

RESPONSE

Aging in Prison: It Only Gets Worse

Susan Nagelsen and Charles Huckelbury

Experiencing old age generally involves embracing memories accompanied by a smile of a special someone or event, or perhaps a place or time that created so powerful, a response that we can summon those singular moments at will, providing solace when needed, or producing joy of reliving the incident. While we are young, the passing years bring a change in perspective as one approaches retirement and starts to make plans for our old age, including travelling or just relaxing in a comfortable environment surrounded by books, music and friendly faces. We anticipate having the time and resources to do all those things we have postponed during the prior decades, when life tended to demand so much of our time and efforts – that is, we move away from living in the moment and begin to think seriously of the future.

Those privileges and pleasures are, however, denied to older men and women in prison. Their memories are dust, their surroundings are irredeemably hostile, and their futures are restricted to the next meal or medical procedure. They are suitable victims for those who engage in predation inside the walls. The former do not have the luxury of seeking help from their captors who are often complicit in their abuse. As Charles Diorio observes in this issue, “By the force of indifference, prison officials create a hostile environment [in which] passive aggression and contempt toward captives is palpable” (Diorio, 2018). Their existence is, in the stark words of Thomas Hobbes (1651), “solitary, poor, nasty, brutish, and short”. Small wonder prison suicide rates, which are a reflection of captives wanting to escape their confines, have been increasing in prisons in the United States (Bureau of Justice Statistics, 2016).

The American criminal justice system has a long and sordid history of abusing those in its care and custody. The mistreatment spans the entire length of the chronological spectrum, from juveniles to geriatrics. It was not, for example, until 2005 that the Supreme Court of the United States declared that the execution of juveniles, defined as those under eighteen years old at the time their offenses, violated the Constitution’s proscription against cruel and unusual punishment.¹ Only in 2012 did that same Supreme Court find that mandatory life sentences for juveniles also constituted cruel and unusual punishment in violation of the Eighth Amendment.² Although

the benighted mistreatment of juvenile prisoners has improved, in a brutal quid pro quo, that of older prisoners continues to deteriorate, as the contributors in this issue describe.

Nearly twelve years ago, in Volume 14, Number 2 of the *Journal of Prisoners Prisons* (JPP), we addressed the disturbing tendency of the United States to incarcerate both elderly men and women – defined as fifty years old and older – and to keep them in prison for decades. We cited statistics that showed the startling number of aging prisoners in the United States (121,000) and the disingenuous ‘law and order’ political philosophy that drove that number (Nagelsen and Huckelbury, 2006). That trend continues unabated. According to the Pew Memorial Trust (2014), the number of geriatric prisoners increased to 144,500 by 2013 and shows no sign of slowing down. Moreover, Michelle Chen (2017) writing in *The Nation*, cited a recent survey estimating that if the trend continues, by 2030, one third of the prisoners in state and federal custody will be fifty-five or older.

A concomitant to the number of elderly prisons is the increased cost of their care. The lengthy sentences of the 1970s, 1980s, and 1990s have left us with a disproportionate number of aging prisoners. These men and women have needs that are not being met, whether it be housing to accommodate infirmities, medical and surgical care for age-related illnesses, or concerns for their safety. The money needed – if state and federal governments insist that incarcerating the elderly is appropriate – is not being provided. We previously showed that in 2006 the average annual care for a prisoner fifty and older was three and a half times higher than for a younger prisoner. Moreover, a recent report by the U.S. Department of Justice (2016, p. ii) found that

...[Bureau of Prisons] institutions with the highest percentages of aging inmates in their population spent five times more per inmate on medical care (\$10,114) than institutions with the lowest percentage of aging inmates (\$1,916). BOP institutions with the highest percentages of aging inmates also spent 14 times more per inmate on medication (\$684) than institutions with the lowest percentage (\$49).

In any economic context, medical costs that exceed the norm by a factor of fourteen would be unthinkable. And yet, there has been no move to address the fiscal and moral failures that continue to plague the judicial system of the United States. This dystopian model is now, as David Threinen poignantly describes in this issue, also a reality for aging prisoners in Canada.

This issue of the *JPP* helps shed a much-needed light on the policies and procedures that inflict unnecessary human and fiscal costs on societies that otherwise tout their kinship with Enlightenment forebears. We are not sanguine about the potential for immediate change, but we have a debt to the men and women inside and outside those prison walls to keep the conversation alive. That, in essence, is what this issue – and this journal – is about.

ENDNOTES

- ¹ *Roper v. Simmons*, 543 U.S. 551 (2005).
² *Miller v. Alabama* and *Jackson v. Hobbs*, 132 S.Ct. 2455 (2012).

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ABOUT THE AUTHORS

Susan Nagelsen is an Associate Editor of the *Journal of Prisoners on Prisons* and is retired from New England College in Henniker, New Hampshire where she was Director of the Writing Program. Her 2008 book, *Exiled Voices: Portals of Discovery*, is a collection of writings by women and men in prisons across the United States.

Charles Huckelbury is an Associate Editor of the *Journal of Prisoners on Prisons*. He has received four PEN awards for fiction and nonfiction. Charles is also the author of two books of poetry – *Tales from the Purple Penguin* (2008, Bleakhouse Publishing) and *Distant Thunder* (2012, Bleakhouse Publishing).