 1522 (Cal. App. 5<sup>th</sup> Dist. 2013); *In re Fernandez*, 212 Cal. App. 4<sup>th</sup> 1199 (2013). Also enclosed are eleven stamps. I usually don’t have many stamps to spare, but I saw that stamp donations are way down and it would be a tragedy to have the *Rock* discontinued since it has so much good information. Everyone can spare a little.

*Name Withheld*

### **Gang Label and STG**

Regarding the experimental policy Security Threat Group (STG), gang identification policy is not what CDC is making it out to be. It’s a sugar coated from of racial discrimination/racial profiling to cover their ass in torturing human beings in California’s isolation units. We will not fall into despair until long-term solitary confinement is abolished and those that are still suffering are free from SHU and the torture has ended. At that point the thousands of victims of this inhuman practice can be-

gin the healing process. CDC’s long term solitary confinement experiment has failed, and in the process has caused major suffering and a waste of tax payer dollars. We cannot sit back and allow the same thing to happen again under the phony guise of STG.

A total of three times I’ve had 1030s filed on me. Meaning confidential informants have alleged that I’ve been involved in gang activity. I’m labeled with the “gang” tag for no reason other than the word of this so-called confidential informant. No due process whatsoever in challenging this label through the 602 or appeal process. Some guy chooses to say this or that just to be removed from a yard or housing facility and IGI automatically assumes it’s true. The result is we are wrongly being labeled. He’s Mexican, he’s a gang member. Oh, he’s popular amongst his peers, he’s a gang member. He shaves his head bald, he’s a gang member. No matter what you say to defend yourself, you are *guilty* in the eyes of CDC.

Since arriving here at Calipatria State Prison about six months ago I’ve experienced two lockdowns. One on December 7, 2013 and resumed normal program on February 8, 2014. The second is now February 27, 2014 and is still going. My point is STG regulation. If anyone labeled or identified as STG I or STG II regardless if involved or not in the individually isolated incident, you will be placed on lockdown until the institution hierarchy feels you are not a threat. It seems that this institution is having a vendetta day of retaliation and animosity towards any and all of us of Mexicans decent. This experimental STG regulation is a free-for-all for CDC. We cannot sit back and allow this to go on; we should stand up for reform. When I look ahead at how I want to be treated in years to come, I don’t see how it can be accommodated with STG still in place.

As a class we will continue to value the End of Hostilities Agreement. We are with you all in this struggle for the long haul. ●

*Johnny Aguilar*

**SHOUT OUT BOX**  
**The men of PBSP's "A"**  
**Facility have kicked down a**  
**whopping 255 stamps. See**  
**their comments in the letters**  
**section.**  
**Rock on!**

## **ED'S COMMENTS**

The *Rock* newsletter is receiving more and more letters from SHU prisoners seeking a free subscription. As you know, there is no such thing as a “free lunch” as someone does pay. The *Prison Focus* newspaper goes in to SHU prisoners for “free.” In that case the volunteers and contributors of California Prison Focus pay.

*Rock* is a little different. It is aimed at prisoner activists or those with enough on the ball to hustle up a few stamps. Some prisoner who don’t have stamps collect them from others in the pod to make a group donation. Those in GP can sell subscriptions to other prisoners.

For a long time I’ve given a “free” subscription to anyone who asked. Those days are now over.

It costs about a buck to send each of the 600 copies of *Rock* out to readers. I had to personally pay \$200 for the printing and \$150 in stamps to publish and mail the March issue. The February newsletter reached you because co-editor Mark Cook paid hundreds of dollars to get it out. Our only source of income is Social Security.

In the March issue I made a plea for stamps. As of this writing we’ve received about 350 stamps and two \$15 subscriptions (\$30). With these donations we will still have to buy another 250 stamps (about \$125) and pay \$195 for printing. This is not as bad as the previous two issues, but still not good.

Next issue (May) we will cut from the mailing list all of those who have received the newsletter for over two years yet have never contributed so much as a single stamp. *Consider this is your final notification of this change.* If at that point the situation does not improve, in the following issue (June) we will chop those who’ve received the newsletter for over two years but have contributed five stamps or less.

For two full years, up until the start of this 2014, California prisoners (and a couple of outside contributors) have completely paid for the cost of the newsletter. Mark and I merely contributed the labor. That level of commitment needs to continue or *Rock* will not.

We now have about 25 Texas readers, 50 in Oregon, and close to a hundred in Washington (with a few more scattered in other states and the federal system). It is time for these other states and systems to also start pulling their fair share of the load. ●

## Prisoner Artists!

Prison Art is a nonprofit website. It charges a 10 percent fee if your art or craft sells. Send SASE for a free brochure. No SASE, no brochure. This offer void where prohibited by prison rules.

### Sell Your Art On the Web

**Sell prisoner-created art or crafts (except writings). Send only copies, no originals!**

**Prison Art Project  
P.O. Box 47439  
Seattle, WA 98146**

**www.prisonart.org  
sales@prisonart.org  
206-271-5003**

"...jailhouse lawyers often unwittingly serve the interests of the state by propagating the illusion of 'justice' and 'equity' in a system devoted to neither." They create "illusions of legal options as pathways to both individual and collective liberation."

*Mumia Abu-Jamal,  
JAILHOUSE LAWYERS: Prisoners  
Defending Prisoners v. The U.S.A.*

### Notice

Articles and letters sent to the *Rock* newsletter for publication are currently being delivered and received in a timely manner. Please do not send such materials to third parties to be forwarded to *Rock* as it only delays receiving them and adds to the workload of those asked to do the forwarding.

Letters sent to *Rock* (located in Seattle) in care of *Prison Focus* (located in Oakland) can take over a month to reach us. Send mail to this newsletter's return address.

### Free Electronic Copy

Outside folks can also have a free electronic copy of the newsletter sent to them each month by way of e-mail. Have them send requests for a digital copy of the newsletter to [ed@rocknewsletter.com](mailto:ed@rocknewsletter.com).

Back issues can be read once the Prison Art website is up and running again.

## Subscription Form

Subscribe to the monthly *Rock* newsletter for \$15 or 30 forever stamps per year.

First: \_\_\_\_\_

Last: \_\_\_\_\_

Number: \_\_\_\_\_

Prison: \_\_\_\_\_

Housing: \_\_\_\_\_

Address: \_\_\_\_\_

City: \_\_\_\_\_

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