

## EDITORS' INTRODUCTION

**Plus ça change ...**

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We started to write this introduction on August 10, 2009 – the 34th Prison Justice Day<sup>1</sup> (PJD). PJD emerged as a prisoner-initiated day of non-violent strike action to commemorate the August 10, 1974 death of Eddie Nalon in the segregation unit of Millhaven maximum-security penitentiary. It was first observed in 1975, and in 1976 the prisoners of Millhaven issued a communication “To All Prisoners and Concerned Peoples from across Canada”, calling for one-day hunger strikes in opposition to the use of solitary confinement and in support of prisoners’ rights, in memory of Eddie Nalon as well as Robert Landers, who also died alone in solitary confinement (see [prisonjustice.ca](http://prisonjustice.ca), 2001). Since that time, PJD has become an internationally-recognized day of solidarity and action, both inside and outside the prison. While PJD is an opportunity for wide-ranging problematization and action related to penal policy, the commemoration of deaths in custody remains a central focus of events. Many of the articles collected in this volume deal with the theme of mortality in carceral spaces.

For us, PJD is also an occasion to observe and reflect upon the current state of penalty in light of decades of opposition, ‘reform’ and resistance. The articles in this issue discuss a wide range of themes and touch on a series of policies – three strikes and mandatory minimum sentencing, life without parole and the sentencing of juveniles as adults, for example – that reflect what Garland (2001) describes as the decline of the rehabilitative ideal coupled with a resurgent and populist punitiveness. Most of these articles focus on imprisonment in the United States. Situated as we are in a Canadian context, we cannot help but wonder whether and to what extent the narratives recounted in this issue foreshadow the future of Canadian penalty, given the rhetorical and policy trajectory of the current Conservative government of Canada. The Harper government has consistently advanced a law-and-order criminal justice agenda under the heading ‘Tackling Crime’. Its emotive discourse on punishment is rooted in the language and ideology of ‘get tough’ and the politics of fear.

Despite the well-documented failures of the ‘get tough’ approach south of the Canadian border, we appear to be on course to emulate some of the worst examples of American crime control policy. For example, the federal government is currently pushing forward with Bill C-15, which would

impose mandatory minimum sentences for a range of drug offences, while also increasing the maximum penalty for marijuana production (Parliament of Canada, 2009). Although overwhelming evidence indicates that mandatory minimums do not ‘work’ to reduce drug-related crime and despite the preponderance of expert testimony to this effect during the legislative process, the bill was passed through the House of Commons with the support of the Conservative and Liberal parties. At time of writing, the bill remains stalled in the Senate, a situation which the Harper Government characterizes as proof that Liberal Senators, and the Liberal Party in general, are soft-on-crime and “unwilling to stand up for law-abiding Canadians” (Conservative Party of Canada, 2009a). Mandatory minimum drug sentencing was a major factor in the rise of mass incarceration in the United States.

Another example of failed penal policy repackaged as new Canadian policy can be seen in the Conservative government’s ongoing efforts to restrict the availability of conditional sentences for property and ‘serious’ offenses. Bill C-9, which became law in 2007, eliminates the option of conditional sentences for a range of offences, including theft over \$5,000 and anything punishable by 10 years or more. The Conservative government has also recently passed Bill C-25, which limits the ability of judges, when sentencing, to give credit for time spent in pre-sentencing custody. Continuing this trend, on October 26, the Public Safety Minister announced new legislation to limit early parole for non-violent and ‘white-collar’ prisoners, in favour of an ‘earned parole’ approach. Additionally, the government has promised to amend the *Youth Criminal Justice Act* to make it easier to impose adult sentences on youth convicted of ‘serious’ crimes. In responding to criticism that this approach will not facilitate rehabilitation, the Prime Minister argued that “You cannot rehabilitate someone who does not get a message from the system about the serious consequences of what they’re doing” (Clark *et al.*, 2009). It is hard to imagine a clearer illustration of the politics behind the decline of the rehabilitative ideal and the scapegoating of youth as collateral damage of the neoliberal deconstruction of the welfare state (Giroux, 2009, p. 20).

These policies reflect a hard-line approach that, under the banner of “Stronger Laws” (Government of Canada, 2009), appears to have the goal of putting more – and younger – people in prison for longer periods of time. In order to facilitate this, the government has also committed to building more penal institutions in Canada, as illustrated by a projected

“corrections infrastructure” budget of \$211.6 million for 2010-11, up from \$88.5 million in 2006-07 (Curry, 2009). At the provincial-territorial level, at least 22 new facilities, both jails and prisons, are either in the planning stages or have recently been constructed (Piché, 2009). With the passage of the omnibus *Tackling Violent Crime Act* (2007), the implementation of the recommendations outlined in the *Report of the Correctional Service of Canada (CSC) Review Panel: A Roadmap to Public Safety* (Sampson *et al.*, 2007), and the continued push to increase sentences for violent and drug-related offences, it has been acknowledged by current federal Public Safety Minister Peter Van Loan that new federal penitentiaries are also on the horizon (Bailey, 2009). In an October 16 interview with the *Globe and Mail*, the minister confirmed that the government is considering building large-scale regional prison complexes on the land currently used by the (soon to be cancelled) prison-farm program, in order to handle an influx of new prisoners (Curry, 2009).

Of course, these initiatives are not packaged and presented to the public as ‘old wine in new bottles’, and the (extremely) uninitiated observer would be forgiven for thinking that the Canadian Conservative crime control agenda is characterized by a series of new policies and innovative shifts in direction. In reality, though, this agenda is anything but novel, and its centerpiece policies and discourses are throwbacks to a punitive past.

It is this sense of a blurring of past, present and future that we wanted to highlight at the outset of this issue. On Prison Justice Day, we joined prisoners, ex-prisoners, activists and fellow travelers from around the world in striving in the short-term to improve the conditions inside prisons and in the long-term to reduce the number of individuals subjected to the penal system. One wonders, though, at the prospects for efforts that seek to fundamentally alter the dominant approaches to penal policy advanced by governments suffering from a long-standing addiction to ‘tough on crime’ ideology. The master patterns (Cohen, 1985) are entrenched to the extent that the language has become recycled. By way of example, we present two snapshots below, one from Canada’s punitive past and one from its penal present.

### **1991**

On October 8, 1991, Doug Lewis, then Federal Solicitor General, held a press conference in Calgary, where he announced the tabling of the

*Corrections and Conditional Release Act* (CCRA). The official Solicitor General news release for the event, entitled *Protection of Society the Focus of New Corrections Reform Bill*, quotes Mr. Lewis as saying “Protection of society is the primary objective of the Corrections and Conditional Release Act... This bill reflects the government’s determination to restore public confidence in the corrections system” (Solicitor General Canada, 1991a, p. 1). “Canadians”, Lewis remarked, “have told the government that they want their communities to be safer. We have listened and responded” (ibid, p. 3).

Faced with opposition to some aspects of this sentencing bill in committee where amendments were being proposed, the Solicitor General of Canada issued another news release on November 15, 1991 entitled “Public Safety Delayed”. Doug Lewis, now speaking from Ottawa, “expressed anger that the Liberal critic for Solicitor General Canada is evidently delaying the progress of C-36 (The Corrections and Conditional Release Act)” (Solicitor General Canada, 1991b, p. 30). He went on to say that “... this is just a stall [...] It’s quite sad to see people calling for these tougher laws, and then turn face and deliberately delay them for partisan ends... I cannot imagine that their constituents will be too impressed” (ibid).

## 2009

On June 16, 2009, Peter Van Loan, current Minister of Public Safety, stood before Parliament in Ottawa and announced the tabling of Bill C-43, the *Strengthening Canada’s Corrections System Act*. The official Public Safety Canada news release for the occasion, entitled ““Protection of Society” to Become Main Objective in Corrections System”, quotes Mr. Van Loan as saying “This Government is taking a new approach to corrections by putting a greater focus on public safety... We are also putting the rights of victims first, by proposing changes to help keep them better informed. [...] We are fulfilling our commitment to make key reforms to the current corrections system so that offenders are more accountable for their actions, rehabilitation is more effective, and safety in our communities is paramount in all decisions in the corrections process” (Public Safety Canada, 2009).

On July 22, 2009, the governing Conservative Party of Canada added a statement on “Liberal Obstruction on Crime” to the main page of its website (Conservative Party of Canada, 2009b). The page states that

Our Conservative government has a proven track record of taking real action to crack down on violent criminals. We have taken action to make criminals face serious time for serious crimes like sexual assault with a weapon and attempted murder. We have raised the age of protection from 14 to 16, to help protect children from sexual predators and we have introduced tougher penalties for drug impaired driving and street racing. [...]

The Conservative government has introduced new legislation to get tough on criminals that manufacture drugs and those that sell drugs to children. These new laws should be in place, protecting Canadians right now. If it weren't for Michael Ignatieff and his unelected Liberal Senators obstructing the bill, that is.

When the media are watching, the Liberals pretend to be tough on crime. But behind closed doors, they will use every trick in their book to prevent this legislation from passing.

Michael Ignatieff and the Liberals are proving to Canadians that when it comes to the safety of families and our communities, they would rather play politics.

As part of the same public offensive on political opponents that did not back aspects of its 'Tackling Crime' agenda, the Conservatives also released a pamphlet in Bloc Québécois ridings paid for by Canadian taxpayers that alleged that "Your Bloc MP voted against the protection of children" (Conservative Party of Canada, 2009c, translated from French). The pamphlet depicts an empty swing, with a child being led away by an adult man, with the suggestion being that the "separatist party is soft on pedophiles and child traffickers" (CBC, 2009). The attack ad was a response to the Bloc's decision to vote against a law creating mandatory minimum sentences in child trafficking cases, a move the Bloc justifies as an effort to preserve the discretion of judges – a point lost in the Conservative Party's partisan rhetoric.

The essential interchangeability of these texts from 1991 and 2009 is striking. Indeed, it is not so much a matter of 'old wine in new bottles' as it is a matter of 'old wine in old bottles'. To push the metaphor further, we would suggest that this barrage of retrograde punitiveness reflects the inability or unwillingness of Canada's opposition parties to seriously problematize the 'vintage' of the government's thinking on crime and punishment, much less suggest meaningful alternatives. In part, this stems from a collective

inability to view incarceration as a *failure* to respond to social problems, rather than the outcome of a successful crime control agenda. There appears to be an unspoken agreement about the rules of ‘tough on crime’ rhetoric, whereby the only politically viable response to the charge “My opponent is soft on crime” is to make vigorous assertions to the contrary, accompanied by gestures towards one’s own ‘get tough’ credentials. For example, even the acknowledged left-of-centre party has recently advocated that the designation of ‘violent offence’ should be applied to auto-theft (New Democratic Party of Canada, 2008, p. 32), revealing the degree in which parties of all political stripes parrot hard-line talking points about crime control and sentencing (Tham, 2001). In large part, though, it has to do with the troubling effectiveness of populist punitiveness, which is a problem that is much larger and more complex than partisan politics.

#### CARCERAL UNIVERSALS AND WRITING AS RESISTANCE

As we reflect on the past, assess the present and look towards the future of penal politics one cannot help but think that we are bearing witness to a runaway train (Hassine, 1995). An emergency break is needed. In the first volume of the *JPP*, Jo-Ann Mayhew (1988) expressed hope that by “allowing our experiences and analysis to be added to the forum that will constitute public opinion could help halt the disastrous trend toward building more fortresses of fear which will become in the 21<sup>st</sup> century this generation’s monuments to failure”. While the hope that this disastrous trend can be halted has yet to be realised, it must be noted that the voices of prisoners have played a prominent role in making visible past atrocities and have spurred social change. Without their accounts of the “carceral universals” associated with the deprivation of liberty which transcend time and space (Gaucher, 2008, p. 2), it is unlikely that the abolition of draconian apparatuses of control such as slavery in the United States and the Apartheid in South Africa would have been realised. As other carceral structures have come to take their place, often in the form of prisons, the project of writing as resistance remains vital to the emancipation of all who inhabit this world. It is clear that the current expansionary trajectory of the Canadian prison system is not being effectively challenged by a robust alternative vision in the chambers of Parliament. As is so often the case, resistance, critique, and change will have to come from the grassroots.

### THIS ISSUE

This issue is prefaced by a dedication to Louk Hulsman, written by his longtime friend and fellow penal abolitionist academic, Phil Scraton. Louk passed away just as Volume 17(2) of the *JPP* was going to print and we did not have time to prepare a fitting tribute at the time. Phil Scraton's piece engages with Louk's many contributions to the field of criminology and specifically with his efforts to expand the theoretical repertoire of abolitionists. Undaunted by the ongoing entrenchment of penal politics, and perpetually upbeat and optimistic, Louk Hulsman's spirit will continue to inspire those who seek meaningful alternatives to imprisonment, and, ultimately, a paradigm shift in the way we think about and respond to social harms.

Charles Huckelbury opens the main body of the issue with "Talking Points: How Language Functions as a Status Determinant in Prison". In this wide-ranging article, Huckelbury draws on linguistic theory and personal observations to explore the ways in which language structures identity, membership, and status in prisons. He describes prison as "a linguistic laboratory that identifies and perpetuates a specific social order, in which a descriptive grammar doubles as a prescriptive grammar" (Huckelbury, p. 27, this volume). The consequences of failing to understand this grammar, he notes, can be dire for the prisoner. For the observer on the outside, failing to appreciate the nuances of prison language and vocabulary can lead to a host of ancillary misinterpretations regarding intent and meaning. Huckelbury's contribution sets the stage for the articles that follow, many of which involve contestations over the meaning of labels.

In "America's Army of the Incarcerated", Eugene Dey discusses the intersection of the military- and prison-industrial complexes, drawing on interviews with incarcerated veterans of two generations of American wars. He illustrates the ongoing use of prisons – the quagmire of California's golden gulags – as an inherently-flawed panacea for dealing with complex social problems, in this case the difficulties faced by soldiers attempting to adjust to post-war social life. Underlying Eugene Dey's arguments are insightful observations about the underlying racial and socio-economic status similarities between America's war-fighting and time-serving populations, and about the shared characteristics – lethality, chaos, pervasive violence and enticements to insanity – of the prison and the battlefield.

The notion of the prison-as-battlefield opens up a space for a discussion of mortality and the next four articles engage directly with issues related to death, and life-as-death, in prisons. In “The Other Death Penalty”, Kenneth E. Hartman critiques the notion that a sentence of life without parole (LWOP) is more humane and less lethal than the death penalty. Based on a normative commitment to restoration as a cultural ideal, he argues that both state-sanctioned murder and the slow death of perpetual imprisonment should be opposed in equal measure.

In “Throwaway Kid: A Case of Responsibility of, and for, Juvenile Lifers”, Annette Hemmings and Jerry Lashuay provide a detailed analysis and critique of the American policy of subjecting juveniles to life sentences, grounded in a review of Jerry’s own story as a juvenile lifer. Echoing Kenneth Hartman, they also describe life without parole as a death sentence and they point to the particular injustices of subjecting “throwaway kids” to this fate. They end on a positive note, discussing a number of initiatives geared towards abolishing LWOP for juveniles, including a push for retroactive legislation.

Eugene Dey, in “To Die Well”, recounts his experience of going ‘pro per’, representing himself in a California sentencing court, facing his third strike and the prospect of life in prison. Speaking from a layered insider’s position – that of the prisoner-as-lawyer – and advancing a spirit of resistance, he describes an attempt to impose agency and dignity on a legal process that is designed to ignore the humanity of its subjects while producing forgone carceral conclusions. Eugene Dey (p. 62, this volume) responds to this bureaucratic machinery by “holding the entire system in contempt”, arguing that “[b]y staring down our executioners we let our enemies know we are not afraid”.

The issue continues with “Dear Sanity”, a short letter written by an anonymous Canadian prisoner in solitary. Writing to the titular addressee, he offers a powerful and disturbing account of the struggle to remain sane in an insane place. The inclusion of this piece is particularly important as it demonstrates the persistence and human impact of the psychologically damaging practice of ‘disassociation’ used by ‘correctional’ authorities which triggered the PJD movement.

Following this, the issue begins to move beyond the walls of the prison, with two articles that deal respectively with prisoners’ families and the challenges of post-release adjustment. In “Prisoners’ Families: The Forgotten



Victims”, Richard W. Dyches outlines the difficulties faced by families – and particularly children – dealing with the incarceration of a loved one. He notes the incongruity between the criminal justice system’s rhetoric of public protection and the reality faced by prisoners’ families – theoretically part of that ‘public’ and certainly victims of the penal system in their own right – who must navigate their way through an alien process, often without access to vital information. Richard W. Dyches provides a concise overview of the impacts of this process on families, closing with important recommendations for a Visitor’s Charter that would guarantee minimum standards of treatment.

In “I May Have a Life”, the final article in the main section of this issue, Joe Lekarowicz provides a narrative account of his own post-incarceration experience, covering the days, weeks, and months immediately following his release from a U.S. immigration detention centre and subsequent return to his European homeland. As in his previous work, “Bush” in Volume 17(2), Joe draws attention to the importance of companionship and mutual understanding as sources of resiliency. Emphasizing the theme of a life-in-transition, he speaks about his attempts to recover and reconstruct a sense of normalcy in a life interrupted by the dislocating experience of incarceration.

In this issue we have also revived the *Dialogues* section of the *JPP*, which last appeared in Volume 4(2) as a “reply/interchange”. This space has been reserved for prisoners and fellow travelers to reply to arguments made in academic works, including those that have appeared within the pages of this journal. The goal in reintroducing the *Dialogues* section is to provide a forum where authors can collectively present a critical mass of commentary, advancing knowledge concerning a substantive issue raised by current and former prisoners and/or members of our Editorial Board. The dialogue in this issue centres on the arguments advanced by Loïc Wacquant (2002) on the state of prison ethnography and his use of carceral tours as an approach to field research. Both of these aspects of Wacquant’s research are critically assessed by regular *JPP* contributors including Jon Marc Tarlor, Susan Nagelsen and Charles Huckelbury, Eugene Dey and Craig Minogue. The *Response* to this issue comes in the form of a summary of the discussion that followed the reading of several *Dialogues* papers at the 2009 meeting of the Canadian Society of Criminology.

Following the *Dialogues* section are a number of *Prisoners’ Struggles* pieces. We are pleased with the range of topics represented in this section. Jeremiah J. Gilbert discusses the movement against U.S. juvenile life without

parole sentences, an issue that will be fresh in readers' minds following Annette Hemmings and Jerry Lashuay's article in this issue. The MTL Trans Support Group provides a detailed discussion of their work, which provides support to gay, queer and trans prisoners through the vehicle of a coordinated letter writing program. Their contribution, which is itself a collaborative inside-outside effort, discusses the need for general convergence in the HIV-AIDS prevention, harm reduction, anti-prison and social justice movements. Cam, from Regina Books Through Bars, describes his organization's work and explains the important role that access to literature played during his own incarceration. Returning to the special theme of Volume 17(1) of the *JPP*, UN Special Rapporteur Vernor Muñoz provides a summary of the recent report presented to the UN Human Rights Committee on the Right to Education of Persons in Detention. This report draws heavily on contributions from prisoners and includes a number of important recommendations, which we sincerely hope are embraced by governments. Garrison S. Johnson provides a short account of the continuing legacy of slavery and institutionalized discrimination in U.S. prisons. Julia Sudbury's contribution comes in the form of an address made before the Twelfth International Conference on Penal Abolition (ICOPA XII). The piece describes the ongoing work of the abolitionist organization Critical Resistance and offers ten lessons for abolitionist organizing, one of which is to "prioritize the voices of the incarcerated and formerly incarcerated people, along with the most affected communities" in debates on and campaigns against imprisonment (Sudbury, p. 181, this volume). It is with this in mind that the ICOPA International Organizing Committee has included a call for contributions in this volume, inviting prisoners and former prisoners to submit papers to be considered for presentation at the Thirteenth ICOPA to take place in summer 2010 at Queen's University – Belfast, Northern Ireland. The issue closes with book reviews of *From the Iron House: Imprisonment in First Nations Writing* by Deena Rhymes and *Out There / In Here: Masculinity, Violence, and Prisoning* by Elizabeth Comack. Front and back cover art commemorating PJD is provided by Neal Freeland.

### ON THE HORIZON

The past year has been a busy one for the *JPP* Editorial Board and for our colleagues. As we release this double issue, no less than three special issues are nearing completion and we want to take this opportunity to let

you know what is in store for the coming year. Volume 19(1) will be a special collection of articles from the Prison Writing Program of the PEN American Center, edited by Bell Chevigny as a follow-up to *Doing Time: 25 Years of Prison Writing* (Arcade Publishing, 1999). Volume 19(2) will be a special collection of articles on torture and political imprisonment, edited by Christine Gervais and Maritza Felices-Luna. Volume 20(1) is a special issue on women in prison, edited by Jennifer Kilty.

### ENDNOTES

- <sup>1</sup> The Millhaven prisoners who organized the first PJD strike action on August 10, 1975 and issued the open call for a one-day hunger strike in 1976 used the term “Prison Justice Day”. As Bob Gaucher (1991) notes, this term was used in the original penal press communications about the event. Since that time, PJD has become an internationally recognized day of struggle and resistance, and is sometimes referred to as “Prisoner’s Justice Day” or “Prisoners’ Justice Day” (for example, by the Prisoners Justice Action Committee, PJAC). While the different terms do suggest subtle underlying differences in the objectives for action – justice in prisons vs. justice for prisoners – to the best of our knowledge, the decision to use one term instead of another appears more often than not to be a simple matter of preference.

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