

Deliberate Indifference

Steven King Ainsworth

Access to educational programs for condemned prisoners awaiting execution at California's infamous San Quentin State Prison can be summed up in one word: "dismal." Since August 2000, there has been no evident effort by the State of California to provide any educational programming directly to the denizens of Death Row. The current supervisor of Academic Instruction explained to this writer in a written response to an inquiry asking what educational programs were available to the condemned population that none were available due to a staff vacancy in the position of Condemned Row Teacher, and that "when the position is filled, education services to the condemned will resume."

On November 7, 2001, a newly-assigned staff member stopped by my cell to pick up a college course textbook from me, and to inform me that she was the new teacher for Death Row. She also indicated that new college-level courses "may" start again for the Row in 2002. She did not indicate if any elementary- or high school-level courses would be available. The depth and range of this new effort remains to be seen. She seems to be acting only as the college course coordinator. I have seen no efforts by San Quentin to provide any basic or high school education to Death Row inhabitants at the time this was written (January 29, 2002).

Prior to August 2000, Death Row did have some access to elementary- and college-level education. At best, however, that access was limited and sporadic depending upon the zeal of the student and teacher. It has been my experience, since coming to Death Row in 1980, that it takes a condemned human being several years to overcome the feeling of being cast out of society as a pariah worthy of elimination and to seek out ways in which to understand one's position and how to better it. Once an individual has reached that point of desire, he or she must come into contact with a teacher who has passion to teach, and who is not simply in it for the stable income of state employment. In the two decades that I have been here I have seen both types of teachers and prefer the former to the latter. However, all is for naught if the prison's administration does not wholly support the education of the dead; unlikely, I surmise, since educating the condemned may give them the intellectual tools to defeat the state's ultimate goal of exterminating them.

In years gone by, the prison made an effort to provide a basic level of education (grades 1 to 8) to each prisoner who did not have this level at the

time of commitment to confinement. This idea extended to the condemned, and a sincere effort was made to raise the reading comprehension level among them. In addition, the prison offered some high school (grades 9 to 12) and General Education Diploma (GED) preparation courses to both mainline (non-condemned) and Death Row prisoners. Arrangements were made to permit mainline prisoners to take the GED exam and obtain the diploma; no such arrangements were made for the condemned, and they were left without a sense of accomplishment or any official recognition of their efforts.

In 1996, in response to the US government banning Pell Grants for convict scholars, a group of San Francisco Bay area academics set up an all-volunteer accredited college level program at the prison with the acquiescence of San Quentin officials. The college courses taught by volunteer graduate students and professors for the mainline students were taped by SQTV, the in-house video department, and aired over the prison's closed circuit television system.

The condemned were given access to this program via closed circuit television lectures and the services of a volunteer staff liaison. This was a boon to the intellectually starved men on Death Row and many men jumped at the opportunity. However, the program was fraught with problems, ranging from technical difficulties with the taped video lectures to obstructionism by custodial staff. Despite this, at least one condemned man gained an Associate in Arts (AA) degree, and many completed a number of the courses offered. This writer was able to accumulate 42 college credits and maintained a 3.82 grade point average during the program's duration, which ended for the condemned in August 2000.

Without access to educational financial aid, such as the old Pell Grants (less than one percent of all Pell Grants actually went to prisoners), the prohibitive costs of accredited college level correspondence courses and the difficulties in obtaining them (requiring the co-operation of the prison's Education and Mailroom departments) make it nearly impossible to pursue this avenue of credit earning and possible degree attainment in higher education from the depths of Death Row.

I cannot put my finger on the cause of the lack of a viable education program for Death Row inhabitants. The view that prison is to punish and not rehabilitate is certainly a factor. As well, the idea of wasting time, money, and energy on the walking dead can account for some of the lethargy. It may also be a case of deliberate indifference, brought about by the misguided "Tuff on

Crime” crowd, who have been given a sacrosanct role in judicial and penal policy-making in California and elsewhere.

Which leaves the condemned to fend off for themselves the vegetating effects of long-term Death Row confinement. Security needs forbid self-help group therapy programs, such as Alcoholics Anonymous, for the Death Row population. The only time any number of Death Row convicts are permitted to congregate is during yard exercise periods, and it is very difficult to conduct a group therapy session in the midst of a basketball game, or in the same space as a mass of exercising convicts who are not interested in a program of this sort.

Even the religious services on Death Row are fragmented into small groups divided by faith and yard assignment. For instance, all Catholics on Death Row cannot attend Mass *en masse*, but just one or two who are assigned to the same yard group can attend together. The services are conducted in a cage, with the congregation of a few separated from the priest by a wire screen and the whole thing overseen by an armed guard! The round robin scheduling of religious services between recognized faiths and yard groups limits the activity to about once a month, barring any unforeseen circumstances.

Many men, out of necessity, devote their time to the study of law. Several have taken a paralegal correspondence course and help others with research guidance. The condemned at San Quentin still have limited access to a small law library, but I am not sure if it is being kept up to date in light of the US Supreme Court’s decision a few years ago stating that prison systems need not maintain a law library (*Lewis v. Casey*, 518 US 343 [1996]). By passing kites (i.e., notes) to one another, by taking information to the yard, or simply by yelling out new information from cell to cell inside the cellblock, most men on the Row share any legal expertise and materials they have with others across racial lines, in recognition of the common problem we all have: a death sentence!

The condemned also have access to the prison’s general library collection of fiction and non-fiction books on a weekly check-out basis. The collection is patronized quite a bit and it takes about twelve years to cull the collection of outdated non-fiction texts and a little longer to read through the fiction section. I suppose one could attain a basic knowledge on a myriad of subjects by checking out various textbooks and engaging in self-education.

We cannot purchase hardback books, and the state does not provide any publisher or bookseller catalogues, which adds an extra burden to the purchase

of soft-cover books. Bookseller's catalogues must come directly from the publisher or vendor, and the mailroom either permits their delivery or not. We are required to submit a synopsis of the book to obtain purchase approval, and unless we obtain a catalog or can get an information sheet from a bookseller, we are up the creek or in the proverbial Catch-22; the system thwarts our efforts to expand our minds.

SQTV, the closed circuit television service within the institution, does air educational programming on a variety of subjects, as well as provide limited access to commercial television. Some of the recent programs offered from the SQTV videotape library cover art history, history, anthropology, archaeology, psychology, black history, Native American history, and English as a second language. SQTV and commercial television programs are only available to those who own a personal television set. The state does not provide television sets to prisoners on Death Row. If a prisoner can afford to buy a personal television, SQTV programs are available; however, no program schedule is provided, and so it is pretty much catch as catch can. Nonetheless, the viewer avoids the mesmerizing distraction of commercial television which the state has deployed as a one-eyed babysitter to numb our minds under the guise of allowable personal property.

Despite all of the above, certain individuals among the dead do engage in positive, productive, and progressive creativity in self-education, writing, and art. They have not succumbed to the deliberate indifference of the state, whose ultimate goal is to eliminate, not educate.

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