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The Punishment Potlach: A Way Out
Professor Kimora, John Jay College of Criminal Justice, New York City
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Those who have been incarcerated within the American judicial system have always been among the least politically popular groups. But during the last thirty years, offenders have been the targets of an unending stream of criminal code revisions aimed at getting "tough on crime." The ostensible goal of these efforts has been public safety, or at least, the creation of the appearance that those state legislators, members of Congress, governors, and presidents were pursuing public safety.

We submit that these efforts, viewed in light of their costs to society and their results, have failed. In the United States, the thirty-year history of adopting wave after wave of "tough on crime" measures is reminiscent of the potlatch custom of the Indians of the Pacific Northwest. The potlatch was held to celebrate an important event such as a wedding or to clear the

Likewise, our society has allowed politicians' desires to appear tough on crime to overtake all competing considerations. We have ignored the absolute cost of criminal justice, the sacrifices in other societal needs resulting from exploding corrections budgets, and the devastating effect that pervasive and lengthy incarceration has on inmates and their families. And, remarkably, we have done so despite the lack of any conclusive evidence that this potlatch of punishment has done anything to make society safer. Despite these realities, the pressure to continue to potlatch continues, abated only by recent state and federal fiscal crises. As a result of recession-induced state budget deficits, there may be a begrudging reexamination of incarceration that may temper the rate of growth in criminal justice spending. However, while fiscal considerations may temper the political process to some extent, there needs to be a

...the pressure to continue to potlatch continues, abated only by recent state and federal fiscal crises.

qualitative change of a more revolutionary character if ever the nation expects to truly address the crisis we face in corrections. would give away vast amounts of property or destroy valuable goods, singing his own praises and insulting his enemies in the process. By sponsoring a potlatch, the clan challenged rivals to host another such event at which they were expected to up the ante or face disgrace. The desire to impress other clans was so great that donor clans would give more than they could afford, even sacrificing their ability to eat through the winter rather than lose face. (Josephy, 1973).

the crisis we face in corrections.

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****AVAILABLE FALL 2009****
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We believe that there is a solution, a way out of the fiscal and human rights morass created by the "prison industrial complex." The way out lies through invoking the Eighth Amendment of the United States Constitution to force a reexamination of the nature of our society's response to criminal behavior.

The Eighth Amendment states, in simple terms, "Excessive bail shall not be required, nor excessive fines imposed, nor cruel and unusual punishments inflicted." Adopted as one of the fundamental charters of liberty and added to the original Constitution as a condition of ratification, the Eighth Amendment was designed to prevent the government from wantonly inflicting pain and suffering on individuals. An excellent analysis of the amendment's purpose, both at the time of adoption and in history, is found in the case of *Weems vs. United States*, 217 U.S. 349 (1910).

The proper response should be to invest substantial resources in undertaking a comprehensive psychiatric and social evaluation of offenders in order to direct an aggressive program of intervention. In other words, we suggest that society should throw the book at first offenders, but the book should be the DSM-IV (Diagnostic and Statistical Manual of Mental Disorders, 4th Edition), not a volume of statutes.

Intervening early in the criminal history of the sociopath, for example, makes eminent sense from society's standpoint as well as that of the offender. To the extent that offenders' behavior escalates in severity over time, early intervention would offer the most prevention, mitigating behavior before it is repeated numerous times. Furthermore, it would direct intervention to the time of offenders' lives when they are younger, their personality still malleable, and they have not yet acquired the "hard core" canalizations characteristic of chronic offenders.

We suggest that the resources to make this transition to proper community reintegration are available if society redirects the resources now expended on incarcerating individuals involved in drug- and alcohol-related offenses into effective treatment programming. The cost of incarcerating one person for a year in prison can finance 30-day residential programming for five individuals. More realistically, if we expended half the cost of incarcerating an individual on intensive residential treatment, followed by closely-supervised aftercare, the rate of relapse and recidivism among drug and alcohol offenders would diminish profoundly, reducing the cost of caring for them correspondingly. In other words, we suggest that investing the resources now

used to incarcerate the 25 percent of the prison population who are there largely because of drug and alcohol addictions would result in a more permanent solution to the problem, thereby creating a dividend that could be plowed into cognitive habilitation.

Conclusion

These are bold and, undoubtedly, outrageous sounding concepts. But they have, in their support, the fact that there is a reason to believe that they may work, and every reason to know that our current system simply does not work. By confining the highest proportion of our population of any country in the world, we have made all of our citizens and, indeed, our society itself, crime victims by imposing on them the huge costs of a correctional system that has never worked, does not work now, and has no prospect of ever working. Given that the alternative to taking bold and thoughtful action is continued failure, the spirit of the Eighth Amendment to the United States Constitution demands forward-thinking experimentation.

Subsequent to this article being accepted for publication, Dr. Kimora was elected to OPEN's Board of Directors.

You're In Prison ... NOW WHAT?

V. N. Rollo, JR, Executive Director, OPEN, INC.

RATIONALE:

Prolonged captivity constitutes a major experiential ordeal composed of countless negative psycho-social sub-experiences held together by bone deep grief within a broad field of ever expanding alienation, hopelessness and false expectation.

Across our 30 years of participation in adult corrections, OPEN, INC. has grown keenly aware of an industry-wide absence of/need for a high quality adult education training component to constructively "frame" the correctional experience for new inmates within 90 days after their arrival in prison.

This is far beyond the existing practice of merely providing new inmates with a rude and crude recitation of the "rules and regulations" of the facility. Rather we propose a systematized overview of a roster of mental and social challenges and constructive options useful to making the best of the unique experience of human captivity.

The practical need for such a resource is based on a wealth of factors. Above all, the "correctional experience" exists in

Hope is definitely something that offenders and ex-offenders need as they cope with the prison term and later, the return to society.

a reverse polarity from the values and conduct of daily life in the community. People arrive expecting to encounter a logic-based frame of reference as it exists in the free world. In no way are they prepared for "alogic," the absence of a viable connection between cause and effect. The result is a microcosmic jungle best described as "living in a toilet that never quits flushing."


In addition, newly arrived inmates are hit with a variety of socially and emotionally disruptive forces, including shock, fear, grief, rage and hopelessness. At this critical time, one's attention span is reduced to about three seconds, further diminishing his or her capacity to think or act with any dependable degree of rational controls. Overall the situation contributes to reactionary instability including suicidal tendencies, aggression against other inmates and/or outbursts against staff and on-site free world personnel.

All factors considered, no one walks into prison "ready" for what it will demand relative to short-term survival and long-term adaptation. Even former inmates must fully retune their overall perception, not to mention persons with sentences bereft of a light at the end of the tunnel. In too many cases it is felt to be "impossible" or just too much to carry, thus further contributing to internal chaos.

The nature of a prison milieu demands rapid, expanding assimilation. But no one is born knowing how to approach this in a positive way! Therefore, what generally occurs is a predictable cycle of negative "absorption," resulting in adoption of the twisted, dysfunctional mind set of the prison environment.





This condition creates a Catch-22 where in a highly perverted, detested atmosphere calls upon a person to "adapt or die." This pattern of cumulative amalgamation is an unknown force which often "has its way" with inmates without their comprehension of the dynamics of their plight. In short, they are often overcome by disorientation and despair stemming from rigidly enforced helplessness and awakening each day to yet another day in hell.

Predictably, adoption of a value system and world view in diametric opposition to a pro-social life style during and following imprisonment is one result of the unnatural experience of living in a human zoo. It is our contention a great deal of good can be achieved by alerting newly arrived inmates to the realities of their unique plight, encouraging perseverance and helping each define and maintain a "reason to go on."



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Information Series

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