

From the Editors
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The criminal justice system is notoriously myopic, usually manifested by its preference for retributive rather than restorative justice, a failure that the *JPP* has consistently addressed from the point of its inception. America's current penchant for three-strikes laws is the most egregious example of this persistent trend, often resulting in overcrowded prisons and life sentences for such mundane crimes as petty theft. Certainly those practices and the underlying philosophy that supports them merit close examination and criticism. Another, more immediate issue, however, now looms, one that threatens not only the system's entrenched bureaucracy but also the very foundations of its existence: the aging prison population.

Given the extremely long sentences being served by a large percentage of prisoners and the philosophical antagonism to parole in most jurisdictions, it comes as no surprise that prison populations are beginning to look more like an AARP convention than the gang members featured on investigative shows on the Arts and Entertainment network. In this volume, men and women relate personal experiences and perspectives dealing with growing old behind bars. As valid as these essays are, they represent merely the distant lights of an approaching train. As of 2002, 121,000 prisoners aged fifty and over were in America's state and federal prisons, an increase of 100% from a decade ago.¹ With the geriatric prison population, currently defined as fifty and over, increasing by 10% per year, many states have had to construct or designate separate facilities for housing older prisoners, including hospice care for terminal patients.² The situation is so ominous that Rebecca Craig, former president of the American Correctional Health Services Association, anticipates a time when "We are going to see entire prisons getting licensed as acute care settings."³

Increasing the burden on an already tottering system are the additional costs required to treat elderly prisoners. Experts at the Centers for Disease Control and Prevention in Atlanta, Georgia, estimate an annual expenditure of \$70,000 to house a single geriatric prisoner, compared with approximately \$20,000 for younger men and women.⁴ The additional costs are explained by the necessity for treating conditions and diseases that attend old age in facilities ill equipped and never designed for that purpose. Most prisons have neither the infrastructure nor the philosophical inclination to deal with geriatric conditions that in many cases have been aggravated by decades of neglect in an environment in which security supersedes the patient's welfare.

Jan Osten, chief nurse for the U.S. Federal Bureau of Prisons, sums up the attitude: “We tell every nurse we hire that they [*sic*] are also a correctional officer.”⁵

Considering the relatively youthful population of the United States, one would expect an eventual easing of this unexpected pressure, a leveling off of geriatric prison admissions, but that is not the case. In Texas, for example, elderly prisoners are entering prisons at three times the incarceration rate for younger prisoners.⁶ Thus, no relief appears on the horizon, which means construction of more prisons or specially equipped units within current prisons. In states already strained by the current recession, new prison construction costs must be offset by concomitant reductions in services, such as education and health care. As serious as these assaults on the country’s fiscal welfare are, we believe that a more urgent consideration has been lost in the discussion: what does the present boom in geriatric prisoners say about the underlying philosophy of a nation that would insist on keeping men and women incarcerated for three or four decades, long past the time when they might have posed a physical threat to society and when they are only marginally functional?

The tendency, of course, is to remember the last criminal act a prisoner committed, disregarding any personal changes, either through concentrated effort by the prisoner or the result of the maturation process. Prisoners petitioning for their freedom after thirty or more years are routinely faced with a recitation of their particular crimes, often long after witnesses, prosecutors, judges, and victims have died. Personal efforts at reformation count for nothing and indeed are often viewed cynically by parole boards as insincere efforts to manipulate the system in order to gain release. The same attitudes unfortunately prevail in contemporary Western society—in the United States specifically—and since the attitudes of the government are conditioned on those reflected in the latest public-opinion polls, the prognosis for change is not encouraging. Such thinking betrays the fundamental principal that prison should be the last option reserved for the most dangerous individuals and runs counter to the bulk of Western thought since the Enlightenment.

In liberal democracies, in which social change is conceived of as gradual, flexible, and adaptive, reason, not political gain is both the hallmark of the decision-making process and the foundation for morality. This extends, or should extend, to matters involving the incarceration of citizens as well as

providing them with goods and services. According to Kant, reason is the final authority for morality, and any actions must be undertaken from a sense of duty dictated by reason. Thus, no action performed for expediency or solely in obedience to law or custom can be regarded as moral.⁷ Extending the Kantian comparison, current correctional philosophy, from the alehouse to the White House, violates Kant's hypothetical and categorical imperatives, because it is not driven by a desire to reach a specific end, other than political gain, or by its correctness or necessity.

It does not take Kant scholars, which we do not claim to be, to see the fundamental injustice in incarcerating elderly, incapacitated prisoners for over a quarter-century, merely to serve the public desire for retribution or provide cannon fodder for an election. We do not argue that every geriatric prisoner should be released. Quite the contrary; we acknowledge that releasing dangerous people from prison is an unacceptable proposition, and some of the prisoners in their winter years now behind bars continue to be threats. But we also recognize that the vast majority of elderly prisoners do *not* present a danger, if for no other reason than their physical incapacity.

Policies now in place in most jurisdictions, and the people implementing them, actively work to keep men and women in prison for as long as possible, irrespective of either their age or the amount of time they have been behind bars. A constellation of factors often works to keep them there, whether in the form of victims' opposition, reactionary social policies, or mandatory minimum sentences. Lost in the rhetoric is the reality of the sentence. For elderly prisoners, a five-year sentence can be equivalent to a life sentence, and yet prosecutors and judges continue to send geriatrics to prison to die, when they could be controlled and monitored just as easily by a community-based alternative. Many prisoners in their sixties and seventies have been in prison since their teens or early twenties and yet must learn to manage the end of their lives with no hope of release and indifferent care.

The current road being traveled by Western democracies reminds us, if we may be permitted another historical digression, of Descartes' philosophical system that prompted him to reject an empirical approach and invoke convoluted, and erroneous, explanations of the physical world. Although Descartes at first tossed out the geocentric Ptolemaic theory of the universe in favor of Copernicus's heliocentric explanation, he abandoned this theory because it conflicted with the church's dogma.⁸ The West has similarly rejected an empirical description of the problem of

elderly prisoners, complete with solution, because it violates establishment orthodoxy that insists on maximum sentence length without regard to age or physical condition. Descartes' approach was intellectually dishonest; the Western criminal justice model is both intellectually dishonest *and* morally flawed because it gratuitously inflicts pain and suffering on those least capable of enduring it.

If these essays on aging seem preternaturally pessimistic, it is because the voices reflect the reality of growing old in the bowels of a system that intends to keep them imprisoned until they die, not to serve the ends of justice, a concept as ephemeral now as it was when Plato⁹ attempted to define it 2400 years ago, but to banish citizens who no longer serve the public interest, as defined by government. In many of these cases, a single, albeit serious offense, committed twenty, thirty, or even forty years ago, is sufficient to lock away an individual for the remainder of his or her life. This practice naturally raises the question of precisely who is in prison decades later. Certainly the individual who committed the offense and the individual we subsequently see before us thirty years hence are not the same. Just as men and women in their sixties in free society bear little resemblance to their photographs taken when they were fresh out of high school, so also have their world views been modified as a result of reflection and experience. Is it unreasonable to consider the same type of transformation occurring behind bars? And if that transformation has occurred, then what possible rationale can be cited for keeping the individual incarcerated?

These are the questions Western society refuses to contemplate, and as long as they are ignored, the more burdensome and indefensible the criminal justice system will become.

This volume of the *JPP* therefore looks at the aging process inside prisons, where every problem is amplified by the prisoner's age. In this issue, one of us (Huckelbury) brings a Cartesian discussion of the deceptive nature of dreams in prison. The essay describes the shifting nature of prisoners' dreams and how they relate to the conditions of confinement and hope for the future. And how shattering disappointment can be when parole is as ephemeral as the dreams. In a second essay, Huckelbury teases out his relationship with an aging prisoner and describes a missed opportunity for reconciliation that death permanently foreclosed. William Van Poyck, sentenced to death in 1987 and currently finalizing his appeal before the United States Supreme Court, takes us on a personal journey in which he engages an older prisoner that ultimately ends tragically. Van

Poyck's published autobiography, *A Checkered Past*, treats the subject in more detail, but here he provides a compelling description of an aging prisoner whose debilitated physical condition makes it impossible for him to function normally. And yet, as Horner describes, parole is still far away. Paul Mancini describes a confrontation with reality when he discovers the "time warp" that enables prisoners to persist in living in the year of their arrest. Coming to prison at twenty-six, he remained that age psychologically until one of us (Nagelsen) asked him to contribute a piece for this issue. His incredulous "Why me?" essay is an enlightening exposition of the difficulties in coming to terms with time's passing behind the walls. He brings to bear an interesting paradox: how can men and women change while time stands still? We see in these essays how distancing oneself from the trappings of life on the outside can and does help some prisoners achieve growth and success. Maybe it is the leaving of it all behind that allows the internal growth to take place, making transformation possible. Donna Barton takes the reader to a nursing home where she visits a recently paroled man in his early seventies. Suffering from Alzheimer's, his barely coherent reaction to her visit graphically illustrates the changes that take place in the absence of a support network that can ameliorate the associated mental decline. In a personal narrative, J.R. Bass relates his emotional and intellectual journey during his transition from youth to middle age, relying on academics and participation in various counseling programs to help forestall the mental decline he witnesses daily in aging prisoners. Colin McGregor's piece is a deviation from the topic of aging, but beautifully explores the world beyond his reach. The reader is shown the reality of the prisoner's world, and its starkness is amplified by the images created by McGregor.

Finally, in the Responses section, one of us (Nagelsen) provides a poignant description of the aging process by using the children in the visiting room as a benchmark by which to measure the passing of time. She has watched mothers bringing their children to visit their fathers a week or two after birth. In most cases, those same children are now going on their first dates or playing for high school athletic teams. For prisoners who are parents, this is the most painful part of decades spent in prison: the inability to participate in the lives of their families and loved ones. Also in the response section, Mark Landry takes us on a journey through the value of education. He reminds us that as a result of the journey, he has been given the ability to "think and provoke rational thought within."

As editors of this issue, we discussed at length the plight of those prisoners living day by day on death row, knowing that growing old is not what they will experience. We have seen prisoners Amu Jamal, James Allridge, Carla Faye Tucker, to name but a few, demonstrate that even in that stultifying environment personal growth can flourish and contributions can be made. “Let Nature Take Its Course” reminds us that growing old in prison is a luxury many will never have. Growing old behind bars is one of the myriad problems faced by prisoners today, but it is one that increasingly demands scarce resources of cash-strapped legislatures and the emotional capital of prisoners’ families, neither of which can be justified.

ENDNOTES

- ¹ usatoday.com/news/nation/2004-02-28-elderly-inmates, 4/13/04, page 1.
- ² usatoday.com, page 2.
- ³ Nurseweek.com/features/99-7/prison, 4/13/04, page 1.
- ⁴ usatoday.com, page 1.
- ⁵ Nurseweek.com, page 3.
- ⁶ Nurseweek.com, page 2.
- ⁷ *Metaphysics of Ethics* (1797)
- ⁸ *Philosophical Essays* (1637)
- ⁹ *The Republic*