

**WORKING IN THE BELLY OF THE BEAST:  
THE PRODUCTIVE INTELLECTUAL LABOR OF US PRISON WRITERS, 1929-2007**

by

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This dissertation seeks to revise and expand notions of US prison writing beyond the normative categories of “literature” by examining the compositional and rhetorical efforts of US prison writers working from 1929 to 2007. I situate certain modes, discourses, and texts produced by prisoners—scientific research, jailhouse legal work, letter-writing, revolutionary polemic, and testimonial writing—within a larger rubric of what I call “productive intellectual labor.” The project draws on Marxist debates to define each part of that term and employs the work of Michel Foucault to contextualize prevailing historical notions regarding penal labor, the evolution of punishment, and discursive trends of those writing back to power. I argue that all these forms of writing are legitimate forms of intellectual labor, produced in an institution historically marked by convict illiteracy and under-education on the one hand and powerful administrative and state discourses on the other. I situate this writing to the other kinds of labor, such as manual and industrial work, that are routinely undertaken by prisoners; I do so to consider the effects of mandatory, coercive prison-labor schemes and the value derived from autonomously assumed labor that is experienced by imprisoned intellectual laborers. The project shows how the work of three 20<sup>th</sup> century prison writers (Robert Stroud, Caryl Chessman, and George Jackson) and the anthologies *Couldn't Keep it to Myself* and *I'll Fly Away* (published by women prison writers incarcerated at York Correctional Institution in Connecticut) demonstrate the many ways that prisoners use non-literary forms of writing to produce counter-narratives and

discourses about themselves; fight against the oppressive, stultifying effects of incarceration; and critique administrative and state penal practices, among many other motives for writing.

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## **1.0 INTRODUCTION: WORKING AND WRITING IN US PRISONS**

### **1.1 A QUESTION OF DEFENSIBLE FLOGGING?**

A real crisis motivates the pages of this project, which takes up as its nominal subject non-literary forms of writing produced in US prisons. The contours of recent incarceration trends have nominally been shaped, in part, by “prison literature,” as the collection of literary voices working within prisons have functioned as a discursive counterweight to the influence of conservative politicians, lobbyists, and businessmen seeking to increase the reach of the American penal archipelago. But this singular focus on literature is problematic and occludes the genres of non-literary writing that also work to critique the current state of US incarceration, a fact to be taken up in more detail later in this introduction. Moreover, the intersection of recent labor history, class considerations, and penal history is a complicated one that is still being worked through. Most critical and scholarly work on the US prison has tended to focus foremost on race (and rightfully so, given the patently racialized dynamics of American incarceration practices), and to a lesser extent on gender and sexuality (as the incarceration of women has skyrocketed over the last twenty years). The dimensions of class and labor as they relate to prison are understudied and undertheorized, and as such, this project seeks to contribute to that

work in a small way, by considering productive intellectual work (articulated through writing) in light of broader trends in recent penal/labor and legal history.<sup>1</sup>

I call my project “Working in the Belly of the Beast.” This is a direct allusion to Jack Henry Abbott’s collection of letters *In the Belly of the Beast*, published to wide acclaim and controversy in 1981. Abbott corresponded with novelist Norman Mailer while the latter composed his great nonfiction novel, *The Executioner’s Song* (1980), which details the life, crimes, trial, and ultimately the execution of Gary Gilmore, the first man to be executed after the reinstitution of the death penalty following a four-year nation-wide moratorium during the mid-1970s. Abbott’s letters are free-ranging and learned, despite his uneven formal education and a lifetime of institutionalization; he was largely self-taught, continuing in the tradition of powerful incarcerated writers and thinkers before him, like Malcolm X and George Jackson, though he is also quick to acknowledge the impact of imprisoned black revolutionaries who helped him along the way. He examines the racist and classist qualities of US incarceration by applying a trenchant Marxist critique to them. He takes up the psychosocial dynamics of incarceration, too, describing the medicalization of punishment—such as the over-prescription of powerful, mind-altering drugs to pacify prisoners—and the direct links between institutions like asylums, mental hospitals, and prisons. He displays a thorough and easy facility with canonical literature and philosophy, breezily citing Stendhal, Dostoyevsky, Sartre, William James, Camus, Hegel,

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<sup>1</sup> One notable text that has recently engaged questions of prison and (post-prison) employability is sociologist Devah Pager’s 2007 study *Marked: Race, Crime, and Finding Work in an Era of Mass Incarceration*. Pager’s study involved pairing up young men with nearly identical profiles and resumes, randomly assigning them past criminal backgrounds, and sending them out in search of work in the city of Milwaukee. She gauged success rates by the number of callbacks these workers received from potential employers. Some of her results were incredible: the stigma of prison reduced an applicant’s potential for callbacks by half (for white applicants) to a third (for African Americans), compared to higher callback rates to applicants from their racial category who had not served time. Perhaps the most surprising finds are that a white applicant *with* a criminal background was slightly more likely to receive a callback than a black applicant *without* a criminal background (seventeen percent to fourteen percent), and that African Americans with a criminal background had an exceptionally low callback rate of five percent.

Nietzsche, Marx, Engels, Kierkegaard, and Martin Buber, among many others. Abbott was also a student of the prison, not just an abject, rebellious subject of it. His letters indicate a comprehensive and studied understanding of the history and epistemological ramifications of incarceration, taking up legal history, famous cases and prisoners (such as Leopold and Loeb and Caryl Chessman), and even global carceral trends: he roundly criticizes the publication of dissident Alexander Solzhenitsyn's *The Gulag Archipelago* and the self-serving way it was marshalled forth by Americans as a condemnation of the Soviet state at the same time that American prisoners endured fates that were at least as bad as their Soviet counterparts.

Though I do not directly engage with Abbott's writing throughout this dissertation in any sustained or thorough way, I was profoundly influenced by the intellect and erudition behind the writing, and this project springs in part from my attempts to grapple with a number of questions that arose as I read and reread *In the Belly of the Beast*. In particular, the form of the letters pushed me to consider questions of genre, composition, and circulation regarding prison writing, as the political after-life of the book has always served as a reminder of the criticisms awaiting my own arguments. The critical and cultural success of *In the Belly of the Beast* was used as proof that Abbott should be paroled, and he was after Mailer and others agitated for his release. But only six weeks after that release he was involved in a public altercation that left another man dead. He was tried for murder, convicted of manslaughter, and was sentenced to fifteen to life. Abbott's book would quickly acquire a different kind of totemic cultural power: it was held up and ridiculed by law-and-order politicians and public servants, and his name and book served as a useful shorthand to defeat new attempts to "coddle" prisoners. Mailer was ridiculed and scorned as a naïve bleeding heart for believing in the power of the word—because all prison writers are inveterate liars, so the refrain goes—and Abbott's story would henceforth circulate as

a kind of object lesson about prison writing in general. All of this is nothing new—it marks the fate and work of all the writing and intellectual endeavors of the individuals I examine in this project, as well as any and all attempts to critique the carceral state—so I find it fitting to let my title allude to his. This allusion is both a reminder and warning: a reminder of the power of his work and his critique of prison, and a warning to myself about the ways that my own work will undoubtedly be critiqued and criticized by many who see my attempts to write about prisoners and their intellectual labor as naïve and dangerous.

Abbott's book was a kind of Janus-text in terms of its relationship to changing penal philosophy and politics. *In the Belly of the Beast* was informed by the failure of the rehabilitative model and productively influenced by African American militancy within prisons during the late 1960s and 1970s. In other ways, it is prescient: like many politically astute prisoners, he took a long view of the changing political landscapes outside of prison and anticipated the far-reaching consequences of the conservative backlash against successful civil rights agitation that began to occur under Richard Nixon's presidency and rapidly expanded under Ronald Reagan. All of these historical and penological changes will be examined in some detail as part of this project. His book remains powerfully relevant today, though our prison system has become much more complicated—and much larger—than the version he initially wrote about in the late 1970s. It is the current crisis to which my work responds.

According to the most recent (2013) year-end data compiled by the US Bureau of Justice Statistics, there has been a reduction in the overall number of people currently incarcerated or in some other form of state supervision (in custody, jail, or prison, as well as those on parole). The statistics, and the Bureau of Justice's interpretation of them, read thus:

- About 6,937,600 offenders were under the supervision of adult correctional systems at year-end 2012, declining by about 51,000 offenders during the year.
- The decrease during 2012 was the fourth consecutive year of decline in the U.S. correctional population.
- Although the correctional population declined by 0.7% during 2012, this was the slowest rate of decline observed since 2009, when the population first decreased.
- In 2012, about 1 in every 35 adults in the United States, or 2.9% of adult residents, was on probation or parole or incarcerated in prison or jail, the same rate observed in 1997.
- An estimated 1 in every 50 adult residents was supervised in the community on probation or parole at year-end 2012, compared to 1 in every 108 adults incarcerated in prison or jail. (Glaze and Herberman)

The positive statistical spin regarding this data is that the total number of people in some form of state supervision has consistently decreased since 2009, indicating a quantifiable decarceration trend. But what motivates that trend is the realization on the part of politicians and policy makers that thirty years of expanding the prison-industrial complex has not, indeed, been good for business in the long term, even in spite of the fact that prison manufacturing and coercive physical labor did balloon into billion-dollar industries roughly between 1990 and 2009. Since the late 1980s, contemporary incarceration has largely been less about rehabilitation or resocialization and more about permanently segregating prisoners from the rest of the population—what some critics like Tara Herivel and Paul Wright have called “warehousing,” evident in the title of their co-edited anthology entitled, *Prison Nation: The Warehousing of America’s Poor* (2003). As part of this phenomenon, the state has extracted productivity, labor power, wealth, and capital from those who are being warehoused, and done so almost completely unchecked. The rapid development and expansion of the prison-industrial complex have coincided with the equally rapid decline in industrial jobs and wage-based work in the US; a sharp rise in low wage, service-oriented work and more informal forms of labor; and in the formulation of a globalized “risk society,” in which the social security nets of the welfare state have either been radically underfunded or entirely eliminated in favor of “‘deregulated’ and

‘flexibilized’” work relations that have attended global neoliberal economic practices (Beck 3). Paraphrasing Jeremy Rifkin, Ulrich Beck notes that in the United States, “We also have a social net, only it is four times more expensive than the German one. It is called prison” (117).

The ideological roots of the prison-industrial complex can be traced back to the burgeoning neoconservative movement that began with the Nixon administration and its demands for increased law and order, a call that was answered during the Reagan and Bush administrations with the War on Drugs and tougher sentencing for crimes of all degrees. But the Clinton administration also expanded the prison-industrial complex when it passed the Violent Crime Control and Law Enforcement Act, legislation that was made law in 1994, coinciding with the North American Free Trade Agreement. It is hardly an accident that robust crime legislation and a controversial economic treaty that ultimately resulted in tens of thousands of lost jobs for Americans were passed in the same year. And the War on Terror and increased anti-immigration activity within the United States have only helped to expand the modes and spaces of incarceration. Our domestic crisis has become, for all intents and purposes, a globalized one.

This crisis has generated an inordinate amount of scholarly work, policy revisions, statements by business owners, lobbyists, and politicians, as well as writings by prisoners; the explosion in the prison population and its profits have enacted an equally impressive proliferation in discourses on, about, or from within prisons, regarding all manners of issues concerning the institution. One dominant thread, of course, is how to combat the seemingly exponential force that is prison expansion, and I find the most telling example within this critical conversation to be Peter Moskos’s provocative treatise entitled *In Defense of Flogging*, published in 2011. Moskos is now a professor of Law, Police Science, and Criminal Justice Administration at John Jay College of Criminal Justice, and before that he served as a Baltimore

City policeman. In the book, he aims to provide an alternative to our broken system of incarceration in the United States by examining the Southeast Asian model of caning or flogging found in Singapore and Malaysia. He proposes that we could choose between incarceration or caning as one means of radically reducing the prison population and addressing the extensive influence of the prison-industrial complex. Flogging would be more efficient, a more economical means of punishing crimes than long-term prison sentences, and Moskos suggests that it neatly sidesteps the age-old question of penal reform: he argues that reformers have done nothing but extend the power and reach of the penal system since the prison was first designed as a humane alternative to public punishment and torture. As Michel Foucault and many others have noted, the modern penitentiary was itself a kind of fundamental reformation that regularized punishment by delinking it from sovereign power and helping to consolidate new state power, often under the aegis of new democratic principles, at virtually the same time. Contemporary reformers have also routinely misunderstood that “deterrence and punishment are separate issues. Punishment is about retribution” (Moskos 23). Caning a convict would effectively satisfy the apparent lack of “justice” in a much more immediate fashion than locking a criminal away for years; as Moskos rhetorically asks, “The fact that the criminal wouldn’t commit another crime is nice, but shouldn’t a criminal be punished—not only for his sake but also for ours?” (23).

Moskos clearly understands the stakes of advancing such a thesis. He acknowledges that “many undoubtedly see the demise of flogging as a sign of progress—the end of one more barbarity” (7), but he also sees that radical alternatives are necessary to jumpstart serious conversations about finding permanent alternatives to the current crisis. He contends, “barbaric or not, if we don’t discuss flogging, we’re stuck with something far worse. In the world of punishment, we’re lost; it’s time to admit as much and ask directions. For now, let’s at least

backtrack from this horribly mistaken journey we've taken into the Bizarro World of mass incarceration" (8). At times, it is hard to see just how convinced Moskos is regarding his own argument on the virtues of flogging, as the book only flirts with Swiftian black satire. It is probably safer to say that Moskos's ambition is to loft up the first volley from a more conservative political position regarding our broken system of incarceration. His important contribution is that his proposal is not one that simply calls for more or different kinds of incarceration (for longer durations, with less so-called luxuries or amenities, perhaps occurring in private penal institutions) in the manner that has dominated reforms for the last thirty or forty years. Although prison abolitionism has itself been proposing alternatives to the prison-industrial complex for at least ten years now (and the roots of contemporary prison abolitionism can be traced as far back as the work of fin-de-siècle socialists and anarchists like Eugene V. Debs, Peter Kropotkin, Oscar Wilde, Emma Goldman, and Alexander Berkman—all of whom, it should be noted, spent time in jails and prisons), the message from that group has routinely been ridiculed and dismissed by those on the Right. Prison abolitionists, like penal reformers, supposedly misunderstand or ignore the widespread desire for retribution or revenge, and their calls for community action, better schools, more prevention programs, better funded drug rehabilitation clinics and the like smacks of a return to the purportedly failed welfare state that Reagan dismantled nearly forty years ago, all of which has proven to be a tough and unpopular sell in our current economic and political climate. Moskos therefore provides an extreme—but perhaps pragmatic—alternative that might satisfy the social desire for revenge and address the equally disconcerting state of penal affairs in the US. His role as penological provocateur is to ignite "more radical debate" (6), flogging or no, and in some regard he was successful; he was

invited to talk about his book and the flogging alternative on a National Public Radio interview on July 10<sup>th</sup>, 2011. The jury is still out regarding our adaptation of the cane, however.

The publication of *In Defense of Flogging* occurred in the third year of my engagement with this prison writing project and it made me pause. I was implicated in his imagined audience as someone with absolutely no desire to return to the days of flogging or corporal punishment, though I, too, have little to offer in the way of substantive, working alternatives to the current system. I have plenty of *critiques* of the current system, as do many others, though I do not have much more than a few well-rehearsed but nevertheless retread desires for broader community services; sentencing reforms; more education, prevention and drug rehabilitation programs; alternative, community-based policing and restorative justice options. These are still worthwhile goals—lofty, perhaps, but certainly actionable at the grassroots, local, and even state levels—but I have never felt like I could adequately respond to the important common refrain repeated by students and others over the years when we have discussed prison abolitionism: “What about the child rapists and murderers and violent criminals? Where would we put them?”<sup>2</sup> On my first reading of it, Moskos’s book functioned like a perfectly timed broad-side salvo: it felt like he managed to effectively reduce a number of my own positions to splinters.

But more importantly, this book’s purported attempt to engage in “radical” forms of debate—as well as the position it left me in—forced me to think about the evolving question of penology over the last two or three hundred years. How radical is it to posit that a return to flogging, even with key interventions and modifications, would solve many of our current

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<sup>2</sup> As Foucault cogently states it, while abolition is a worthwhile project, it is nevertheless undermined by these very “problem situations” because of the way that the public deploys them: “Won’t the notion of ‘problem situations’ lead to a psychologizing of both the question and the reaction? Doesn’t such a practice run the risk [. . .], of bringing about a kind of dissociation between, on the one hand, the social collective, institutional reactions to the crime, which will be regarded as an accident and will need to be dealt with in the same way, and, on the other, a hyperpsychologization around the criminal himself that will constitute him as an object of psychiatric or medical interventions, with therapeutic aims?” (“Punishing?” 390).

problems? Almost every single “advancement” or “reformation” regarding crime and punishments—every attempt at humanizing the process, of regularizing it, of making it better, or more economical, or more efficient—suffers from a severe lack of imagination. This is especially true when we compare it to the all-too-human energy and creativity we have employed to devise new ways to torture, maim, dismember, and kill the human organism, and when we remember that in many regards, some of the most important 20<sup>th</sup> century advances in science (from radiation research to rocket science) relied on imprisoned bodies, especially of prisoners-of-war. If incarceration was the most humane form of punishment advanced and ultimately adopted to specifically *eliminate* the flog, the knout, the dunking chair, and the scaffold at the town square, just how “radical” is it to propose that we blow the dust of those tools and start using them again? This juncture in our history represents a profound inability to think beyond a handful of penological paradigms that have been adopted and subsequently fiddled with for the last three hundred years, to little or no avail. Edgardo Rotman’s pithy appraisal of penal reform from 1867 to 1967 (the years during which two important reform proposals were drafted) denotes the unending oscillation that has occurred, and continues to occur, regarding U.S. prisons: “Indeed, over the hundred years that elapsed between these two reports, other would-be reform groups proposed their own initiatives, sharing a despair about ongoing problems, a lofty idealism, and a dogged optimism that prisons could be improved. The cycle seems never ending: exposés, reports, proposals, then more exposés” (149). This cycle is precisely what Foucault refers to as “criminological chatter”: “In a situation where an institution presenting so many disadvantages and provoking so much criticism gives rise only to an endless repetition of the same discourses, ‘chatter’ is a serious symptom” (“‘Punishing?’” 384). Rotman might as well be describing our own moment, plagued as it is by unending chatter: the international controversies

circling Abu Ghraib and Guantánamo Bay are the most recent examples in this endless cycle, novel only in the fact that they occurred elsewhere in the world. But even those incidents can be traced back, along direct routes, to American practices and ideas as distant as the philosophical underpinnings of the penitentiary itself, as I will demonstrate later in this project.

## **1.2 PRISON WRITERS AS *HOMO FABER*? PRISON WRITING AS INTELLECTUAL LABOR**

The oscillating role of labor and idleness in prison—from industrial productive labor to intentionally unproductive make-work schemes in the 19<sup>th</sup> century prison—is an exceptionally old one, one that is still in constant negotiation in US prisons. Perhaps the only differences between historical practices and those of today are the relative scale of the contemporary phenomena compared to the past, and the much closer and denser interpenetration of economic and penal practices today than in previous eras, though both are, admittedly, significant differences. Indeed, I argue that the most important criticism of Moskos’s flogging alternative is that it does very little to address directly the current entangled nexus of the economic and the penal that is now called the prison-industrial complex. Moskos only weakly offers up that “flogging might be the best chance to break” with it (82), but in no way does he suggest how this might be the case. If “the way in which punishment is meted out has always been one of the most fundamental traits of every society,” and if it is true that “no important mutation is produced in a society without an alteration taking place” in the “domain” of penalty and punishment (Foucault, “Proper Use” 434), the key issue regarding any and all attempts to fundamentally change the

penal crisis in this country today is precisely in finding ways to disentangle, permanently, the economic sphere from the penal.

To help with the extrication process, I propose to do a number of things in this project. The first is to historically situate trends within 20<sup>th</sup> century US prison labor, drawing on Foucauldian analysis as well as various Marxist and post-Marxist thinkers to do so. Though I undertake this historicization in each individual chapter, I have largely relegated this context to two different interchapters. The first situates the historical trends from the first penal labor experiments prior to the establishment of the modern penitentiary through to labor in prisons until the 1970s, while the second takes up the impact of the Prisoners' Rights movement and recent changes in labor conditions inside and outside of prison during the rise of the prison-industrial context, from the late 1960s to the present. This penal/labor history serves as the historical backdrop for my examination of four different iterations of what I argue is *productive intellectual labor* that were undertaken in US prisons from (roughly) the 1920s through to the first decade of the 21<sup>st</sup> century. What follows in the rest of this introduction is my attempt to chart out the reasons for choosing prison labor—and more specifically, (non-literary) *prison writing*—as a subject. Additionally, I define what I mean by the phrase “productive intellectual labor” by providing a short intellectual history and contextualization of each term in the following order: “labor” (in its opposition to “work”) “productive,” and “intellectual.”

There are many reasons that prisons require labor from their inmates. Legal scholar Gordon Hawkins usefully enumerates a representative list of contemporary prison labor uses, including labor

as a means of restitution for victims; as a means of achieving the economic self-sufficiency of prisons; as a means of both of afflicting the offender and of achieving his moral reformation; as a disciplinary device or even an incapacitating one; as a mitigating factor contributing to physical and

psychological well-being; and as part of a training program designed to facilitate reintegration on release. Only rarely and in isolated cases has one purpose been dominant to the exclusion of all others. (115)

One important use of prison labor that I want to consider—which is indeed key to the argument in my project—is Hawkins’s penultimate rationale for prison labor, namely, labor as a mitigating factor contributing to a prisoner’s well-being. The coercive nature of most prison labor programs makes this a particularly difficult issue to take seriously. Many institutions and regimes punish those who refuse to work in ways that their administrations deem worthy or necessary, such as industrial labor in prison factories or in the maintenance and upkeep of the institution itself (food service in prison kitchens, or work in its laundry, or library, among many others). Thus there are strong incentives for prisoners *to* work, as well as incentives for those who elect *not* to work. Working means not running afoul of the administrative, not risking the loss of “good time,” of avoiding forms of punishment like the suspension of visits, the loss of recreational material, or time in administrative segregation. Conversely, not working becomes a form of active resistance, “a legitimate exercise of their autonomy” in the face of what often appears to be a stultifying non-choice (Lippke 547). But as legal scholar Richard Lippke contends, in spite of prison labor’s coercive, oppressive, or exploitative dynamics, some prisoners do welcome the opportunity to work. It prevents boredom and alleviates the tedium of dead time and long sentences. It sometimes allows more increased human interaction and sensory and bodily stimulations. This is an understated reason but one that takes on increased significance when we consider that the supermax prison and the segregated housing unit (SHU) models of incarceration often lock down inmates for as many as 23 ½ hours a day, and their interactions with other people (usually staff and administration) are often technologically mediated through intercoms in order to further

minimize face-time and human contact.<sup>3</sup> Work allows prisoners to save up for commissary goods or to make limited purchases from outside the institution, or to make money for their families outside the institution, or to save up some money to be used upon release. In others cases, prison work actually does help prisoners develop work skills to be used when they are emancipated (Lippke 544). Although he takes up the reasons that prisons used labor as a disciplining and docilizing mechanism in *Discipline and Punish*, we might consider the fact that even Foucault seems to miss sight of (or not take seriously) the fact that some prisoners elect to work or desire to be productive in ways that are not simply manifestations of a false (and completely disciplined) consciousness or that are employed only in the service of a coercive rehabilitative model, capitalist enterprise, or state ideology.

In particular, one form of labor often overlooked is the intellectual labor that prisoners voluntarily assume for themselves, sometimes in addition to, or in rejection of, the “real” work they are forced to undertake as a condition of their incarceration. This is, in part, because intellectual activity is often assumed as part of the “underlife” of an institution. According to Erving Goffman, an underlife is the collection of “secondary adjustments” and practices that members of an institution employ to carve out spaces of oppositional subjectivities against their institutional affiliation (199). As he puts it, every organization requires not only a discipline of activity but also a “discipline of being—an obligation to be of a given character and to dwell in a given world” (188), so the underlife is that set of informal, unofficial, *sub rosa*, and even illegal activities engaged in so that individuals might undermine their institutionally defined identities.

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<sup>3</sup> Studies examining extreme solitary isolation have demonstrated that even short-term isolation (usually defined as less than ten days) routinely causes panic attacks and hallucinations. Craig Haney, a psychology professor at UC Santa Cruz who was allowed to study isolated prisoners at Pelican Bay State Prison, a supermax institution near Crescent City, California, observed that under long-term isolation prisoners “begin to lose their ability to initiate behavior of any kind—to organize their own lives around activity and purpose” (qtd. in Gawande 40). He continues, “Chronic apathy, lethargy, depression, and despair often result. [. . .] In extreme cases, prisoners may literally stop behaving” and enter into near-catatonic states (40).

He compares it to a city's underworld or tenderloin district, where illegalities are at once safely contained—quarantined to a specific area so as not to contaminate the rest of the city—but also tolerated and allowed to exist under specific, though often informal and even traditional, social provisions (Goffman 199). In prison, reading, writing, and the life of the mind itself may often exist as part of the underlife—especially when they take place in the interstices of approved practices, like prison labor, or are used to challenge, avoid, or defy institutionally sanctioned activities. This could be something as simple and innocuous as a prisoner reading or writing after the lights-out call, stealing a few extra hours of waking life and the institution's electricity to improve one's self, something Malcolm X recounts doing in his *Autobiography* as a way of extending his education. Another way is the acquisition, consumption, and further circulation of censored materials, from pornography to banned books. Teaching illiterate prisoners to read may be third. The legal work of jailhouse lawyers was completely banned as underlife until a landmark Supreme Court case, *Johnson v. Avery* (1969) ruled that convicts could find legal recourse among each other if the institution itself did nothing to provide that access first. Underlife practices may even be tied to the way books are used beyond reading. This may include the proverbial pulp-fiction plot device of a convict using his Bible as a hiding place for all that is illegal (money, porn, weapons, escape tools), but these practices are manifested in other ways as well, such as those that Goffman outline: “prisoners often order books not for self-edification but to impress the parole board, give trouble to the [prison] librarian, or merely receive a parcel” (189). Megan Sweeney reminds us that books sometimes serve important social and personal functions regardless of whether or not they are actually read: she recounts an illuminating anecdote of one functionally illiterate woman prisoner who would nevertheless check out a book a day from the prison library simply because having it with her allowed her to

maintain a kind of social life (with the librarian and other readers), “a sense of purpose” (because her daily regime involved returning one book and checking out another), and “a means to share in others’ enthusiasm about reading” (81-82). In essence, there are a number of ways that prisoners circumvent the institutional mandates of stultification through literacy and literary habits, even when reading and writing are not the primary intellectual activities involving the written word or the published book.

A slightly different way to frame the importance of this intellectual work for prisoners, one implicit in Goffman’s notion, is to demonstrate how it is largely autonomous and self-selected. This autonomy—insofar as it is autonomous—is key, because in the context of coercive prison labor regimes, the ability to control one’s labor is bound up entirely in carceral, punitive, rehabilitative, and economic decisions that sometimes overlap, and sometimes conflict.<sup>4</sup> Lippke makes a compelling argument that the purely retributive penal philosophy of forfeiture, akin in some ways to the concept of civil death, is hardly compatible with our ideas about prison labor: at least in our society, a criminal never entirely forfeits every human and civil right accorded to him when he is found guilty of committing a crime and violating the social contract. He or she (ideally, anyway) cannot be raped by prison guards, or be refused medical treatment, or starved, or tortured, or killed, even though these things do happen with some alarming regularity. Prisoners lose some rights, but not all; they are (ideally, legislatively, and juridically) never reduced to the state of the *homo sacer*, who lives a “bare life” entirely outside of the law.<sup>5</sup> Thus,

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<sup>4</sup> Of course, we should also be wary of the ways that even “self-selected” work amongst prisoners is often approved or sanctioned by the institution: does this work have secondary or tertiary benefits for the institution, such as rendering vocal or stubborn prisoners more docile? Thus we should always be careful to consider the motives for promoting some intellectual labor or pursuits and denying others.

<sup>5</sup> Giorgio Agamben, of course, is the philosopher responsible for fundamentally retheorizing the figure of *homo sacer*, or the sacred man, a figure from early Roman law who could be killed without penalty but could not be sacrificed as part of religious ceremony. His state of existence was “bare”: minimal, animalistic, thought to exist outside politics entirely. A similar figure in Anglo-Saxon and pagan Frankish and German law was likened to a

while the state may gain some or even most control over a particular inmate, the prisoner never loses every right; the state gains some measure of control over the laboring capacity of a worker-prisoner, but he never should become a true slave of the state, the 13<sup>th</sup> Amendment notwithstanding (Lippke 537-540).<sup>6</sup>

The control of one's labor is, according to the United Nations, a protected human right. Article 23 of the UN's Universal Declaration of Human Rights begins, "Everyone has the right to work." The philosophy that informs this declaration is, in part, that individuals have the right to control their labor, which entails the "control over time, energy, attention, and effort" as all "vital to one's being able to live a life on one's own terms" (Lippke 536). In other words, this means that a person in control of his or her labor should "be free to determine when to employ it, with whom, under what conditions, and in exchange for what benefits. It also requires that individuals be allowed to determine, at least for the most part, what shall be done with the proceeds from their paid labor" (536). The intellectual labor that prisoners assume is, more likely than not, going to be the one kind of labor that they freely elect to do, giving them more or less complete autonomy over it, especially compared to the coercive or mandatory work required by the institution. It is work that has a different set of values associated with it, a work that sometimes has more personal, and sometimes social, economic, intellectual, and even existential and epistemological value to it, precisely because of the issues of agency that inform it.

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were wolf, living on the very margins of humanity (Agamben 104-111). Agamben would probably take issue with my statement above about bare life. His thesis, if I understand it correctly, is that instead of *homo sacer* existing at the very margins of politics, or outside of it entirely, a notion of "bare life" forms the very core of our political and juridical philosophy, even though we no longer obey the dictates of a sovereign, whose power rested on his ability to take or give life (6-11).

<sup>6</sup> As has been noted by many prisoner advocates and commentators, legalized slavery still exists in the United States. It is encoded in the 13<sup>th</sup> Amendment, the amendment ostensibly outlawing slavery, in an important dependent clause: "Neither slavery nor involuntary servitude, except as a punishment for crime whereof the party shall have been duly convicted, shall exist within the United States, or any place subject to their jurisdiction." Thus prisoners today can be considered legal slaves of the state.

This is perhaps an important moment to consider the distinctions between “labor,” “work,” and “action” articulated most fully and thoroughly by Hannah Arendt in *The Human Condition*, because one of the central arguments of my project is that the largely autonomous intellectual *work* assumed by the writers under examination here often operates in opposition to the *labor* demanded by their respective penal institutions—though this is only a rough, schematic comparison that requires both elaboration and qualification. Even though I have used the terms interchangeably (and will continue to do so throughout this project), “labor” and “work” are not synonymous and historically have referred to different levels of human activities or endeavors. In *Keywords*, Raymond Williams describes the tension between “work” and “labor,” observing that labor has maintained a residual meaning from its “medieval sense of pain and toil,” whereas work quickly became associated with remunerated labor during the rise of capitalism (335). In dwelling on the meaning of both terms historically and for contemporary society, Arendt traces the distinctions back even further. In brief, Arendt writes that “labor is the activity which corresponds to the biological process of the human body, whose spontaneous growth, metabolism, and eventual decay are bound to the vital necessities produced and fed into the life process by labor,” whereas “work is the activity which corresponds to the unnaturalness of human existence, which is not imbedded in, and whose mortality is not compensated by, the species’ ever-recurring life cycle” (Arendt 7). She elaborates this position, claiming that “labor assures not only individual survival, but the life of the species. Work and its product, the human artifact, bestow a measure of permanence and durability upon the futility of mortal life and the fleeting character of human time” (8). She further differentiates between archetypes or philosophical models of human activity, the *animal laborans* and *homo faber*. The former, corresponding roughly with the processes of labor, works only for the reproduction of his body,

with and through his body, and is usually conceived of as “the highest [. . .] of the animal species which populate the earth” (84). The latter is one “who makes and literally ‘works upon’” the world with his hands (136), contributing to the lasting “artifice” of human activities (in contrast to the organic, natural world in which he constantly intervenes).<sup>7</sup> Arendt traces the various distinctions back to the ancient Greeks, whose widespread use of slavery was not for economic exploitation or profit but was instead intended “to exclude labor from the conditions of man’s life” (84). For the Greeks, both work and labor “meant to be enslaved by necessity,” or living an existence deemed too close to that of “a tame animal” (84).

Because he does not contribute anything durable or lasting to the artifice of the world around him, the laborer or *animal laborans* is marked by his unending consumption, since “living [. . .] constantly consumes” the results of that labor (122). She locates a destructive impulse at the heart of consumption, in direct contrast the constructive and creative capacities inherent in work (138). The contemporary consumer society Arendt critiques has thoroughly erased the distinction between labor and work, evident in the immense proliferation of mass-produced goods intended only to be consumed (and thus destroyed): “the endlessness of the laboring process is guaranteed by the ever-recurrent needs of consumption. [. . .] the rate of use is so tremendously accelerated that the objective difference between use and consumption, between the relative durability of use objects and the swift coming and going of consumer goods,

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<sup>7</sup> One of Arendt’s interventions is to contrast the *animal laborans* with *homo faber*. Since Aristotle’s initial distinction, the *animal laborans* has historically been contrasted to the *animal rationale*. She argues that the Latin translation of Aristotle’s “second famous definition of man as a *zoon logon ekhon* (‘a living being capable of speech’)” into the term *animal rationale* is a corruption: “Aristotle mean neither to define man in general nor to indicate man’s highest capacity, which to him was not *logos*, that is, not speech or reason, but *nous*, the capacity of contemplation” (27).

dwindles to insignificance” (125).<sup>8</sup> Both labor and work exist in the sphere of the *vita activa*, what Aristotle defined as the “unquiet” totality of human activities (qtd. in Arendt 15), and both of which are “devoted to keeping one’s self alive” (12).

Arendt contrasts the *vita activa* to the elevated sphere of activity known as the *vita contemplativa*, the contemplative life, made up of speech and action. It is only in through these activities where the individual emerges—“with word and deed we insert ourselves into the human world” (176)—precisely because these activities are voluntary:

This insertion is not forced upon us by necessity, like labor, and it is not prompted by utility, like work. It may be stimulated by the presence of others whose company we may wish to join, but it is never conditioned by them; its impulse springs from the beginning which came into the world when we were born and to which we respond by beginning something new on our own initiative. (177)

Importantly, at the core of the speech act and in his or her action, the speaker and actor take on the question of identity: “Action and speech are so closely related because they primordial and specifically human act must at the same time contain the answer to the question [. . .]: ‘Who are you?’” (178). Thus, the confluence of speech and action are revelatory:

in acting and speaking, men show who they are, reveal actively their unique personal identities and thus make their appearance in the human world, while their physical identities appear without any activity of their own in the unique shape of the body and sound of the voice. This disclosure of “who” in contradistinction to “what” somebody is—his qualities, gifts, talents, and shortcomings, which he may display or hide—is implicit in everything somebody says and does. (179)

Finally, the significance of speaking and acting only fully emerge as social acts: “this revelatory quality of speech and action comes to the fore where people are *with* others and neither for nor against them—that is, in sheer human togetherness” (180).

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<sup>8</sup> In this capacity, we might think generatively of the similarities and continuities between Arendt’s comments on contemporary consumer culture and Walter Benjamin’s examination of aesthetics and mechanical fabrication—with the attendant elimination of a work’s “aura”—in the latter’s “Art in the Age of Mechanical Reproduction” (1936).

Arendt's comments on "action" are much more opaque than her observations on labor and work, and the relationship between these philosophical concepts and the works I examine in this project are probably even more obscure. Here I will attempt to make plain and intelligible those relationships. I find that Arendt's triangulated distinctions between labor, work, and speech and action are useful in schematizing the activities—either voluntarily or through administrative, institutional, or legal coercion—undertaken in prisons today, though, to be sure, these distinctions overlap or bleed into one another in ways that might be confusing. We might call "labor" all those activities that prisoners are forced to assume when institutions or states require productivity from their prisoners, labor that may ostensibly results in "wages" that are nevertheless used to offset the cost of one's incarceration (his or her "room and board," so to speak). This could be, in the case of prison plantations like Parchman Farm in Mississippi or Angola in Louisiana, as basic and fundamental a kind of activity as the agricultural labor that often results in food eventually consumed by prisoners of the institution itself. Or it could be manifested in the invisible "service" labor required for the institutional upkeep, such as painting the walls, cleaning the halls, preparing and serving food in the mess hall. We might broadly consider "work" to be all those forms of industrial, "productive" labor resulting in the manufacture of goods to be used inside or outside the prison walls, from license plates and other state-use products to "Prison Blues" (the blue jean line) and the variety of products for private consumption made by prisoners today. These, in some manner or other, add to the world of human artifice, even if they are mass-produced and are intended only to be "consumed" and destroyed, in keeping with her observations on contemporary consumer culture.

This leaves us, then, with the prison-based analogue of speech and action. I consider the intellectual labor and its published products under examination in this project to function in ways

that correspond to Arendt's comments on speech and action. When prison writers address themselves to the world, they enter into a dialogue with it, and they reveal things about themselves beyond the physical capacities of their laboring bodies or the abilities of their craftsman's hands. In most cases, this work has survived the eventual decay and death of the individual body and mind that helped to bring it to the world. This happens most clearly in the form of prison writing eventually deemed to be "literature," but it also happens, as I demonstrate, in the other kinds of purposefully non-literary genres of prison writing that have been generated by prisoners across the 20<sup>th</sup> century. How a prison-scientist like Robert Stroud engages with the subjects of his research is as much about revealing who he is (or how he sees himself) as it is about defining what he is (a scientist) or what he is not (a pathological, irredeemable murderer). The same can be said about the first notable jailhouse lawyer, Caryl Chessman: his contests against the state of California are not only legalistic but they are also personal. From his vantage point, his entire legal career was an attempt to assert his own autonomy and his own notion of labor-value, and to redefine who he was against the juridical and legal narratives produced about him by the state and its prosecutors, above and beyond the very real attempts to escape its death sentence. The same dynamic occurs in the pedagogical apparatuses of a black revolutionary, George Jackson, and in the testimonial writings of prison writers at the beginning of the 21<sup>st</sup> century. All these writers are hailed or interpolated by the state and its juridical and penal institutions (to use Louis Althusser's terminology), and they thus exist as its subjects; but in writing back, each attempts to produce a counter-discourse, a counter-narrative that resists the state's interpolation by implicitly or explicitly answering Arendt's fundamental question, "Who are you?"

### 1.3 WHY PRODUCTIVITY? AND THE CONTOURS OF INTELLECTUAL LABOR

As stated earlier, the main theoretical approach I take to examine this prison writing is to frame it all as various kinds of “productive intellectual labor.” I do so hesitantly, not only because it is a rather clumsy and inelegant phrase, but also because productivity and intellectual labor in particular exist as vexed, controversial terms, even within purely Marxian and Marxist frameworks. Moreover, there is also a way that calling attention to this work as productive might be misconstrued as an implicit vote for maintaining the status quo, for preserving the penal institution as is, or by “reforming” them in such a way as to allow for more access to intellectual pursuits or opportunities for intellectual labor, though this is in no way my intention. What follows is a very rudimentary and rough sketch of what these terms—productive intellectual labor—have meant historically and how I intend to use them in this project.

#### 1.3.1 Productivity

Productivity is a key axis within Marx’s political economy, and its definition and contours have been unending sources of controversy for those following in his wake. This is due partly because the idea itself remains incomplete in his oeuvre, and its various appearances often seem contradictory as well. The fullest treatment of productivity exists in *Capital* (Vol. 1) and in his *Theories of Surplus Value* (Vol. 1), though for expediency’s sake I am relying on a useful paraphrase and commentary of these works provided by Isaak Illich Rubin.<sup>9</sup> For Marx,

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<sup>9</sup> Rubin himself is largely lost to us today. He was born in Russia in 1886, participated in revolutionary activities in 1905, and served as a professor of Marxist economics following the October Revolution. In 1930, as part of Stalin’s consolidation of power, Rubin was accused of being a Menshevik, arrested, imprisoned, forced to confess during a show trial, exiled, and then probably executed.

productive labor is “every labor which a capitalist buys with his variable capital in order to draw from it a surplus value [. . .], independently of whether or not this labor is objectified in material objects, and whether or not this labor is objectively necessary or useful for the process of social production” (I. Rubin 260). In order to demonstrate what he means by productive labor, Marx famously provides a series of examples: a clown “is a productive labourer if he works in the service of a capitalist (an entrepreneur) to whom he returns more labour than he receives from him in the form of wages; while a jobbing tailor who comes to the capitalist’s house and patches his trousers for him, producing a mere use-value for him, is an unproductive labourer” (*Theories* 157). In another example, he differentiates between the productive labor of a workman employed by a piano maker whose products are sold as part of capitalist enterprise and the unproductive labor of the same worker who puts together a piano for someone who has purchased all the materials necessary to construct the piano in his own home. He also compares Milton—who was an unproductive laborer in spite of selling *Paradise Lost* for five pounds—to any productive hack writer who is paid to produce words as part of a capitalist practice (401).<sup>10</sup> What is common to all of these examples is the location of the wealth-generating capacities of the labor itself: though money is exchanged to both workmen building the piano, and in spite of the fact that both labors actually construct a material good, one is deemed productive because it is completely imbricated in the capitalist mode of production. Milton may have produced *Paradise Lost* and ultimately made money on it, but it was composed outside of the capitalist enterprise, thus it is not productive. It is essential, then, to understand that in Marx’s terminology, “productivity” is

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<sup>10</sup> Rubin usefully reinterprets these seemingly paradoxical examples by linking them to the cycle of capital itself. In Marx’s schema, labor is only productive insofar as it is in the service of producing productive capital. “Productive capital” refers to the intervening period of a cycle in which capital moves between three phases: money capital, productive capital, and commodity capital. The first and third phases are only in regards to circulation of capital and goods, whereas productive capital is that capital which “directly organizes the process of the creation of consumer goods in the wider sense” (Rubin 268). Thus, “the labor of a salesman is not productive, not because it does not produce changes in material goods, but only because it is hired by capital in the phase of circulation” (269).

largely, though not exclusively, a description, demarcated by a specific set of parameters, rather than a value-judgment.

Nevertheless, there is at the heart of Marxist thought itself an unadulterated, Victorian productivist logic that assumes productivity is, indeed, a value to be lauded. In this capacity, Marx was no different than any of the industrialists, capitalists, or utilitarian philosophers that he critiqued throughout his work. This productivism was there from the earliest stages of his thought, when the younger, Hegelian Marx defines man's species-being as our conscious desire to be productive, which we see in his 1844 notes on "Estranged Labor": "It is just in the working-up of the objective world, therefore, that man first really proves himself to be a *species being*. This production is his active species life" (Marx, "Estranged" 76).<sup>11</sup> Arendt observes that Marx (like Adam Smith before him) despised unproductive labor because he viewed it as "parasitical, actually a perversion of labor," since it left nothing behind in the world (86). Marx's emphasis on productivity was so central to his thought that his own son-in-law, the French thinker Paul Lafargue, implicitly critiques it in his essay "The Right to Be Lazy," composed in 1883 while Lafargue was imprisoned in Sainte-Pélagie Prison in Paris. Satirically assuming the guise of a lazy aristocrat justifying his own sloth and indolence, Lafargue nevertheless lodges a trenchant critique against that which, just a few decades later, Max Weber would eventually name as the Protestant work ethic. When Lafargue writes that proletariat has betrayed "its instincts" and undermined its revolutionary and "historic mission" by letting "itself be perverted

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<sup>11</sup> Just prior to this famous statement, Marx compares man's rational productivity with examples from other creatures, who are also productive, but lack a conscious awareness of it. He writes, "Admittedly, animals also produce. The build themselves nests, dwellings, like the bees, beavers, ants, etc. But an animal only produces what it immediately needs for itself or its young. It produces one-sidedly, whilst man produces universally. It produces only under the dominion of immediate physical need, whilst man produces even when he is free from physical need and only truly produces in freedom therefrom. An animal produces only itself, whilst man reproduces the whole of nature. An animal's product belongs immediately to its physical body, whilst man freely confronts his product" ("Estranged" 75-76).

by the dogma of work,” he is writing only partly tongue-in-cheek (25). When he criticizes the achievement of the twelve-hour day by the French revolutionaries of 1848—“They proclaim as a revolutionary principle the Right to Work. Shame to the French proletariat! Only slaves would have been capable of such baseness” (28)—we would do well to consider both the outward movement of this critique, addressed to politicians as well as the working class itself, but the inward critique, as it implicitly points to the paradoxical Marxist exultation of productivity that also exists at the very heart of capitalism. The communist revolution would free up human productivity, breaking it out of the matrix of alienating capitalist processes, but Marx could not envision a future communist society that would not also be an inherently productive one. This profound disjuncture has led a host of recent critics and scholars to take up the thus incomplete Marxist critique of labor itself by examining the logic of productivity that underscores it.<sup>12</sup>

In light of these recent criticisms regarding productivity and the work ethic in mind, my use of the term “productive” may seem utilitarian, mundane, or even conservative. First of all, my use of “productive” is, in fact, mostly a value-judgment—my own, certainly, but it is an judgment that directly responds to the overwhelming sensibilities and beliefs currently in circulation regarding prison labor. That is to say, what I deem productive is in response to the institutional and common-sensical demand that prisoners “pay back their debts to society,” efforts that are usually demonstrated by coercive, industrial labor that results in products and profits or in the compulsory labor that extends the economic life and/or functionality of the institution itself. Any other activity—but most importantly the kinds of work that are the products of the life of the mind, such as literacy work, educational opportunities, the composition

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<sup>12</sup> See, among other, Jean Baudrillard’s *The Mirror of Production* (1975) and the work of various Italian Autonomist Marxist theorists like Paulo Virno, Franco Bifo Berardi, and Antonio Negri. Anthony Giddens (*Beyond Left and Right*, 1994) and the feminist US scholar Kathi Weeks (*The Problem With Work: Feminism, Marxism, Antiwork Politics, and Postwork Imaginaries*, 2011) have also taken up this issue.

of all kinds of documents, literary or otherwise—falls outside of this circumscribed rubric of penal productivity. In drawing attention to the often rigorous intellectual labor that went in to producing this other kind of “productive work,” I want to at least honor it so that is less easily dismissed or dismissable by policy makers and conservative sectors of the public at large, who are still clamoring for a more punitive system of penal governance and for allowing the private sector to have more access to the labor and lives of those currently incarcerated. In essence, I want to call intellectual pursuits like writing and learning “productive,” even if they do not directly result in remuneration or in profits, because these activities nevertheless generate specific kinds of educational, personal, affective, and social value for the people who undertake them.

I certainly do not lose sight of the fact that my specific constellation of prison writing in this project is composed entirely of *published* products of this labor—I do not consider work that is unpublished and thus circulates outside of certain profit-driven enterprises like mainstream publishing. (I feel this is, at best, work to be taken up later, either by myself or by other individuals invested in this question.) Because some of these works were deliberately published to generate income, it is certainly important to consider how they actually contributed to the economic lives of their writers. The writers of the first two chapters, as we shall see, were thorough-going entrepreneurs in their own right, during a day and age that would have otherwise lauded their productive capacities and work ethic had they not also been convicts. The publication of the two anthologies examined in the final chapter generated state investigations into the way the women were actually remunerated for their work, too. All of these issues will be examined more fully in their own right. But for now I raise them because it could be said that in some ways my argument rests upon a materialistic understanding of the term “productive,” given

that I actually read and critique the tangible *products* of that labor. To insist upon a material basis of “productivity” now might very well seem anachronistic in light of changing modes of production and in current labor relations, given that we live in an era where cognitive, immaterial, or abstract labor is one of the important modes of capitalist production in the developed world. This then leads me to an elaboration of my final term, “intellectual labor.”

### **1.3.2 Intellectual Labor**

The term “intellectual labor” now carries connotations and valences that did not really exist until the late 1970s. The rapid decline of traditional Fordist industrial labor, to be replaced with high tech jobs on one end of the pay scale and with precarious forms of low-wage, insecure service labor on the other;<sup>13</sup> the successive waves of governmental deregulation that allowed for the rapid expansion of neoliberal practices; the increase in globalization and the emergence of new forms of digital technology like cell phones and the internet that sped up the velocity of global capital and deterritorialized labor itself labor all gave rise to a new group of labor practices now variously referred to as “the New Economy,” “immaterial labor,” “cognitive labor,” “Semiocapitalism,” and “affective labor.” The term “intellectual labor” now refers to particular modes of production that employ “the mind, language[,] and creativity” as the “primary tools for the production of value” (Berardi 21). “Cognitive labor” is made up of that which “belongs more essentially to human beings: productive activity is not undertaken in view of the physical transformation of matter, but communication, the creation of mental states, of feelings, and

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<sup>13</sup> British economist Guy Standing has popularized the use of the neologism “precariat” to account for this novel body of workers. Standing argues that the precariat is actually a newly emerging social class, and thus a new social formation that must be reckoned with, though its status as a “class” is not without controversy. See his *The Precariat: The New Dangerous Class* (2011) for a fuller articulation of this term.

imagination” (84). An important function of current immaterial labor trends is its “aesthetic” function, manifested in “defining and fixing cultural and artistic standards, fashions, tastes, consumer norms, and, more strategically, public opinion” (Lazzarato 132). While all of these things mattered in one way or another for labor in previous eras, they were often viewed as separate from the actual process of production: the activities of the mind were not considered “productive,” because only manual labor, the labor of the hands rather than the head, was thought capable of producing anything. Because of this prevailing sentiment, the intellectual activities associated with labor were, until recently, viewed solely as unproductive “executive and political functions” that governed and organized “consent,” among other responsibilities (95).

With the exception of the final chapter, which regards more contemporary texts published well after the establishment, implementation, and retheorization of cognitive labor processes, these current definitions of “intellectual labor” do not really apply to the prison writing I examine and explicate in this project. As a result we need to briefly attend to earlier articulations of intellectual labor in order to historically and materially situate the written work of those prison writers considered in the first three chapters. As has been noted by many commentators, including Arendt, Marx did not thoroughly treat the issue of intellectual labor in his work, as he saw no real difference between intellectual and manual labor.<sup>14</sup> Like other political economists of his day, he viewed intellectual labor as contingent upon a set of manual or embodied practices

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<sup>14</sup> The only important treatment of intellectuality and what might be called “intellectual labor” occurs in the *Grundrisse*, wherein Marx briefly meditates on the impact of new technologies and machines on the evolution of the production process. Increased mechanization has, for Marx, rendered the human element somewhat redundant, so that man is more of a superintendent or overseer than an actual producer. This then frees him up to (collectively) mobilize the “general intellect,” which is based on man’s “general productive power, his understanding of nature and his mastery over it by virtue of his presence as a social body” (706). Timed freed by better technologies thus makes it possible that many individuals will seek to develop their “artistic” or “scientific” capacities (706).

that would translate intangible thoughts into material goods or products.<sup>15</sup> In fact, the supposed divisions between “skilled” and “unskilled” labor is a post-Marxian conceit derived by two separate but concurrent changes in labor: the importation of Taylorist scientific management practices governing articulations of physical labor (in contradiction to managerial—intellectual—labor) and the disputes between craft/trade labor unions (the skilled) and their non-unionized counterparts (the so-called “unskilled”) that arose in the latter half of the 19<sup>th</sup> century and that have continued unabated in one form or another since then.

Later Marxist commentators, Antonio Gramsci foremost among them, would take up more fully the intellectual and (to a lesser degree) the labor that he produces. In his *Prison Notebooks*, Gramsci famously distinguishes between the traditional and the organic intellectual. Traditional intellectuals comprise that caste of unproductive, often conservative individuals that have managed to survive untold social and economic upheavals throughout history. His major example is that of the ecclesiastics, “who for a long time monopolized a number of important services (religious ideology, schools and education, and ‘theory’ in general with regard to science, philosophy, morals, justice, etc.)” and thereby helped to maintain a largely uninterrupted “continuity” with past social formations even while feudal society slowly gave way to the rise of capitalism and the bourgeoisie (2: 199). In contrast, the organic intellectual is part of a much broader “social mass that exercises an organizational function in the broad sense, whether it be in the field of production, or culture, or political administration” (1: 133). They are tasked, in general, “with the function of organizing the social hegemony of a group and that group’s

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<sup>15</sup> Arendt paraphrases Marx’s notion of intellectual labor thus: “Whenever the intellectual worker wishes to manifest his thoughts, he must use his hands and acquire manual skills just like any other worker. [. . .] the thinker who wants the world to know the ‘content’ of his thoughts must first stop thinking and remember his thoughts. Remembrance in this, as in all other cases, prepares the intangible and the futile for their eventual materialization [. . .]. The work itself then always requires some material upon which it will be performed and which through fabrication, the activity of *homo faber*, will be transformed into a worldly object. The specific work quality of intellectual work is no less due to the ‘work of our hands’ than any other kind of work” (90-91).

domination of the state” as well as developing and maintaining “the apparatus of coercion for those groups who do not ‘consent’” (2: 200-201). Their functions depend on their relationship relative to the state—residing from the highest rungs, the “‘creators’ of the various sciences, philosophy, poetry, etc,” to those middling bureaucrats that serve largely “manual and instrumental” hegemonic roles (201)—as well as their location. Urban organic intellectuals are more closely tied to industry and technology, whereas those in rural spaces are the ones who facilitate the peasantry’s relationship with the state. Moreover, there may even be *subaltern* organic intellectuals: intellectuals who assume leadership positions within politically marginal or oppressed groups (like the peasantry, or, for my project, among criminals and/or prisoners) in order to challenge the dominant group’s hegemonic control over the state. (In the transition from a feudal society to a mercantilist one, it was the subaltern bourgeoisie intellectuals who helped facilitate this tradition by developing a humanist and liberal philosophy about freedom that coincided with certain changes in economic behavior.) This subaltern intellectual is usually the example most commentators on Gramsci provide as an example of the organic intellectual, although it is clear from the *Notebooks* that the subaltern intellectual is hardly the only (or even dominant or most important) example that he conceives of as a model.

In an important caveat to this schematic (and *unfinished*) project, however, Gramsci is careful to avoid the age-old distinction between “work” and “labor” when describing the intellectual. He qualifies the supposed distinctions between “brains and brawn” (the title of the note in which this qualification is made) by observing that these two have never worked separately from one another. He argues “that no occupation is ever totally devoid of some kind

of intellectual activity” (2: 214).<sup>16</sup> More important than this seeming commonplace is his contention that every individual “is a philosopher” because “he shares a conception of the world and therefore contributes to sustain it or to modify it, that is, to create new conceptions” (2: 215). The revolution is therefore tasked with “elaborating this activity that is always developed to a certain degree, modifying its relation to muscular effort into a new equilibrium” (215). Gramsci’s intervention here is key: each man, each worker from Henry Ford to the lowliest manual laborer trained under Taylorist scientific management, is in his relationship to work and the world his own philosopher precisely because his labor contributes to and works on or in that world in some way. This view collapses the historical distinctions between work and labor, between skilled and unskilled, between brainpower and brawn that have hitherto existed relatively unchanged since the Greeks. It is a radical reassessment and reappraisal of human activity in the world: under this rubric, intellectual labor does not necessarily involve qualities like specialized language, education, or training—it need not even require something as basic as literacy—though all of these qualities directly impinge upon the philosopher’s relationship with that world.

My definition of the intellectual and his or her labor is predicated in part on Gramsci’s definition of the organic intellectual and his or her labor, but it is also informed Jean-Paul Sartre’s model as well. In “A Plea for Intellectuals,” an essay based on three lectures he gave in Japan in 1965, Sartre attempts to redeem and reclaim the character of contemporary intellectuals

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<sup>16</sup> Recently Mike Rose published *The Mind at Work: Valuing the Intelligence of the American Worker* (2004), a study that uses this premise as its central argument, though Rose does not quote Gramsci directly. He sets out to reevaluate the skilled/unskilled divide by examining a number of contemporary cases, like the work of electricians and plumbers and welders, to more personal examples, such as the cognitive and emotional labor exhibited by his mother, a long-time waitress, or the social and mechanical aptitudes of his the men in his family, many of whom worked in the Altoona, PA railroad industry. His work particularly addresses efforts to revise long-standing pedagogical traditions regarding vocational education as less valuable or less intellectually rigorous than the work that prepares students for college educations and white collar work, and to delink vocational education efforts with the stigma of remediation.

by differentiating the true intellectual from traditional intellectuals, who serve the conservative function of preserving and transmitting cultural heritage and traditions, as well as distinguishing them from mere “scientists,” those, like atomic researchers, who work only in the service of capital (228-230). For Sartre, “*the intellectual is someone who meddles in what is not his business* and claims to question both received truths and the accepted behaviour inspired by them, in the name of a global conception of man and society” (original emphasis 230). He observes that in French society, the first use of the term intellectual was a derogatory term coming out of the Dreyfus affair to refer to a collection of thinkers and personalities who “*abused*” their fame by “straying outside their proper province and criticizing society and established authority in the name of a global and dogmatic conception (vague or precise: moral or Marxist) of man” (230). Atomic researchers cease to be scientists and become intellectuals when, “terrified by the destructive power of the devices they have helped to create, join forces and sign a manifesto alerting public opinion to the dangers of the atomic bomb” (230). This is because they “stray outside their field of competence—constructing bombs is one thing, but evaluating their use is another [...]. They do not protest against the use of the bomb on the grounds of any technical defects it may have, but in the name of a highly controversial system of values that sees human life as its supreme standard” (230-231).

Sartre’s definition of intellectual is a complicated and nuanced one, rooted in responses to the global anti- or decolonial movements in France as well as in the need for legitimate responses to post-war scientific dynamism and technological advances that seemed to float unmoored from any and all intellectual, social, and ethical considerations. The true intellectual is at first simply a “technician of practical knowledge,” and he only begins to emerge as an intellectual when he becomes aware of his class consciousness and begins the process of dissociating himself from

that position and privilege. Only when “he refuse to be a subaltern agent of bourgeois hegemony and to act as the means towards ends which he is forbidden to know or to dispute” does the technician take on the role of intellectual (244). In fact, in the transition from technician to intellectual, he becomes “a monster [. . .], *someone who attends to what concerns him* (in exteriority—the principles which guide the conduct of his life; and in interiority—his lived experience in society) and whom others refer to [as] a man *who interferes in what does not concern him*” (original emphases 244). The revolutionary change he seeks to engender comes from an intense examination of his own historicity, but dialectically the examination must also be turned outward on the society that produced him (247). Although he may be a scientist,

his position is not a *scientific* one. He gropingly applies a rigorous method to unknown objects which he demystifies by demystifying himself; he pursues a work of practical exposure by combating ideologies and revealing the violence they mask or justify; he labours in order that a social universality may one day be possible where all men will be *truly* free, equal[,] and fraternal, certain in his knowledge that on that day, and not before, the intellectual as a species will disappear, and men will at last acquire practical knowledge in liberty and harmony. For the moment, all he can do is seek and stumble, with no other guide than his dialectical rigour and radicalism. (254)

He must labor on behalf of the underprivileged but doing in full knowledge that they, too, will reject him; he is, in a word, “*unassimilable*” (264). What is most pertinent in this description is that the intellectual labors to make himself and his kind obsolete, but that he has no antecedent or tradition to draw upon; he is forced to make up things as he goes along, trusting in his intuition and a method that he is constantly forced to revise. Quite literally, this statement applies to Robert Stroud’s scientific method, as well as Chessman’s growing legal literacy; Sartre’s statement is especially true of the self-taught prisoner, those with autodidactic tendencies who often labor and experiment in spite of—and sometimes in flagrant resistance to—the administrative, political, and economic will of the institution. We can extend Sartre’s notion to

those working and writing revolutionaries who seek to destroy the institution from the inside; administratively, these individuals are usually segregated and forced to seek out new ways to extend their work in the face of oppression, censorship, and violence. They work so that the prisoner, as a social category and an economic entity, may one day be abolished.

For Sartre, too, the intellectual must by definition be drawn from at least the *petit bourgeoisie*. Each contemporary intellectual begins as a technician, which presupposes a certain access to education, cultural capital, and the prevailing ideology that obscures class conflict or class-consciousness. Thus, Sartre claims that it is impossible for the development of proletarian or working-class individuals to assume the position of intellectual without first acquiring the means (both capital and education) to transcend their former station in life and become thoroughly bourgeois in orientation. As he claims, “the under-privileged classes do not produce organic representatives of the objective intelligence which is theirs. Until the day of the revolution, an organic intellectual of the proletariat will remain a contradiction in terms” (257).

This is where I part ways with Sartre’s otherwise interesting and novel definition. As I set out to prove in this work, intellectuals can, and indeed, do emerge the underprivileged. In spite of material deprivation and political opposition (from administration, the law, and public consensus at large), convicts have the capacity to assume intellectual labor with the same kind of rigor that those free-world technicians and intellectuals undertake. What could be a more dramatic manifestation of someone meddling in affairs that do not concern him than in convicts assuming various forms of intellectual labor with no special training? Although every inmate clearly has a personal investment in writing against the conditions of his or her own incarceration—and is thus plainly “interested” in the business of incarceration—we should nevertheless consider the ethical dimensions of this work when they take on and attempt to intervene in the broader contours of

the law, or jurisprudence, or collective mental health even when they have no personal stake in these issues. In this capacity, my definition of the intellectual and his labor is more sympathetic to Gramsci's argument that everyone is a philosopher in his or her own right—that philosophizing over one's labor, one's incarceration, one's place in ideology and in the world are more about degrees rather than whether one can ever be, or not be, an intellectual. Even prison administrators have recognized this: in what was no doubt a moment of extreme hyperbole, but one that is nevertheless revealing, New York State Senator Michael F. Nozzolio went on record as having known lifer prisoners "prison becoming philosopher kings at taxpayer expense" (qtd. in Bernstein 179).

#### 1.4 CHAPTERS AT A GLANCE

For my purposes, then, the prisoner engaged in intellectual labor is someone who intimately understands his or her status as a convict, laborer, and subject and attempts to work through that identity by writing. This writing is the manifestation of meddling in affairs with which they should not be concerned. In other words, regardless of the kind of work that they undertake, each intellectual laborer under examination here takes up the invitation implied by Arendt's central question about speech and action: they answer the question "Who are you?" This should help to answer in part the question, "Why prison writing?" even if it does not answer the question, "Why *this* prison writing?" For my project, *this* prison writing is specifically non-literary forms of US prison, writing that nevertheless covers a wide variety of genres and discourses, from scientific and legal writing to revolutionary polemic, letter-writing, and the personal essay. Before further taking up the question of *why* this writing, which requires a meditation on the problematic nature

of “prison literature” as well as an abbreviated discussion of “discourse,” a description of the chapters is necessary.

The chapters of this dissertation are arranged chronologically, ranging from the first decade of the 20<sup>th</sup> century to the first decade of the 21<sup>st</sup>. The first two chapters deal with largely forgotten prison writers, though they were well known in their day, while the last two take up better known writers or collections of prison writing that are also more contemporary. I begin in Chapter One, “So Many Birds in a Cage: Prison Ornithology as Intellectual Autobiography in Robert Stroud’s *Digest on the Diseases of Birds*,” with an examination of Robert Stroud’s ornithological work. Better known by his moniker “the Birdman of Alcatraz,” Stroud was originally incarcerated for manslaughter committed in the Alaskan frontier in 1909, and he was eventually transferred to Leavenworth Federal Penitentiary in Kansas because he was deemed incorrigible and posed problems for administrators at the federal penitentiary at McNeill Island, in Washington. In 1916, he killed a prison guard in front of over a thousand prisoners and guards in the mess-hall, and was subsequently condemned to execution for it. A timely reprieve from Woodrow Wilson reduced his punishment to life in prison, and he was confined to solitary confinement. While in confinement, he began to first study, and then breed, pet birds; he also ran a fulltime breeding business from his cell, too. For twenty years, until his transfer to Alcatraz, Stroud researched, experimented with, and published on various kinds of maladies affecting pet birds, and for a time he was a leading expert in the newly emerging field of avian pathology. Prior to Stroud’s groundbreaking work, the only diseases that merited scientific attention were those affecting poultry. Stroud would publish two well-respected books, *Diseases of Canaries* (1929) and his lengthy *Digest on the Diseases of Birds*, an encyclopedic and kaleidoscopic layman’s guide published in 1943. Based on the success of the latter book, and on his interesting

life story, a popular biography and then a film adaptation of the biography starring Burt Lancaster were released, which made Stroud a notable, if controversial, public figure.

Set against the backdrop of changing penology, particularly the movement towards adopting rehabilitation as the dominant penological philosophy of the day, my chapter examines the compositional, rhetorical, and narratological strategies that Stroud employs in the *Digest*. Ostensibly a book about bird diseases, the book was composed in such a way as to make it accessible to hobbyists; it is also highly antagonistic to professional scientists, especially veterinarians. Part of Stroud's strategy involves the extended use of anecdotal narrative digressions and footnotes describing his method, his years of experimentation, and his observations on human behavior, which he often compares to birds. Though they were deemed unnecessary by critics at the time, these tangents and digressions are what ultimately give the *Digest* any sustained relevance for our time. I argue that the extraneous, peripheral, or superfluous in the *Digest* are the moments where Stroud actively engages in the process of self-reclamation, of producing a counter-narrative about himself, his work, and his value to the world.

Chapter Two, titled "Of Frivolity and Contempt of Court: Caryl Chessman and the Labor-Value of Legal Self-Representation and Prisoner Litigation," takes up the Death Row career of Caryl Chessman, known at the time of his trial and incarceration as the Red Light Bandit. Chessman was arrested and sentenced to death for two sex crimes and a host of robberies and stick-ups that occurred in Los Angeles in late 1947 and 1948. Chessman came to be well known in the 1950s for four books he wrote and published while on Death Row, including the best-seller *Cell 2455, Death Row*; his case was soon taken up as part of a turning tide against capital punishment in the US and, indeed, around the world. He was also notorious at the time for the length and duration of his appeals. At the time of his execution, he had spent more time

on Death Row, and collected more stays of execution, than any other prisoner in US history, and he was the principal writer of his own appeals and served as his own lawyer, as well as serving as a legal advisor for other prisoners. Perhaps what is most striking about his writing career is that, at least in terms of his legal work, he was an autodidact, effectively learning and employing the law all in an effort to save himself from the gas chamber at San Quentin.

My chapter seeks to resurrect Chessman's "other" career as a lawyer and legal mind, as most critical attention on his case and life focus on his impact on the capital punishment debate as well as the writing of his memoirs. I chart his evolving legal ability, from his fumbling attempts at his original trial to the sophisticated legal prowess he exhibits in the documents of his most "successful" appeals hearing, produced in 1957 and 1958. These legal arguments and appeals were not, in fact, successful insofar as they did not result in overturning his sentences—all of his appeals would be denied prior to his execution—although many of his later appeals were, in fact, grounded in sound legal arguments and drew upon a wide range of compelling evidence. As I argue, Chessman's work was ultimately dismissed because his career as his own lawyer was perceived to be an affront to the machinations of the law and American jurisprudence. Subsequent to this, his appeals (and the labor itself that produced this work) were always rejected on the grounds that they were "frivolous." In particular, I consider this question of frivolity not only as a purely legal term, but also as a labor issue—to consider what it means to discuss the intellectual labor of writing and producing *law* as an unproductive and ultimately inconsequential or foolish act.

If the first two chapters deal with relatively recognizable forms of intellectual labor in scientific research and legal work (novel as they may be to the institution of prison and in their execution or articulation by prisoners), then the final two chapters deal with different approaches

to the question of labor. In Chapter Three the dominant question is how might one change the conditions of work itself, through revolution, whereas in Chapter Four, I examine specific forms of contemporary non-wage-based and gendered work in light of recent trends in intellectualizing labor. Chapter Three, “Teaching in the Belly of the Beast: George Jackson’s Epistolary Pedagogy,” contributes to a growing corpus of scholarly work on the black revolutionary George Jackson and his most important work, the collection of letters published as *Soledad Brother*. While imprisoned for the robbery of a gas station as a young man in 1960, Jackson began reading widely in Marxist philosophy and revolutionary treatises authored by individuals like Mao, Fanon, Castro, Che Guevara, Kwame Nkrumah, and Ho Chi Minh. He began organizing prisoners as well, slowly transforming a notorious prison gang into a revolutionary cadre, and it was through his organizing skills that he merited the attention of Huey Newton and the Black Panther Party. Although they never met in person, Newton made Jackson a Black Panther Field Marshal. It was also through his militancy, particular in confrontations with guards and racist prisoners, that Jackson drew the ire of prison administrators. In January 1970, Jackson and two other prisoners were charged with the murder of guard John Mills; together these men were known as the Soledad Brothers. In August of that year, Jackson’s younger brother Jonathan attempted to free his brothers by taking a number of people hostage at the Marin County Courthouse; eventually Jonathan and most of the hostages were killed. Jackson himself would be killed in what administrators called an escape attempt on August 21, 1971.

My approach to *Soledad Brother* in this chapter is to examine a critically underrepresented aspect of his published letters—namely, their pedagogical capacities. I describe what I call Jackson’s “epistolary pedagogy,” attempting to understand the advantages and limitations of pursuing a revolutionary program and inculcating a radical consciousness (for

himself and his interlocutors) through the act of writing letters. I begin by contextualizing other revolutionary pedagogies developing at the same time; specifically I focus on the Black Panther Party's attempts to institute a radical pedagogy while fighting a revolution in the streets and communities. I then consider Jackson's compositional and political efforts before taking up his notions of education and how they pertain to the Marxist revolution he sought to foment. I end by considering how his pedagogy seems to have been adopted and adapted by examining excerpts of letters included in Jackson's posthumously published manifesto, *Blood in My Eye*, letters penned by his most diligent "student" and comrade-in-arms, his younger brother Jonathan. This latter point, considering Jackson's second book, is key, too, to widen the critical discussion and conversations about his work, because it, like Jackson's role as a revolutionary pedagogue, is often overshadowed by the immense popularity and controversy engendered by his most enduring book, *Soledad Brother*.

My fourth and final body chapter, "Revising Women in the Concrete Womb: Testimonial Writing and Emotional Labor in *Couldn't Keep it to Myself* and *I'll Fly Away*," is in many ways a radical departure from the previous three chapters. It is the most contemporary, as I examine two collections of prison testimonies, *Couldn't Keep it to Myself* and *I'll Fly Away*, published in 2003 and 2007, respectively. Both are edited by the popular novelist Wally Lamb. It is a chapter that attempts to synthesize concerns about labor and work from a number of different writers, rather than considering the work of a single author. The writers are women, too, a difference that merits a brief history of the incarceration of women as well as a consideration of the ways that the institution has always had difficulty in confronting or assimilating questions of sex and gender, given that the ideal prisoner has always been conceived of as a young man. Finally, and

perhaps most usefully, I consider the ways that the composition of these personal narratives is informed by a radically different understanding of what it means to work or labor.

I contextualize the anthologies' labor issues based in part on close readings of Tabatha Rowley's "Hair Chronicles" and Bonnie Jean Foreshaw's "Faith, Power, and Pants" within a greater framework of feminist challenges to classical economic theory and labor history. These essays are two of the most politically cognizant and engaged essays of the collections. The chapter is informed by the theory of social provisioning, an economical principle that seeks to understand the labor and work-related decisions that people undertake that do not result in wage labor or economic gain, as well as sociologist Miriam Glucksmann's idea of the total social organization of labor, which calls attention to the many forms of non-remunerated forms of labor that exist in the contemporary society. Through these theories, I argue that all the narratives of *Couldn't Keep it to Myself* and *I'll Fly Away* are the products of a legitimate form of labor whose value lies in the way that they help their authors reconceive of themselves and their emotional health. The workshop setting in which these writers composed personal narratives fosters a different sense of community and a different set of interpersonal skills necessary to develop, practice, and hone what Eva Illouz calls "emotional literacy." Rather than simply treat the workshop dynamic as a form of group therapy, I want to privilege the writing process as valuable labor in and of itself because of the kinds of self-knowledge that emerge over that process. Revising is perhaps its most important facet: these women writers not only revise their testimonies based on the feedback they received from each other, as well as workshop directors, but they use the writing of the narratives to revise notions of themselves, their past, their emotional health, and their bodies. What I set out to prove is how Rowley and Foreshaw's essays oscillate between the intensely personal dynamics of healing and how this work—this self-

revision and the labor of emerging emotional literacy—nevertheless has potent political collective and communitarian dimensions as well.

## 1.5 AGAINST PRISON “LITERATURE”

As should be apparent from these chapter descriptions, I have purposefully decided against taking up an examination of “prison literature” for a practical and a political reason. The entirely pragmatic reason: there still has not been a more thorough and comprehensive book published on US prison literature than H. Bruce Franklin’s *Prison Literature in America: The Victim as Criminal and Artist* (1989). Like Foucault’s *Discipline and Punish*, Franklin’s book has been truly formative and instrumental on my own thinking and on my approach; if nothing else, the book’s bibliography still serves as an important roadmap of the writing produced in US prisons since the 19<sup>th</sup> century, even if it needs a thorough updating. The book was timely, as it served an important critical, scholarly function when the first edition, *The Victim as Criminal and Artist: Literature from the American Prison* (1978), was published at the height of the Prisoners’ Rights Movement (though, in hindsight, this was also that movement’s political swan song). Franklin’s attempt to draw attention to the literature composed in and about prisons was a scholarly form of critical activism that foregrounded carceral issues in university, humanities, and English department debates. Likewise, the second edition was published during the beginning of the neoconservative turn, a decisive change from which we have yet to fully emerge, and Franklin rightly warned us of the evolving legal and penal dynamics that have since given rise to mass incarceration and the prison-industrial complex.

Nevertheless, I find that Franklin's project presents a limited picture of the writing produced within carceral spaces. In the introduction to the first edition, he readily admits that his "procedure in this book is far more conservative" than his goal, which is to enlarge the "fully multiethnic range of literature by 'Americans,'" because he both concentrates on English-only, published literature from the U.S. and "adopt[s] some of the prevailing formal criteria in choosing particular works for discussion" (xxxix). Although I do at times consider some standard, perhaps even "canonical" prison writers throughout—especially George Jackson and Edward Bunker, and perhaps to a lesser extent Caryl Chessman—I want to put them in dialogue with other forms of prison writing that are not as accessible as literature, and my dissertation is in no way motivated by the aim to "redefine the canon of American literature and the esthetic criteria used to determine literary canons," the primary goal of Franklin's work (xxii). In fact, I find that discussing prison writing only in terms of literary genres (especially the memoir, poetry, and fiction) tends to eclipse the other forms of productive writing that some prisoners undertake. By emphasizing the published word we tend to ignore completely the important, often unpublished work to which a greater number of prisoner writers may be more fully committed. Furthermore, I find it problematic to apply the same critical and analytic tools (Franklin's vaguely defined "formal criteria") that have been developed from and pertain to the high literary canon for an analysis and evaluation of prison writing, given the different material realities of writing in penal settings, spaces that are historically marked by various forms of illiteracy and constrained by institutional, state, and federal rules governing convict reading and writing practices. A slightly different way to frame my work is to say that I consider the writing that has so far existed and circulated at the very margins of critical attention, and my goal in this project is to hold up and examine writing that has so far largely been ignored by those performing literary analysis.

Rather than employ aesthetic theories to frame my analysis of these prison writers, I seek instead to use theories of rhetoric and theories of discourse, as well as a more cultural studies-oriented approach, as the foundation of my methodology; this, too, should be evident in my chapter descriptions above. These modes of analysis accommodate a broader and more inclusive spectrum of writing than a focus on prison *literature* would necessarily permit, and they also provide me with a set of analytic tools capable of addressing prison writing as a mode of intellectual labor, as opposed to limiting my discussion of prison writing to a subgenre of bourgeois literary writing produced in adverse conditions. But even this also does not really begin to acknowledge the political and philosophical problem of “prison literature” as an analytic category, a difficulty best articulated by prison abolitionist Dylan Rodríguez. The problem with “prison literature” is a fundamental one: by calling something “prison literature” we risk the potential “reification of the figurative ‘prisoner’s’ creative agency in the common aestheticization of her or his work into a ‘genre’ of literary text” (82). There is a certain political necessity in appending the site of production (prison) to our identification of the mode of writing (literature), since that modifier calls attention to the unique space of production and perhaps evokes some of the difficulties faced by the individual writer during his or her composition process. But, at the same time, calling something “prison literature” often unintentionally “legitimizes and reproduces the discursive-material regime of imprisonment,” because it erases any and all kinds of historical, social, and economic specificity: “to the extent that ‘the prison’ becomes a homogenizing modifier, designating the institutional location of the writer’s labor, the genre equilibrates state captivity with other literary moments and spatial sites in civil society, or the free world” (84). In other words, in an attempt to locate the so-called “literary” space of production in a dehistoricized institutional setting, we tend to treat it equivocally as those texts

produced in the free world, by free agents. Embedded in this project of homogenization and supported by academics and publishing presses alike, there also exists “a discursive gesture toward order and coherence where, for the writer, there is generally neither” (85). Rodríguez elaborates:

Structuring the alleged order and coherence of imprisonment is the constant disintegration of the writer’s body, psyche, and subjectivity—the fundamental logic of punitive incarceration is the institutionalized killing of the subject, a process far more complex than even the spectacle of physical extermination emblemized by the death-row execution. This logic is precisely that which is obscured—and endorsed—by the inscription and incorporation of prison writing as a genre. (85)

Finally, the expectations that attend to the development of a genre often go a long way to domesticate the political validity of that work which emerges from prison. This is generally true of the history of prison writing, from the generic earliest scaffold speeches or broadsheet confessions prior to public executions, to the Victorian Christian tracts and treatises given to new prisoners and supposedly penned by ex-convicts (such as the one given to Pip in *Great Expectations*), to contemporary narratives that are “overdetermined by the institutional mandates of ‘rehabilitation,’” resulting in “narratives of ‘individual transcendence,’ framed by notions of the imprisoned author defying physical incarceration by finding (intellectual/spiritual) freedom in the creative act” (85).<sup>17</sup>

I take Rodríguez’s injunctions seriously. They are one reason why I have attempted to avoid any and all debates about the literary merit of prison writing, and to skirt, as it were, the “canon” of prison literature. An attendant issue that is only implicit in his critique is the notion, too, that by calling something “prison literature” we often fetishize the products of that labor.

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<sup>17</sup> On a visit to the Town Hall, Pip is mistaken for a young delinquent and a Christian “of mild and benevolent aspect” gives him “a tract ornamented with a woodcut of a malevolent young man fitted up with a perfect sausage-shop of fetters, and entitled TO BE READ IN MY CELL” (105).

This is especially true given the relatively recent cultural appeal of any and all texts related to prison. “Prison literature” has a dual appeal: on the one hand, the “best” of this work has all the trappings of high culture, of aesthetic sensibility, of some kind of transcendence. Like all great art, its success confirms for us something about the indomitability of the human spirit in the face of adversity, our infinite capacity for creativity and intelligence no matter the circumstances, and other such sentiments. It is therefore humanistic, because maybe it reenergizes our faith in each other. On the other hand, prison literature has, for lack of a better term, a kind of “slum” appeal for middle- and upper-class (and usually white) consumers. We expect prison literature in its generic realism—especially in treatments of sex (usually rape, and to a lesser extent masturbation), drugs and addiction, tattoo culture, cults of body-building, sweaty masculinities, and violence (especially overtly racialized prison-gang violence)—to be “gritty” and “tough” and “real.” This usually happens without much thought as to why we desire to read or watch this material as part of our generic expectations about prison texts. Surely forced sodomy and heroin addiction are a part of prison life, but how recognizable (and at the same time disappointing, and *boring* even) would it be to watch a prison film that documents a different facet of prison life, like the sheer tedium of living in a permanent state of lock-down in a federal supermax, say, a text set in United States Penitentiary Marion, which was locked down for *twenty-three consecutive years*? And, as Rodríguez points out, we also give little thought to the individuals who produced these texts, to the psychological ramifications of witnessing or living through these events, to the notion that we tend to read mostly for the dirty bits that confirm our suspicions and satisfy our desires as readers. The logic of late capitalism makes it so that anyone investing in a retirement package through the stock market may benefit from mass incarceration, as I shall describe in the second interchapter, but this same logic is manifested even in the desires

we have about prison literature: we require rape and murder from that literature, and we expect that its producers render the world of violence and oppression legible, which also renders it (very possibly) consumable and clichéd.<sup>18</sup>

There is, of course, another reason to consider the non-literary writing that circulates in and out of prison: the prison itself is historically situated as an institution that promotes and even requires the incessant production of writing and knowledge, even while it has denied certain kinds of intellectual work among its inmates. Institutionally and historically, prison administrators have been loath to support educational efforts in prison, including basic literacy skills programs. In the 19<sup>th</sup> century, one prison chaplain complained that the introduction of reading and literature in his institution instilled in women inmates “a love of novel reading averse to labor” (qtd. in Sweeney 25). Early twentieth-century administrators worried about the unwholesome effect of fiction of any kind on inmates, although pulp fiction was considered the most dangerous. One librarian articulated a common sentiment that fiction is “not good mental food for the man who needs to learn self-control” (qtd. in Sweeney 30), and that too much pulp consumption would function similarly to narcotics abuse (30). And the “medicinal” metaphor of literary consumption was not understood ironically, for even when reading and writing programs were instituted as part of a broader drive towards rehabilitation, they often served as “a normalization technique” because it allowed guards and supervisors the opportunity to observe reading habits and treat convicts “as passive recipients of literary medicine” (35). The writing produced by prisoners was often treated as part of their psychological profile to be used as

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<sup>18</sup> Michelle Brown takes up this issue in great detail in *The Culture of Punishment*, which examines the rise of what she terms “penal subjectivities,” which she defines as the “performance of punishment, when distant from actual punishment” that “nonetheless provide frameworks for ordinary citizens to step into or out of self-conscious modes of awareness as moral spectators and deliberative citizens” (5). She also develops a theory regarding “penal spectatorship,” a cultural phenomenon predicated upon observation, safe voyeurism, and consumption (even tourism!) of the incarcerated by those who are free and insulated from penal practices (10-12).

evidence in disciplinary or parole hearings. Later, the tumult of the Civil Rights and radical prisoner movements in the late 1960s and 1970s was attributed to hyper-literate prisoners (often self-taught) agitating for change. One way to pacify them, predicated on the earlier rehabilitative model, was the introduction of television sets in prison in the late 1970s and early 1980s, along with increased censorship of reading material and the purposeful neglect of prison libraries. As late as 2006, in the case *Beard v. Banks*, the US Supreme Court upheld a Pennsylvania prison's restriction of all non-religious and legal material to inmates in SHU-type units as an effective form of behavior modification.

But in spite of these prohibitions, the penitentiary is itself a discursive institution, in addition to fulfilling its other productive and/or punitive projects. Erving Goffman, drawing on a sociological tradition that extends as far back as Max Weber and Émile Durkheim (and in many ways anticipating certain arguments by Foucault), observes the paradox that “while total institutions seem the least intellectual of places,” their absolute concern “about words and verbalized perspectives has come to play a central and often feverish role” in contemporary society (84). Psychological profiles and the prisoner’s “jacket” (his administrative profile, detailing his previous record, his crimes, disciplinary infractions, and the like), institutional laws and rules, parole hearings, legal and administrative jargon and euphemisms, disciplinary write-ups, wardens serving as spokesmen for the state, prison guard unions endorsement of political candidates: these are just a handful of the variety of genres and modes of writing that are produced and circulate in and around prisons. We could even say that the administrative restrictions and legal injunctions against intellectual activity are themselves part of prison discourse broadly conceived, as all have been codified as rules or laws that are often contested and even litigated afterward. As Goffman attests, “each official goal lets loose a doctrine, with its

own inquisitors and its own martyrs, and within institutions there seems to be no natural check on the licence [sic] of easy interpretation that results” (84). And we must keep in mind that there has always been a place for certain kinds of approved intellectual activity in prison. In the early part of the 20<sup>th</sup> century, certain well-educated prisoners (often white, middle-class, and usually, though not exclusively, college-educated) were often tabbed to serve in administrative and educative capacities, as low- or unpaid secretaries to wardens, or as de facto prison librarians, educators, tutors, teachers’ aides, and physicians’ assistants. Chessman, for instance, served in many of these roles during his time in prison. These prisoners were sometimes trusted with reproducing or archiving important institutional documents, which placed them in a precarious and sometimes dubious position of potentially controlling the flow of information in and out of prison.<sup>19</sup> Foucault’s fundamental contribution to the history (or, rather, archaeology) of discipline and to the development of a new political economy is precisely in pointing to the ways that all of these discourses operate, how individuals are called forth by them, but also how they can be employed against the institution, too. Let us then take this question up by way of concluding the introduction.

The lives of those individuals who lived under sovereign forms of governance—subjects of royalty, or feudal lords—could exist largely without notice, although Foucault identifies ways that even those faceless peasants of the seventeenth and eighteenth centuries became discursive.

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<sup>19</sup> At least two different fictional texts depict characters in this position of intellectual and administrative authority: Edward Bunker’s *Animal Factory* and Stephen King’s novella *Rita Hayworth and Shawshank Redemption*, the basis of the popular 1994 film starring Tim Robbins and Morgan Freeman. In the former, set in San Quentin, an older prison-wise convict named Earl Copen takes up a protégé a much younger convict named Ron Decker. Copen exists largely above the racialized gang violence, having friends of all races. He is well-read and a prison intellectual; he gives Ron works by Jack London, Camus, Dostoyevsky, Céline, and Marcuse. He also works as a secretary, meaning he routinely types up conduct reports for his semi-literate guard boss, which also allows him access to administrative files and the opportunity to forge some documents. In Stephen King’s novella, Andy Dufresne, a banker, is incarcerated for the murder of his wife; eventually he winds up informally filing the taxes of every guard and administrator and serves as the unofficial financial advisor of the warden himself.

This happened when they ran afoul of the law, when they became enveloped by sovereign power. In an introduction to a collection of brief internment records from the early 18th century that Foucault would publish as *Parallel Lives* (which is yet to be translated into English), he describes the significance of the moment of inscription, when the powerless meet power:

All those lives destined to pass beneath any discourse and disappear without ever having been told were able to leave traces—brief, incisive often enigmatic—only at the point of their instantaneous contact with power. So that it is doubtless impossible to ever grasp them again in themselves, as they might have been “in a free state”; they can no longer be separated out from the declamations, the tactical biases, the obligatory lies that power games and power relations presuppose. (Foucault, “Lives” 161)

What remains, those enigmatic traces of the formerly anonymous, are the residues of individuals-in-the-making. The individual in this situation ceases to be part of the masses as soon as his life—or, more correctly, his crime—is inscribed by those in power. This notation also means that his existence has been, to some extent, recognized as exemplary (in a negative capacity) and archived, even as his criminal body is committed to the madhouse, or the workhouse, or the stocks. What is left after his release and his death is that archivable and archived moment. The juridically named individual is only identifiable by the inscription about him that lives on in history: “Having been nothing in history, having played no appreciable role in events or among important people, having left no identifiable trace around them, they don’t have and will never have any existence outside the precarious domicile of these words” (162).

As Foucault contends in *Discipline and Punish*, prisons were at first an experimental space that encouraged intense observation and surveillance of their inmates, the development of a kind of zoological specification of crime and criminals, and the slow but steady concretization of penal codes based on the knowledge and discourses generated inside the institution. As the process of identification and individualization intensified, new mechanisms such as the juridical,

psychological, or internment examination were added; these procedures and rituals cumulatively increased what Foucault identifies as “disciplinary writing” (189-190). This discursive movement informed what now looks like the making of modern sciences, ones that arose around different institutions (modern medicine, surgery, and the various sub-disciplines, like epidemiology, from the hospital; psychiatry from the asylum; penology from the prison, antecedents of scientific management in new factories, among others), and these sciences were supported by and would in turn reproduce particular discourses around their respective inmates. Statistical records, categorization, observation and behavioral reports, work quotas and manifests, disciplinary hearings and verdicts: all of these and more fed into the evolving disciplinarity that disseminated through the body politic as a result of its institutions. This is what Foucault means when he claims that power is not only negative, that it is not only always destructive: it is also productive—to add one more register to a key term in my project—because “it produces domains of objects and rituals of truth. The individual and the knowledge that may be gained of him belong to this production” (194).<sup>20</sup>

One problem with *Discipline and Punish* lies in the tension between Foucault’s tendency to render specific and often discrete historical decisions into completely generalizable and

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<sup>20</sup> It is notable how similar Foucault’s statement on power’s productivity is to Marx’s assertion that crime itself is productive and generative, an argument found in *Theories of Surplus Value*. In addition to the actual crime, the criminal produces the law, the lawyer, the academic producing the law (and the textbooks about law sold on the market), “the whole apparatus of the police and criminal justice, detectives, judges, executioners, juries, etc.” (“Usefulness” 52). This is significant because these professions embody the many forms of social division and “develop diverse abilities of the human spirit, create new needs and new ways of satisfying them” (53). But Marx is not done, for he observes that the criminal is also responsible for producing “an impression now moral, now tragic, and renders a ‘service’ by arousing the moral and aesthetic sentiments of the public” (53). The threat he poses also “interrupts the monotony” of bourgeois consumer culture, thus saving that culture from “stagnation” by engendering “restless tension, that mobility of spirit without which the stimulus of competition would itself become blunted” (53). Criminality and incarceration are ways of combating excess labor force and ensuring low wages among free workers, too. In short, the criminal has been naturalized and economized to the extent that he appears to be one of “‘equilibrating forces’ which establish a just balance and open up a whole new perspective of ‘useful’ occupations” (53): “Crime, by its ceaseless development of new means of attacking property calls into existence new measures of defence, and its productive effects are as great as those of strikes in stimulating the invention of machines” (53).

flexible descriptions (like “panopticism” or “disciplinarity”) on the one hand, and his seeming unwillingness to engage more directly with the ways these generalizable principles—usually located in a distant past and across broad historical traditions, economies, and politics—have directly informed today on the other. In other words, *Discipline and Punish* could very well be critiqued for verging on the creation of a master narrative for Western civilization’s penal practices that largely obscures or erases difference, despite Foucault’s warnings to the contrary that his is largely a local—particularly though not exclusively French—and unfinished project. Interpreted from this perspective, it is notable that he does not consider the role of race, which is the *central* concern with the history of US incarceration, among many different examples.<sup>21</sup> It is clear that he did not ignore the present, however; if anything, Foucault’s work on the past was directly informed by his attempt to understand the current conditions of prison in France and the US. To this end, he co-founded the Information Group on Prisons (GIP) in 1971, an organization that sought to render more visible the impact of incarceration on convicts and their families, to provide a public platform for the incarcerated to speak, and to disseminate information inside and outside the institution, all in an effort to “increase our intolerance, and transform it into active intolerance” (qtd. in Brich 28). In 1974 he visited Attica, his first trip inside any prison.<sup>22</sup> Thus on the issue of prisons and punishment, Foucault’s political engagement, so long used as a

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<sup>21</sup> Joy James critiques Foucault along these lines, contending that he does not take into account “the bodies of nonmales and nonwhites” in *Discipline and Punish* (*Resisting* 26). This means that the variety of other “abnormal” subjectivities such as “gay men, lesbians, bisexuals, the poor, women, children, and dark-skinned peoples” are left out of his historical and theoretical account: “this (mis)measure of man—naturalized and universalized as masculine and European—shapes *Discipline and Punish*’s color- and gender-blind investigations” (27).

<sup>22</sup> For more information on Foucault’s work in the GIP, see the interview with Gilles Deleuze, another GIP member, entitled “Foucault and Prison,” as well as Marcelo Hoffman’s *Foucault and Power: The Influence of Political Engagement on Theories of Power* (2014). Foucault gave an interview for *Telos* regarding his trip to Attica: see “Michel Foucault on Attica: An Interview” for a fuller elaboration.

means of critiquing (and usually dismissing) his thought, appears consistent.<sup>23</sup> Instead, I bring up this critique in an effort to say that the parameters of *Discipline and Punish* are somewhat insufficient historically to situate the work in my manuscript. If his incomplete theory of biopolitics is supposed to function as a sequel to *Discipline and Punish*—or at least to serve as a way of bringing the earlier project into the present day—we still have to account for the period that he does not take into consideration. If he fixes the completion of the carceral system in 1840 (*Discipline* 293), and the neoliberal economic practices that he views as fundamental to his theory of biopolitics do not start in earnest until (roughly) the 1950s or 1960s, we should consider more deeply that intervening period to help create the bridge between the two. I want this project to function, in part, as a plank in that bridge.

Another way to build upon his project is by considering how prison writing itself partakes in and attempts to resist the discourses produced in and about prisons. In neither *Discipline and Punish* nor in his lectures do we see much attention paid to the voices of prisoners or inmates themselves. So even while he quotes his archived material at length and discusses how disciplinarity realizes modern individuals and subjectivities, the voices that sustain his project are mostly those of the architects, philosophers, jurists, judges, and statesmen who enacted the dream of a disciplinary society. Those who became actively individualized by the processes of discipline are still massified; at best, they are quoted second- or third-hand, modulated and mediated through more dominant voices of power. And yet the flexibility of Foucault's notion of discourse is that those who use it, those who are individuated by it, can help to shape it from the inside. If there is no "outside" to the dream of the disciplinary society—that is to say, if the

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<sup>23</sup> Alain Badiou confirms this, observing that Foucault "maintained a particularly rigorous commitment [*engagement*] to a revision of the status of prisoners, and devoted to this question much of his time and the whole of his immense talent as an organizer and an agitator" (6).

dream is such that everyone exists as a completely disciplined and (self-)disciplining individual—we can nevertheless look to the historical ways that that dream was resisted and undermined. If the contemporary conflict in power relations is against subjection, in response to the question, “Who are we?” as Foucault contends, then convict writers such as the ones I examine in this project articulate kinds of struggle that exist as “a refusal of these abstractions, of economic and ideological state violence, which ignore who we are individually” (“Subject” 331). Their struggle is “also a refusal of a scientific or administrative inquisition that determines who one is” (331). Even if the writing by prisoners is simply bound up within larger penal discourses, even if, in a manner of speaking, there is no “outside” to penal discourse as well, we can nevertheless look to the writing by prisoners as a node of active participation and even resistance to those greater discourses in which they are imbricated and defined. This project seeks to show how four different prison-based intellectual labors have attended to this process.

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In recuperating the ways that the prison writing under examination is “productive” beyond those methods which simply extend or reproduce the logic of capitalism, I have two larger desires. The first, my practical desire, is that I hope my work might usefully expand the parameters of prison labor so that those opportunities most likely to be defunded as extraneous might be revalued as necessary to decarceration and even abolition efforts. I hope my work may demonstrate the many different ways that intellectual engagement is also individually and even socially valuable, even if it does not necessarily produce wealth. The second, a more philosophical issue perhaps, is that I hope my work helps, in some small way, to galvanize a new kind of solidarity between workers of all varieties on both sides of the prison wall. If we recognize the sheer variety of what it means to be productive beyond simply producing *things*, we might be better able to appreciate the ways

that all of us act as workers in this world. In other words, I hope that this project helps to redefine, and thus reclaim, what it means to work. This project is motivated in part by André Gorz's injunction that "we recognize that *real work is no longer what we do when 'at work'*: the work, in the sense of *poesis*, which one *does* is no longer [. . .] done 'at work'; it no longer corresponds to the 'work' which, in the social sense of the term, one 'has'" (original emphases 3). We must, he says, "exit from 'work' and the 'work-based society' in order to recover a taste for, and the possibility of, 'true' work" (3). Certain prisoners—like those examined in this project—have been insisting on this division all along; I want to show how this is the case, and to think about how their lessons might help us to rethink our current moment. The time has come where the principle of less eligibility—that the worst yeoman should be conceived of as better than the best slave; that the prisoner should be treated worse than the lowliest worker—no longer should apply. After all, there is a fine line between our freedom and others' captivity, a line that is diminishing every day. Perhaps by redefining what work is or could be, we could also help to reverse that trend as well.

## **2.0 INTERCHAPTER ONE: THE BLACK FLOWER OF SOCIETY: PRISON AS THE QUINTESSENTIAL AMERICAN INSTITUTION**

### **2.1 RECYCLING BENJAMIN RUSH'S GOTHIC PENAL IMAGINARY**

In *The Scarlet Letter*, Nathaniel Hawthorne calls the modern prison “the black flower of society” and imagines that it even predates the first Puritan graveyard: “The rust on the ponderous iron-work of its oaken door looked more antique than anything else in the New World. Like all that pertains to crime, it seemed never to have known a youthful era” (36). Associated with the weeds and “unsightly vegetation” that grows around it, the institution “evidently found something congenial in the soil” of America (36). Hawthorne was entirely correct in this regard, even if in this passage he purposefully confuses the single “jail” house of Puritan society with the post-revolutionary “prison.” We might consider the wilful linguistic slippage Hawthorne employs in the passage as his own perspective on the mid-19<sup>th</sup> century US prison coloring his imagination of the distant past, for by his day the thoroughly modern American institution was already a source of controversy and debate.<sup>24</sup>

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<sup>24</sup> Although related and similar in some of their penal or punitive functions, the jail and the prison are distinct institutions. Historically “prison,” broadly covers all penal facilities now, including jails. But during the 20<sup>th</sup> century, the differences between the two ossified. “Jail” refers to short-term facilities, intended for those who have just been arrested and are awaiting trial (usually the poor who cannot afford bail) or sentencing. They also serve as post-sentencing facilities for individuals sentenced to short terms, usually a year or less. “Prison” is reserved for those who have received sentences of a year or longer. The confusion is further compounded because in the UK the American spelling of “jail” is only used as a verb, whereas the institution is spelled “gaol.” Seán McConville notes

The modern penitentiary is roughly 230 years old, dating back to Philadelphia physician Benjamin Rush's 1787 address (at Benjamin Franklin's house) entitled "An Enquiry into the Effects of Public Punishments Upon Criminals, and Upon Society," wherein he outlines the need to remove the punishable body as the center of public spectacle and relocate it to a private institution. (Thus, we should not fail to forget that the penitentiary is, in fact, the first major penological reform coinciding with the emergence of democratic-republican society of the newly independent United States.) Preferably, this institution should be remote in location and hard to access—its immediate environment, either in the mountains or surrounded by great swamps, should be "gloomy" (10). It should be physically imposing, as well: "Let its doors be of iron; and let the grating, occasioned by opening and shutting them, be increased by an echo from a neighboring mountain, that shall extend and continue a sound that shall deeply pierce the soul" (10). The inside is just as forbidding. The flow of information and people is to be strictly guarded—"Let a guard constantly attend at a gate that shall lead to this place of punishment, to prevent strangers from entering it"—and the guards themselves should be uniformly frightening: "Let all the officers of the house be strictly forbidden ever to discover any signs of mirth, or even levity, in the presence of the criminals" (10). It should bear a weighty and daunting title: "To increase the horror of this abode of discipline and misery, let it be called by some name that shall import its designs" (10).

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that embedded in the British spelling may be "an unconscious desire to gentrify a very disreputable organization, since the tabloid newspapers are much more prone to *jail* than to *gaol*, and the quality press prefers the opposite" (267).

Many US incarcerated writers have noted their preference for prison over jails. This is because jails are prone to more violence, more sexual abuse, and less stable routines, given the constant turnover in inmate population, the unceasing turnover of the newly arrested (who may be psychotic or mentally unstable, or on drugs or alcohol) and those going to and from the courthouse, as well as the comings and goings of other individuals like lawyers, police, and guards. Perhaps the keenest depiction of life in jail is provided by Donald Goines, in his 1973 novel *White Man's Justice, Black Man's Grief*.

Surely the Gothic castle is Mikhail Bakhtin's most cited example of the chronotope, given its "historical intensity," its "organic cohesion of spatial and temporal aspects," and "its productivity as a source for images at different stages in the development of the historical novel" (Bakhtin 246). The moment that Rush develops his Gothic-inspired house of punishment is a rich one for the proliferation of castle chronotopes imagined as places of horror, terror, and punishment. Compare Rush's penitentiary to the veritable excess of Gothic clichés that marks the castle housing the debauchery and libidinal and political dissipation of the Marquis de Sade's *120 Days of Sodom* (completed in 1785, but not published until 1904). His fictional château was located in "a remote and isolated retreat, as if silence, distance, and stillness were libertinage's potent vehicles, and as if everything which through these qualities instills a religious terror in the senses had necessarily and evidently to bestow an additional charm upon lust" (235). After wending one's way through the Black Forest, the travelers "ascended a difficult, tortuous road that, without a guide, would be absolutely impracticable. By and by you caught sight of a sinister and mean hamlet of charcoal burners and gamekeepers [. . .]; this little village's population was composed almost entirely of thieves or smugglers" who would zealously guard the gate and road to the castle once the participants entered it (236). The castle itself was situated on a mountain "almost as high as the Saint-Bernard and infinitely more difficult to ascend, for the only way to reach the summit is by foot" (236). The top of the mountain is split by a "crevice above sixty yards wide"; the bridge between the peaks is destroyed as soon as everyone crosses (236), while the château itself is ringed by a deep moat. The only thing his castle lacks compared to Rush's prison is the iron door whose definitive closing resounds across the mountains; otherwise the Marquis de Sade's castle (the brainchild of an incarcerated imagination) is an inverted doppelgänger of Rush's penal space. In the latter's punitive universe, the iron gate keeps out the

excesses of the world, quarantining crime from those in the early Republic who might be infected by it, whereas in the Marquis's pornographic imagination the castle is a means of compiling and consolidating that excess and giving it free reign. In fact, the very real threat of crime by its partisan-guardians actually serves to insulate and safeguard that excess by cutting it off from the rest of the world, allowing it to exhaust itself.

Beyond its outwardly oriented trappings of Gothic deterrence, Rush suggests that the daily regime for inmates should include punishments consisting of "BODILY PAIN, LABOUR, excess WATCHFULNESS, SOLITUDE, and SILENCE . . . all joined with CLEANLINESS and a SIMPLE DIET" (original emphasis 13); this, obviously, is where the comparison with the Marquis de Sade ends. Ostensibly, in Rush's penitentiary there is no torture involved. All of these qualities seem acceptable, even progressive premises for his day, until we realize the outer limits of science: man's threshold for pain is a largely unexplored and uncharted and misunderstood area of study during this period.<sup>25</sup> Therefore, for Rush's penology, it will prove necessary for physicians or experts "to ascertain the nature, degrees, and duration of the bodily pain," which "will require some knowledge of the principles of sensation, and of the sympathies which occur in the nervous system" (13). In order to know what kind of physical pain to which an inmate should be subjected, his docilized body must first endure some experiments in pain.

Michel Foucault's intervention regarding these issues in *Discipline and Punish* is by now well-known, but worth revisiting nevertheless. He notes that the rise of various "disciplines" meant to control functions of the body "was the moment when an art of the human body was born, which was directed not only at the growth of its skills, nor at the intensification of its

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<sup>25</sup> Adam Smith, writing only a few decades earlier, indicates just how limited an understanding of pain most medical professionals and theorists had during this period: "Nothing is soon forgot as pain. The moment it is gone the whole agony of it is over, and the thought of it can no longer give us any sort of disturbance" (29).

subjection, but at the formation of a relation that in the mechanism itself makes it more obedient as it becomes more useful” (137-138). Pain, like mechanistic education, military drills, and forced labor, is part of a “political anatomy” in which “the human body was entering a machinery of power that explores it, breaks it down and rearranges it” (138). Rush’s unelaborated statement about the discovering the prisoner’s individual pain is a thoroughly modern one. Only a short distance separates his proposal from the kinds of experiments enacted on prison populations during the 20<sup>th</sup> century, from widespread Nazi and Japanese experimentations on POWs to the secret, controversial work of dermatologist and University of Pennsylvania professor Albert Kligman, who for years ran medical experimentations on the population in Philadelphia’s Holmesburg Prison largely without consent (and who was briefly banned by the government for working with live subjects).<sup>26</sup> This unspoken and unacknowledged *horror* (rather than *terror*) inside the prison will simply add to its already intimidating reputation.<sup>27</sup>

The terror Rush tries to promote is not simply architectural. We also find it in his description of indefinite sentencing: “Let the duration of punishments, for all crimes, be limited, but let this limitation be unknown. I conceive this secret to be of the utmost importance in reforming criminals and preventing crimes. The imagination, when agitated with uncertainty, will seldom fail of connecting the longest duration of punishment, with the smallest crime” (11).

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<sup>26</sup> For an extended and specific examination of Kligman’s experiments, see Allen M. Hornblum’s *Acres of Skin: Human Experiments at Holmesburg Prison* (1998). For a broader historical examination of detained peoples and scientific experimentation, particular regarding race, see Harriet A. Washington’s *Medical Apartheid: The Dark History of Medical Experimentation on Black Americans from Colonial Times to the Present* (2006).

<sup>27</sup> Anne Radcliffe’s distinction between horror and terror—while articulated much later than Rush’s “Enquiry”—is a useful one when applied to his plans for the penitentiary. Terror is marked by “obscurity” and “uncertainty”; it “expands the soul and awakens the faculties to a high degree of life” (i.e., it leads one to feelings of the sublime), whereas horror “contracts, freezes, and nearly annihilates them” (66). In the case of Rush’s house of misery, horrors would entail the *actual* experiences inside the prison, while terrors relate to that which is conjured up through imagination and superstition.

Like his Italian inspiration Cesare Beccaria, Rush sees no value in the executed and dead body of a criminal, but he does find value in the public knowing that bodies could be locked away out of sight and forced to endure hard labor even for the smallest infraction. Thus the true power of indeterminate sentencing lies not in the length of incarceration but in its capacity as a deterrent; because the system is forward-looking, punishment is directed outward, “at all the potentially guilty” (Foucault *Discipline* 108). Yet even indeterminate sentencing may be ineffective on its own. The best deterrent is the immediate institution of all three changes. Rush contends,

I CANNOT conceive any thing more calculated to diffuse terror thro’ a community, and thereby to prevent crimes, that the combination of the three circumstances that have been mentioned in punishments. Children will press upon the evening fire in listening to the tales that will be spread from this abode of misery. Superstition will add to its horrors, and romance will find in it ample materials for fiction, which cannot fail of increasing the terror of its punishments. (11)

Rush’s use of terror as a deterrent is a mechanistic one: terror is rooted in an individual’s mind or imagination, and its presence effectively deters that person from committing crimes. Furthermore, the horror of prisons will also reverberate through the community like the echoes of the prison’s large iron gate. It is no accident that Rush envisions children telling stories of terror around a fire, for he has already identified children as the most at-risk population in the early Republic. The quicker children both imbibe the terrors of the modern prison and reproduce them in narrative, the better off society will be. As a result, in addition to proposing the first modern plan for the penitentiary, Rush proposed the first Scared Straight! program in the US,<sup>28</sup>

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<sup>28</sup> The first Scared Straight!, otherwise known as the Juvenile Awareness Program, was an at-risk youth intervention program that took teenager offenders into jails to talk with lifers, with the intent, obviously, of terrorizing them with the prospects of a life in prison. Beginning in 1976, the initial program culminated in the documentary *Scared Straight!* an Academy Award and Emmy-winning documentary first aired in New York in 1979. It has since spawned numerous programs, some with their own television shows, including the popular A&E program, *Beyond Scared Straight*, which began its fifth season in March 2014. These programs are not without controversy; among many studies questioning their overall efficacy in deterring crime, researchers in 2003 published an article claiming

and he was the architect behind the deliberate use of (state) terrorism as a disciplining mechanism, most recently manifested in the black-hooded and tortured bodies of those accused by our country's leaders of being terrorists in their own right.<sup>29</sup>

I have considered Rush's plan at length in order to demonstrate, categorically, that we have hardly deviated from his original plan, or that when we have, we have nevertheless slowly found our way back to modified forms of his suggestions in the newest cycles of prison "reform." But at the same time that we have only tinkered with articulations of the prison and its day-to-day operations, modern industrial warfare was successful in such introducing and adopting such efficient killing tools as the lever-action and bolt-action rifle, the Gatling gun, the tank, the airplane, various kinds of missiles, chemical and biological agents, nuclear bombs, and, more recently, sophisticated drone warfare during the same time period. This ignores the long, profound, and bloody litany of more individualized and personal forms of torture practiced throughout history, a seemingly inexhaustible and creative list of death and destruction.<sup>30</sup> These parallel (and sometimes intersecting) histories are indicative to me that as a society we suffer from a severe lack of imagination when it comes to prison reform, whereas we have an overabundance of ideas when it comes to finding new ways to torture, maim, and kill one other. And this is true as soon as the first penitentiary was opened. Even though the institution, "in its

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that the programs actually increased criminal behavior among those who attended the Scared Straight program, that they did more harm than no intervention whatsoever (Petrosino et al 41).

<sup>29</sup> As a cruelly ironic postscript, the anarchist Alexander Berkman writes that his incarceration (for the failed assassination attempt of Henry Clay Frick in Pittsburgh) overlapped with that of one of Rush's descendants over a century after Rush developed his plans. The "Young Rush" bore "a striking resemblance to Shelley; the limping gait recalls the tragedy of Byron" (Berkman 243); he was incarcerated for murder when a boat carrying his intended and himself overturned in the Ohio River and his female companion drowned. One wonders whether the elder Rush would have been so keen on instituting an institution of terror if he knew his own descendant might experience it firsthand a little more than one hundred years in the future.

<sup>30</sup> There is also an economic dimension to this work of death and destruction, for as Marx so cogently observed, "Torture itself has provided occasions for the most ingenious mechanical inventions, employing a host of honest workers in the production of these instruments" ("Usefulness" 53).

reality and visible effects, was denounced at once as the great failure of penal justice” no sooner than one generation into its use (Foucault *Discipline* 264)—thus engendering the never-ending cycle of reform that we have yet to escape—it nevertheless “banished into oblivion all the other punishments that the eighteenth-century reformers had imagined. It seemed to have no alternative, as if carried along by the very movement of history” (232). Then, as now, the “self-evident character” of the prison remains in place: just like authorities then, today “we are aware of all the inconveniences of prison, and this it is dangerous when it is not useless. And yet one cannot ‘see’ how to replace it. It is the detestable solution, which one seems unable to do without” (232).

Indeed, even Peter Moskos’s suggestion that we return to flogging, as discussed in the introduction, is itself nothing new. In his posthumous collection of prison writings published in 1927, Eugene V. Debs attests that during his day, law-and-order politicians and conservative judges calling for tougher sentences entertained a variety of alternatives to the perceived failure of the American justice system, particularly its prisons. One suggestion is flogging. Debs writes, “In the City of Chicago the authorities frankly admit being no longer able to cope with crime and, happily, Judge W.M. Gammill, of that city, comes to the rescue by recommending the reestablishment of the whipping post as a deterrent for the crimes and misdemeanors committed by the victims of a vicious social system which Judge Gammill upholds” (183). Debs completely anticipated *In Defense of Flogging*, especially in Moskos’s argument that flogging would satisfy the social need for revenge, apparent when Debs writes, “the distinguished judge’s Christian spirit as well as his judicial mind are vindicated in his happy and thoughtful suggestion which is finding ready echo among ruling class parasites and mercenaries who, no doubt, would experience great delight in seeing the poor wretches that are now only jailed [. . .] tied to a post

and their flesh lacerated into shreds by a whip in the hands of a brute” (183-184). Instead of moving beyond the current paradigm, Moskos’s proposal has us doubling back, both in thought and in deed.

And to demonstrate just how stunted our imagination has been regarding penology, there are numerous other examples that further demonstrate the constant oscillation regarding reform cycles, wherein we seem to return to old standbys as somehow novel and “new” solutions to penal problems. The current popularity of secure housing units (SHUs), in which inmates are locked down for twenty-three hours (or even 23 ½ hours) a day, sometimes without television, conversation, or reading material, is nothing more than a return to the worst forms of incarceration practiced at Eastern State Penitentiary throughout the early parts of the 19<sup>th</sup> century, the same system so vehemently criticized by Charles Dickens when he visited the prison in 1842. Of that system, Dickens famously wrote, in his *American Notes*:

I hold this slow and daily tampering with the mysteries of the brain to be immeasurably worse than any torture of the body: and because its ghastly signs and tokens are not so palpable to the eye and sense of touch as scars upon the flesh; because its wounds are not upon the surface, and it extorts few cries that human ears can hear; therefore I the more denounce it, as a secret punishment which slumbering humanity is not roused up to stay. (111-112)

Our new system is simply more “secure” than the one that Dickens observed because it operates behind a sophisticated facade of newer surveillance technologies and techniques, although the goals of silence, segregation, depersonalization, and disindividualization remain the same. Instead of cloaking prisoners in black sackcloth hoods to anonymize, depersonalize, and objectify prisoners when moving them about the prisons, as Dickens witnessed first-hand, we tout a proliferation of bodily and even disembodied techniques to handle and move our convicts today, though the infamous photographs from Abu Ghraib attest to the efficacy of these supposedly abandoned punitive techniques. (Those images, as well as the testimonies emerging

from Guantánamo Bay, force us to question whether or not these practices could even be considered “residual,” holdovers from a more brutal period of penology, given their sudden reemergence and proliferation in the War on Terror and their sheer efficacy in terrorizing current political detainees.) Prisoners in the 1840s were allowed to read, write, and work in their cells, so in some senses we could argue that their version of incarceration was even *less* inhumane than the locked-down SHUs of today, which employ extreme social and sensory deprivations as standard operating procedures. And beyond the Victorian sentimentality that marks Dickens’s passage, the critique remains the same: Dickens declares this system to be “cruel and wrong” (111), as have the many contemporary lawyers and litigants who have sued state governments and the federal penitentiary system to protest solitary confinement as dehumanizing, cruel, and unusual.

A different facet of contemporary penal practices that simply update supposedly outmoded punishments is the increased role of public shaming, especially as devised and implemented in Arizona by Joe Arpaio. Self-styling himself “America’s Toughest Sheriff,” Arpaio has become notorious for forcing inmates to wear striped uniforms and (later) pink underwear as part of a shaming technique, the latter of which the 9<sup>th</sup> US Circuit Court of Appeals found “to be punishment without legal justification,” employed only “to symbolize the loss of prisoners’ masculinity” (qtd. in Billeaud). To the applause of his conservative constituency, he was one of the first sheriffs to reinstitute chain-gangs, and he expanded them to include the country’s only all-women volunteer gang and another for juveniles convicted as adults. Arpaio’s decision was subsequently adopted in other jurisdictions, including counties in Massachusetts, Washington, Ohio, Alabama, and several in Florida (Ford), and as recently as 2012 British politicians debated the merits of instituting the chain-gang in England, too, based on its supposed

successes in the United States (Mason). Finally, he is probably most notorious (to speak only of his shaming techniques) for his “Tent City,” built in 1993, which at point housed as many as 2400 prisoners in the extreme heat of Phoenix summers, where temperatures have reached upwards of 145 degrees (Scott). Obviously the chain-gang has a long history in the United States as an institution to extract free, or nearly free labor, from prisoners, and Arpaio cites this economic conservatism as a driving force in his decision. The Tent City is drawing on a long tradition of the American concentration camp, too. But in other capacities, Arpaio’s use of public shaming as part of the punitive ritual in Maricopa County draws on medieval traditions, where lawbreakers and public nuisances were paraded in town squares, sometimes wearing elaborate costumes or devices, to be subjected to collective communal ire and derision.

Finally, even the emergence of the contemporary private prison is hardly novel, neither in its social function nor in its relationship with the state. It has direct historical antecedents in the convict-leasing system, where state prisoners were leased or loaned out to private individuals or companies as cheap sources of labor; the only difference now is the direction of the cash flow. In the early part of the 19<sup>th</sup> century, individual businesses were allowed to contract piece-work to prisoners who worked in silence in their cells, making shoes and other goods that were then sold on the open market. Though this system was modified and eventually abolished in the northeastern United States—due to increased industrialization and the growing power of unionized labor—a different form emerged in the South during Reconstruction, when companies paid the state for its prisoners to compensate for labor shortages due to the recent emancipation of slaves. Southern states, and indeed the federal government too, were willing to rewrite the laws in such a way that slavery, or some abject social status of quasi-civil death like slavery, was legally inscribed as punishment for breaking the law. The 13<sup>th</sup> Amendment still allows for

legalized slavery as a punishment for a crime to this day, though those that were leased out in the South during Reconstruction were usually incarcerated because they violated one of the laws that informally made up the Black Codes. More often than not, African Americans were arrested for vagrancy, the inability to prove that one was gainfully or lawfully employed, or some other public nuisance violation; given hefty fines (usually the cost of the trial, plus other fees) that they were unable to pay; and subsequently put to work to pay off those legal debts. The convict-lease system was, in some ways, more cruel and inhumane than slavery, what David Oshinsky (among others) call “worse than slavery” in a book by that title. Employers were tasked with feeding, housing, and clothing their leased convicts, but because there was a relatively stable and static pool of readily accessible labor upon which they could draw, many felt no compunction in starving convicts or in working them to death. At least under chattel slavery, owners fed and clothed their slaves, since they were considered to be investments. Slaves were valued not only for the labor they produced (picking cotton, manufacturing goods, the upkeep of the plantation) but also for their reproductive ability and the ways that they could be sold or traded as payments on debt.<sup>31</sup> Leased convicts were simply a source of exceptionally cheap labor, and nothing more. Now, instead of the state being paid to effectively rent out its convicts for their labor by private companies, the state (and sometimes the federal government) instead pays private prisoners to house and feed its prisoners.

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<sup>31</sup> Solomon Northup’s narrative *Twelve Years a Slave* (1859), recently made into an Academy Award-winning film directed by Steve McQueen, depicts in great detail the economic intricacies of the slave economy, including the leasing out of slave labor as a form of “chattel mortgage.” Northup contends that such an economic and legal arrangement saved his life, as Tibeats, the man to whom he was leased, could not in fact kill Northup for back sass, since Tibeats did not legally own any slaves and thus could not kill another man’s slave, as it would constitute certain property right infringements (104-105).

## 2.2 WHY PENAL LABOR?

The history of penal labor is a long one, and it spans, in some ways, the distinction that Foucault draws between regimes that punished and those that disciplined. The question of labor, in fact, tends to muddy this historical transition, as it has remained a constant throughout the development of modern penal practices. Work remains a notable continuity in a process otherwise marked by constant advancements and retreats from the slow decline of sovereign power to more minute articulations of ostensibly “democratic” power configurations spread throughout the body politic. It may even outlive the current penological system: speculative and science fiction are rife with hard-labor penal colonies in space, which is telling in its own right,<sup>32</sup> but in much more contemporary terms, even Foucault, the greatest critic of power and discipline, offers up labor as a legitimate punishment in lieu of incarceration or fines as the only “possible constraints by which a delinquent can be punished”: “There could be many others, appealing to other variables: public service, extra work, privation of certain rights. The constraint itself could be modulated by systems of obligation or contracts that would bind the individual’s will other than by confining him” (“To Punish” 463).

What has not been constant is the nature of the labor itself: penal labor has not always been “productive,” insofar as it has not always obviously been in the service of institutional or state economies. As late as the Victorian period, prisoners in England (and to a lesser extent in the US) were often forced to participate in acts of hard labor that had very little overt economic worth, labor that rarely resulted in any kind of quantifiable productivity. Beyond the proverbial

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<sup>32</sup> The penal colony in space is nearly ubiquitous in science fiction. Among others: *Star Trek VI: The Undiscovered Country* (1991) features a Soviet-style Klingon hard labor colony (as part of its overall critique of the Cold War and the USSR). The third installment of the Alien quadrilogy, *Alien<sup>3</sup>* (1992), features the remnants of a lead-smelting operation, run by a private galactic corporation, that employs prison labor. Part of the moon is employed as a penal colony in Robert Heinlein’s highly influential science fiction novel *The Moon is a Harsh Mistress* (1966).

rock-breaking that we associate with 19<sup>th</sup> century convict-labor, some of these make-work activities included, but were certainly not limited to:

- picking oakum—the picking apart and unraveling of old rope, which sometimes, though not always, was then tarred and reused to caulk and patch holes in wooden ships;
- walking the treadmill, a large wheel upon which prisoners were forced to walk, which may or may not have been attached to an actual mill;
- turning the crank, in which prisoners turned a crank in special cells thousands of times a day, often for no apparent purpose or material objective;
- and participating in the shot drill, in which prisoners passed heavy cannon balls to one another along the line.

Anecdotal evidence abounds in the 20<sup>th</sup> century of similar monotonous make-work routines, like the ones made famous in the film *Cool Hand Luke*, in which the eponymous character is forced to dig grave-sized holes across the prison farm just to fill them up again and start all over again.

Ostensibly, this hard work only had one chief purpose: to degrade and brutalize the convict, to break his will and resistance and self-respect. In the words of *Cool Hand Luke*: to tame the “rabbit” in Luke’s “blood,” to make him capitulate to the Captain and thus legitimize the entire regime of power by forcing the popular rebel-hero to beg. On the spectrum between discipline and punish, these backbreaking and seemingly unproductive activities were clearly more punitive in nature. But even this labor has a positive, productive capacity—it is not simply negative and inhumane. The institution of exercise as punishment, for instance, is one technique of disciplinarity that arises as political power becomes more diffused throughout the social body. The value of strenuous exercise is that it is often heavily repetitive, but this regularity also insinuates a new sense of time and rhythm upon the convict’s mind and body. Even unproductive make-work schemes instill in the body a mechanical work-discipline bound up in new notions of time and space. The body tired from walking on the treadmill, or digging holes, or the breaking of rocks is docilized, but through sheer repetition it (ideally) will eventually become accustomed

to labor, engendering what Foucault calls a “pedagogy of work” (121). Thus, the “economic effect” of hard labor in incarceration, at least during the rise of industrialism and the broadening of capitalism, is the production of “individuals mechanized according to the general norms of an industrial society”—the proletarianization of convicts who emerge from prison as a new kind of worker (242).

Despite the endurance of these residual, make-work schemes into the present, it is clear that most modern penal practices, those geared towards disciplinarity, coincided directly with the rise of capitalism and the nation-state. Marx locates this movement principally occurring during the late 15<sup>th</sup> century and throughout the 16<sup>th</sup> century, when new legislation was introduced to criminalize “vagabondage,” a kind of catch-all legalistic term indicting the life and work of former “people of the soil.” These legislations allowed for the rounding up and administrative and juridical processing of individuals who were destined to be “absorbed by the nascent manufactures as fast as it was thrown upon the world” (*Capital* 686). One more detour through the historical record, to consider the origin of the workhouse—a predecessor of the modern penitentiary—is illustrative of Marx’s claim. Although other nations had attempted to implement local versions of the workhouse (including the reuse of Bridewell Palace as a prison in England in the middle decades of the sixteenth century), the Dutch were the first to deliberately and successfully integrate the institution into burgeoning mercantilist-capitalist practices (Melossi and Pavarini 16). Their first workhouses, or *tuchthuisen*, were opened in Amsterdam in 1596, and the forward-thinking Dutch actually opened two different institutions, one for each sex. These institutions were colloquially named for the dominant labor-activity promoted within them. Women were confined in the *spinhuis*, or spin-house, and the very first was located in a former convent dedicated to St. Ursula. As we shall see in Chapter Four, the conversion of a

convent to a workhouse was really, in effect, only a slight modification, since women have been confined in convents and religious institutions long before incarceration became the punitive norm. In the *spinhuis*, women were forced to work in all kinds of textile-oriented activities, including spinning, sewing, and knitting (87, 93). Here, too, we should consider the gendered notions of labor, especially in terms of the domesticity that underscores the work they were supposed to perform, as women were only allowed to sew and spin. This too, has had a residual effect on current incarceration issues, something else to be taken up in Chapter Four.

Men were confined in the *rasphuis*, or rasp-house, so named because it was the place where dark, foreign-grown dyewoods were sanded or rasped down to sawdust, which was then sold to dyers working in various industries such as textiles (Sellin 53-54). Rasping could be efficiently done via millstones (the way that free-world raspers made sawdust), but prisoners were forced to rasp entirely by hand. Long boards were given to pairs of prisoners, who then had to push and pull a seventy- or eighty-pound multiple-crosscut saw over it to make the sawdust. Originally the saw had a total of twelve separate blades, but the size was eventually reduced to eight, then six, and then finally five blades in all, making the rasping more difficult and labor-intensive (57). It was literally back-breaking work, a labor that the institution proudly boasted to the city. Above the inner gates to the Amsterdam *rasphuis* were “two more than life-sized figures of half-naked prisoners [. . .] shown at the work of rasping logwood,” along with the institution’s Latin motto: “*Virtutis est domare, quae cuncti pavent*, i.e, it is valor to subdue that of which everyone goes in dread” (32). (An un-ironic Renaissance motto not unlike the Nazis’ motto at Auschwitz: *Arbeit macht frei*.) This set of symbols is worthy of its own rhetorical analysis, but suffice it to say that the sign functioned both as a deterrence to future criminals as well as free advertisement for the institution’s rasped sawdust. Novel, too, was the decision by *rasphuis*

planners to “pay” wages to prisoner rasps. This, obviously, was no informal arrangement. Rasps had to achieve daily quotas (counted by the number of hundred-pound bags produced in a day), which increased over the early part of one’s incarceration until a rasp could produce the maximum amount of product determined, in part, by the individual’s physical condition and institutionally established work norms. For meeting the quota, a rasp would be credited with 8 ½ stivers a day, which covered the cost of his incarceration. He could, however, earn “real” money by producing more than the quota, and this money was saved up and delivered to him upon leaving the institution. All of this was dutifully recorded in prison ledgers (58). Finally, rasping was work reserved for those who could not afford to pay for their own incarceration; the scions of old money and new money alike were housed in a separate wing from common prisoners and were not forced to work (49).

In the case of the rasphuis and the spinhuis, both institutions were intended to participate in the increasingly interconnected processes of manufacturing that helped establish Amsterdam as a leading city in modern global finance and industry, particularly in textile production. Harvested in new colonies like Surinam or Brazil, exotic foreign wood was then exported to Amsterdam, where it was rasped, sold, and used in the making of new luxury goods to be consumed in the various countries of Europe and its colonies. The capital raised by this triangulated mercantilism was often housed in one of Amsterdam’s banks or circulated globally as a result of the imperial trading companies that originated in Holland, effectively making the nation, for a time, anyway, the world’s leading banker. The rasphuis in particular was so successful that Amsterdam politicians legalized a brazilwood-rasping monopoly in 1599, criminalizing any attempt by private citizens to engage in it, and as part of this monopoly only the Amsterdam rasphuis could lawfully sell its sawdust to other countries. Thus a major spoke on

the global wheels of industry and finance rested almost entirely upon a collection of incarcerated laboring bodies yoked together by heavy saws.

But just as importantly, inmates of the rasphuis had, in an indirect way, also become (re-)invested in the somewhat circuitous logic of their own incarceration. By earning real wages in prison, the prisoner could, ideally, emerge from the prison and participate in the burgeoning markets in Amsterdam with his capital and his new-found work ethic (markets predicated, in part, on the laboring bodies of his incarcerated peers), even if he could not actually use his former talent for rasping to raise more capital, given the monopoly over the rasping industry. But we should consider the fact that these wages, low as they may be, are not simply remuneration for the coerced labor that has already been expended. This is because prison “wages” are part of the disciplinary and even pedagogical mechanisms necessary for the sustainability of mercantilist and capitalist practices and for the emergence of the bourgeoisie. Wages “function as a motive and measure of individual transformation: it is a legal fiction, since it does not represent the ‘free’ granting of labour power, but an artifice that is presumed to be effective in the techniques of correction” (Foucault *Discipline* 243). The convict learns the value of hard work and money, and emerges a more disciplined, labor-reading proletariat; as Gramsci broadly puts it in his *Notebooks*, “Industrialism is a continual victory over man’s animality, an uninterrupted and painful process of subjugating the instincts to new and rigid habits of order, exactitude, precision” (1, 235). The wages that rasper-convicts earned were made possible largely because the institution itself refused to reinvest any of its floating capital in better technologies, such as millstones, that might result in a better product or make the labor easier and more efficient. Instead, much of the profits was used either in support of the institution or to purchase more raw material (Melossi and Pavarini 20). By all accounts, the quality of the convict-rasped wood was

poorer than that made through newer industrial techniques, but profits were insured because of the relatively stable “workforce” that manned the saws. Thus, the *rasphuis* operated under a divided philosophy, wherein its more overtly punitive capacities conflicted with economically driven motivations.

For much of the 19<sup>th</sup> and 20<sup>th</sup> centuries in the United States, the restriction of convict labor to public works and the limitation of prison-made goods to state- or government-use were the two dominant models of production and consumption informing prison labor, but this is no longer the case. Perhaps the most notable examples of the former were the construction of Sing Sing prison in New York in 1825, built almost exclusively by the labor of one hundred already-incarcerated convicts (Melossi and Pavarini 136), and various 19<sup>th</sup> century canal-building projects in the Northeast and Midwest. Some states like New York and Ohio actually freed prisoners in order that they could work on the construction of the canal as wage laborers, while others, like Indiana, built its newest prisons in close proximity to canal projects so that prisoners could be freely exploited for their labor (Way 99). The use of a convict labor on public works served the dual function of working off one’s debt to the society that the convict has offended as well as participating in the process of “signification” for the regimes of power under which he labors: “Visibly, he is serving everyone; but, at the same time, he lets slip into the minds of all the crime-punishment sign: a secondary, purely moral, but much more real utility” (Foucault *Discipline* 109). This is evident in the sculpture above the *rasphuis* entrance, as well as Sheriff Arpaio’s Tent City and chain-gangs: regarding the latter, the high index of visibility accorded to prisoners laboring in the Arizona heat is as much about deterring future crime as it is about punishing past ones.

Throughout this same time in the US, labor unions rightly contended that prison-manufactured goods would undercut waged labor outside prison, and labor laws were thus carefully constructed to keep prison-made goods off the free market. This is in keeping with the long-standing labor principle of “less eligibility,” which historically held that, in English labor, “the condition of the able-bodied pauper should be less eligible than that of the lowest class of independent labourer” (Hawkins 99). Jeremy Bentham perhaps most fully articulated the principle in punitive or penological terms when he declared that “saving the regard due to life, health, and bodily ease, the ordinary condition of a convict doomed to punishment [. . .] ought not to be made *more eligible* than that of the poorest class of subjects in a state of innocence and liberty” (qtd. in Hawkins 100).<sup>33</sup> During the economic depression of 1834, New York trade unions requested that a special commission of the state should examine the impact of prison labor on the local and federal economy, and they also requested that prison labor should only be employed on road and railway construction and maintenance, among other public works. The commission balked at the latter suggestion and instead instituted a series of rules calling for short prison labor contracts, demanding that no new business should employ convict labor, and restricting the sale of convict-made goods (they could not be sold at a lower price on the open markets than those produced by free labor). Despite the unions’ “moral prejudice” regarding prison labor that informed the laws—the sentiment, as an 1887 document puts it, that “the hard-working and honest mechanic is insulted by having felons put on an equal footing with him” (qtd. in Hawkins 96)—these laws themselves were loosely enforced and were routinely and openly flaunted until the Great Depression. Alexander Berkman observes that at the turn of the

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<sup>33</sup> This is still the prevailing, “common sense” sentiment regarding prisons today, what two commentators referred to as “the leitmotiv of all prison administrators down to the present time” (qtd. in Hawkins 100). It is embedded in the complaint about everything from prison educational programs and gyms to prisoners’ access to three meals and a bed; it is at the core of every policy that seeks to reduce prison “amenities” and to make prison more punitive.

20<sup>th</sup> century, the state of Pennsylvania required all prison-made articles to be stamped as such in order to keep them out of markets outside prison, although less reputable salesmen who leased Western State Penitentiary's broom-shop labor made sure to paste over the "convict-made" stamp (275). Four Depression-era acts of legislation—the Hawes-Cooper Act (1929), the Ashurst-Sumners Act (1935), the Walsh-Healy Act (1936), and the Sumners-Ashurst Acts (1940)—and a host of state-laws would eventually provide the necessary power to actually restrict the manufacture and sale of prison goods or restrict the use (and even value) of convict labor (Hawkins 90). Though it was bookended by increased patriotic prison productivity in support of both world wars, the stagnation of convict labor that occurred during the Depression would remain the status quo until 1979, when the first legislation to reintroduce labor as a comprehensive part of the corrections process was adopted, creating the Prison Industries Enhancement Certification Program, better known as PIE (91). It is largely against this backdrop of purposefully legislated idleness that Robert Stroud and Caryl Chessman pursued their respective intellectual labors. Let us now examine how each writer assumed that work.

### 3.0 CHAPTER ONE: SO MANY BIRDS IN A CAGE: PRISON ORNITHOLOGY AS INTELLECTUAL AUTOBIOGRAPHY IN ROBERT STROUD'S *DIGEST ON THE DISEASES OF BIRDS*

Come, let's away to prison.

We two alone will sing like birds i' th' cage.

—William Shakespeare, *King Lear*, Act 5, Scene 3

#### 3.1 INTRODUCING THE BIRDMAN

Robert Franklin Stroud (1890-1963), better known by his moniker “the Birdman of Alcatraz,” wrote two books on avian pathology after twenty years of research that he undertook while serving a life sentence at the United States Federal Penitentiary in Leavenworth, Kansas. Additionally he produced a number of other unpublished manuscripts, including an autobiography and an extensive history of the US penal system from the convict point-of-view, but he is best known for his published ornithological work.<sup>34</sup> What initially started out as a

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<sup>34</sup> Stroud's former lawyer, Dudley Martin, took ownership of the manuscripts following Stroud's death in 1963, but they have remained unpublished until the first part of a five-part e-book release of his prison history was published digitally in early February 2014 (Goodwin). Among the remaining manuscripts are his autobiography, entitled

passing curiosity in canaries blossomed into a full-blown breeding business and research into bird diseases; eventually he was forbidden to continue both and was transferred to the federal penitentiary on Alcatraz Island, near San Francisco, in 1942. His *Digest on the Diseases of Birds*, first published in 1943, was eventually discovered by a Hollywood film producer and canary enthusiast, and the legend of the Birdman was born shortly after that, culminating in the biography *Birdman of Alcatraz* by Thomas Gaddis (1955) and the immensely popular film of the same title starring Burt Lancaster as the title character, released in 1962. Stroud would serve fifty-four years in prison (1909-1963), spending most of that time in some kind of segregation or solitary confinement for murdering a guard in Leavenworth in 1916. Despite the enormous groundswell of public support agitating for his release, support initially based on his expertise of canary diseases and then later augmented by the success of the film and Gaddis's work, Stroud would eventually die in prison.

Much of the science in Stroud's books on avian pathology has been completely debunked as inaccurate; generously, we might consider his impact on avian pathology as uneven at best. In a short reassessment of Stroud's contributions to her field, avian pathologist Christal G. Pollock notes that "some sections of the *Digest* are extremely accurate" and useful, such as his description of "air sac rupture" and "blood feathers," or his novel method for dealing with birds suffering from dystocia, a condition in which eggs prove to be impassable for hens (131). She contends that other observations, like his assessment regarding the difficulty of setting broken bones on small birds, are largely "incorrect because of advances in avian medicine" since his particular historical moment (131). In other words, he was not incorrect in his initial assessment,

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"Bobbie," which takes up, in part, Stroud's homosexuality and past sexual encounters as an adolescent. Although it is well beyond the scope of this chapter, it is nevertheless interesting to note that Stroud could also be claimed as openly gay man who willingly wrote about his homosexuality in the early part of the 20<sup>th</sup> century and thus he exists on the very peripheries of queer writing, in addition to his peripheral relationship to the category of prison writing.

but his observations have become obsolete because of the work of later researchers, which is part of the nature of ever-evolving scientific research. She finally notes that Stroud was entirely wrong regarding some ideas, most notably about the disease “psittacosis” (he argued that it was related to another common virus and recommended the same treatment for both) and its potential lethality of bird-human cross-contamination, which Stroud seriously doubted (132).

Because of the uneven nature of his lasting contributions to science—the strengths lie in his anatomical descriptions and behavioral observations about how diseases affected birds, whereas the actual diagnoses and recommendations for therapies and cures are his major weaknesses—there is very little value in reading his work as a layman’s guide to curing the diseases of pet birds. For a time, though, the *Digest* was the most popular manual for canary owners and breeders, for three reasons. The first is because of the compelling story behind the book itself. The narrative of a caged man supposedly finding redemption in caged birds had an irresistible power. Stroud’s relationship with birds made him appear more likeable and humane (as well as human), and people felt they understood him because of the accessibility of the double-caging motif in his story. Moreover, because of the film’s lasting popularity, the manual still circulated widely even after newer books recommended better, proven remedies. Subsequent reprintings of the *Digest* include an image of Burt Lancaster as Stroud on the back cover and brief but dramatic recapitulation of Stroud’s life that ends quote hyperbolically, “there is no book in the world, in any language, which can help the layman more in treating bird diseases than this present volume.” Beyond the film’s success, the book remained popular because his scientific narratives function as a means of telling the story of his research in a way that is purposefully accessible (and sometimes didactic) to common readers. The strongly autobiographical quality of the encyclopedic *Digest* thus has a sustained historical value as a foundational document in the

discipline of avian pathology, despite the fact the science in it has been challenged and overturned since its publication over half a century ago.

Regardless of the current assessment on the *Digest*'s science, the book still has a particular value as a kind of prison-based intellectual autobiography and disciplinary history, but in these capacities Stroud's work has been almost completely neglected. A brief reception history of the *Digest* does reveal that readers were continually challenged by its language and its vexed relationship to the genres of science writing. Reviewers often focused on the self-satisfied, smug, arrogant, and even crude elements found in it. In 1944, one critic observes, "Readers may justifiably wonder why extraneous remarks and information are inserted in various places" (Farner 87). Another desires that the book "might have been less vituperative in places" and later writes that "It is easy to picture the man as an aggressive, self-confident person [. . .], one who has the scientific attitude of experimentation and originality rather than respect for accepted opinion and tradition" (qtd. in Gaddis 217-218). Henri C. Seibert observes that "the book has considerable freedom of expression, which, to say the least, can be viewed with mixed emotions," and he critiques Stroud for his "grudge against the veterinary profession," evident when Stroud "lashes out in exceedingly vivid statements at veterinary science, veterinarians in general, and some veterinarians in particular" (105). In 1960, *Life* magazine staff writer Paul O'Neill asserted the value of the book beyond its by-then outdated science, arguing that it "is also a reflection of its author's strange and indomitable personality and a record of his long, painful[,] and triumphant exploration of the world of the intellect" (151). In this regard, O'Neill is perhaps the only contemporary reviewer who most fully appreciated the multi-genre and multi-modal nature of the book, a fact that has since passed on without comment except for one biographer's claim that the book is, generically, "a testimonial" (Babyak 140). Since 1960, the

only time Stroud's work has been considered in light of a larger so-called canon of prison writing is a single passing reference to the *Digest* in H. Bruce Franklin's *Prison Literature in America*, when Franklin acknowledges that the book's publication in 1943 occurred during a period from the 1930s until 1960s in which "there would be little advancement in form and content" in prison writing in general (178). Otherwise he does no work in classifying the book or in assessing it beyond simply acknowledging its existence.

This lack of critical attention is no doubt due to the fact that the book is difficult to categorize and that prison only obliquely figures in Stroud's published work and is thus not obviously about the penal institution. However, there are specific reasons why the *Digest* should be grouped alongside more usual forms of prison writing, beyond its place of composition. The *Digest* functions as an extensive archive of autobiographical writing and thus contributes to and challenges our understanding of one of the dominant forms of literary and personal expression emerging from penal spaces since the middle of the 19<sup>th</sup> century: namely, the prison autobiography. I argue that in addition to a serving as a depository for his scientific knowledge and experience, the *Digest* also functions as a means of formulating a specific subjectivity through moments of narration, particularly narrative digression. Thus the elements of the book that originally detracted from its value in the 1940s and 1950s are precisely the same elements that give the work any kind of sustained value for our moment. These apparent tangents provide keen insights into the process by which Stroud claims or articulates a sense of selfhood through his "scientific" work. In other words, the cumulative effect of Stroud's narration is the composition of a character named "Robert Stroud"—intellectual laborer, autodidact, so-called genius, and foremost expert on avian pathology—a character who in some aspects barely begins to describe the historical individual. He thus directly engages the question posed by both Hannah

Arendt and Michel Foucault discussed in the introduction—“Who are you?”—in the interstices and gaps of an encyclopedic book ostensibly and nominally about bird diseases.

Writing in this manner is an attempt at self-reclamation and a process by which the writer (re)discovers self-worth within a hostile institutional setting, a constitutive element of many prison memoirs. But Stroud engages in this process in a novel way: he stakes out his value to a newly emerging field of scientific research rather than composing a book that is recognizably (and solely) autobiographical, or even confessional. In his capacity as a self-taught researcher and science writer, Stroud is singular; the only other writer to do similar work is the infamous murderer Nathan Leopold, who recounts in his autobiography *Life Plus 99 Years* (1958) of his participation in the Stateville Penitentiary Malaria Study, in which he served as both a lab assistant and as a subject.<sup>35</sup> In this chapter I am attempting to recontextualize and indeed reclaim that which was considered most extraneous to Robert Stroud’s initial audience as vital to our understanding of the individual and the laborer behind the science. If we treat the *Digest* much less rigidly as “science” and read it more generously as a book participating in a variety of genres, narrative conventions, modes, and styles (even if it does so uncomfortably), then we can trace a slowly developing intellectual, emotional, and even social subjectivity representing a Robert Stroud that is much different from the figure prosecuted and imprisoned for murder; or the character castigated by prison officials and administrators; or the “rehabilitated” persona that the public drew upon in agitating for his release. For it is only in the *Digest* that Stroud is able to exercise complete autonomous control over the narrative of his life and the formulation and

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<sup>35</sup> Leopold is another interesting prison-based intellectual laborer, though he was also a college graduate prior to his incarceration. He taught in prison, aided in the reorganization of the prison library, and participated as a lab assistant and test subject in the malaria trials. He also published an ornithological book of his own after his release from prison. For an extended Foucauldian examination of the Stateville experiments, which last nearly thirty years, see Nathaniel Comfort’s “The Prisoner as Model Organism: Malaria Research at Stateville Penitentiary.”

presentation of his public identity, though we must not lose sight of the fact that this identity is, indeed, a carefully constructed and modulated one that does not always correspond to legal and even historical reality. When viewed in this light, his *Digest* ultimately asks us to reconsider what prison writing is or could be: how does this collection of messy, self-involved and self-important ornithological observations, apparently so far afield from the more normative discourses of prison writing (and situated very uncomfortably in science writing too), still function like other texts produced in prison? What does it add to our understanding of the genre of prison life-writing, and of autobiography in general? So far, Robert Stroud's *Digest* has existed on the very margins of both prison writing and autobiography, but the fact it *exists* as both demands that we reconsider—and perhaps recontextualize—the boundaries of both these categories.

Finally, and perhaps just as importantly, we must consider that the entirety of the *Digest* emerges and indeed exists partly as a result of Stroud's obstinacy and unwillingness to capitulate to the regimes of power that kept him incarcerated. Though his research was supported and even catered to as a means of keeping him docile and disciplined, the book that resulted from that research circulated in such ways that undermined the rehabilitative logic of the federal government. This was the case because, paradoxically enough, it was taken up by readers as *proof* that rehabilitation worked. Though Stroud never made any claims about his own rehabilitation, the *Digest* was adopted by penal reformers and certain sections of the public at large as evidence that Stroud was “cured,” and thus should be released. The simple fact that he was not released made it clear that rehabilitative protocols were, at best, selectively and unevenly applied to certain portions of the penal population, or, at worst, were entirely rhetorical positions that were actually impossible to carry out. Stroud saw his work as useful and productive in its

own right, but he did not view it as “regenerative” insofar as it reflected the medical and existential reclamation project embedded at the heart of rehabilitation. Thus from the very beginnings of the shift towards the rehabilitative model we already see prisoners reacting against it, critiquing it, and claiming for themselves a different set of values engendered by the intellectual labor that they assume.

### 3.2 STROUD’S “LONGUE DURÉE”

Stroud’s life story has been published in five different significant versions: a long *Life* article published in 1960; a seven-article series in the *Washington Post* published from July 15<sup>th</sup> 1962 to July 12 1962; Gaddis’s biography; the Burt Lancaster Hollywood film; and a more recent biography, *Birdman: The Many Faces of Robert Stroud* (1994), by Jolene Babyak, who lived on Alcatraz as a child while her father served as an administrator at the prison.<sup>36</sup> In her biography, Babyak seeks to revise the long-standing and prevailing legend of Stroud as both charismatic and misunderstood, a version of the man who had, through force of will and an insatiable intellectual curiosity, transformed a third-grade education into self-taught expertise on bird diseases. She feels that Gaddis’s enthusiastic biography, full of rhetorical excess and at times verging on hagiography, presents a distorted image of the man who had lived for a time as a train-hopping hobo; murdered a rival (who was probably also a pimp) over the affection of a prostitute on the Alaskan frontier in 1909; and later stabbed to death a prison guard in Leavenworth’s mess hall in 1916, a murder that occurred in full view of over a thousand prisoners and guards. For that last

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<sup>36</sup> Gaddis would also write extensively about Stroud in his 1964 dissertation, *The Evolution of a Personality Under Correctional Stress*, and another dissertation, by Judge James C. Logan, would take Stroud as a subject (Babyak 77).

act Stroud was sentenced to death, but the sentence was commuted a mere eight days before his execution date in 1920 by Woodrow Wilson himself after Stroud's mother successfully petitioned the President. In order to make a living lesson of a guard-killer, however, Stroud was effectively buried in solitary confinement for life, and was forbidden to ever socialize with other prisoners beyond those also housed in the bowels of Leavenworth.

According to Babyak, the legendary Burt-Lancaster-Birdman "had authority, integrity, and moral seductiveness" (10), qualities the historical figure lacked. The real version, she claims, "proudly called himself a 'pederast'" and also enjoyed the passive "female role" in homosexual encounters (16); was deemed "pathological" (12) by prison officials; and was also considered a "predator" (18) and irredeemably homicidal (16). Other guards who interacted with Stroud over the duration of his incarceration, including former Alcatraz guard George H. Gregory, viewed him as an intellectual "phony" (89), and they saw him as an individual that required extreme segregation because he routinely threatened guards (90). Gregory recounts that Stroud also (anecdotally) believed that only way to improve inmate behavior was "to let every inmate carry a knife" (90), and as further evidence of Stroud's apparent deviousness and depravity, Babyak cites Stroud's unpublished manuscript on incarceration in the United States from 1790-1930, a manuscript confiscated and suppressed purportedly "because some of it contained a description of sex between men" (17). At the time, Stroud's open homosexuality was the second-most cited reason why the US Parole Board denied him the opportunity for parole in 1961-1962, a year before his death; their primary concern was that the seventy-year-old would commit another

violent crime (16).<sup>37</sup> But even Babyak's warts-and-all biography cannot deny that Stroud's intellectual and publishing "accomplishments *were* remarkable" (original emphasis 6).

Stroud's time in prison spanned over a half-century, and it is well worth considering the duration of his sentence against the backdrop of some of the significant events that, for the most part, only indirectly affected Stroud while he was incarcerated. He lived through nine different presidential administrations, from the Taft administration through John F. Kennedy's; Stroud actually died the day before the Kennedy assassination. The arrest and execution of Sacco and Vanzetti (1920); the sensational Leopold and Loeb murder trial (1924); the Scottsboro Boys ordeal (1931-1935); the Lindbergh baby kidnapping (1932); the Caryl Chessman case (1948-1960, to be examined in more detail in the next chapter); and the execution of the Rosenbergs for espionage (1953) all occurred after Stroud's incarceration.<sup>38</sup> So too, did World War I, the Russian Revolution, World War II and the Holocaust, the Communist revolution in China, and the Korean War, and Stroud lived long enough to see the early US military interventions in Vietnam. Stroud was incarcerated the year after the Ford Model T was released (1908), and he could only read about such innovations as the proliferation of air travel and the detonation of the atomic bomb. He watched his first television program during the last four years of his life, after

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<sup>37</sup> Both biographies (and to a lesser extent, the film too) are preoccupied with certain characteristics of Stroud's biography, particularly regarding his relationships. Gaddis concentrates on Stroud's overbearing and apparently pathologically possessive mother, perhaps in a loosely Freudian attempt to indicate some mitigating psychological reason for Stroud's crimes and eccentricities. (This sentiment was eventually translated to the film, too.) Babyak's preoccupation is with Stroud's homosexuality, about which she writes rather salaciously. She takes a certain glee in writing about Stroud's latent Sadean tendencies: out of enforced boredom in Alcatraz, Stroud "wrote reams of stories—some pornographic" (17). One story, used as evidence in a court hearing that ultimately denied Stroud the opportunity to revise his *Digest* and publish his prison history, was supposedly an "indescribable piece of filth" about two incestuous brothers, "aged nine and fifteen, engaging in a tough bout of Saturday morning sex, ending in coitus" (18). But she also notes that Stroud was probably the victim of incest by his mother, which had a profound impact on his upbringing and temperament (36). Stroud himself would at one point call his mother a "veritable Agrippina," whom a newspaper columnist solemnly identified as "the mother of Nero who was so possessive that Nero finally arranged for her murder" (qtd. in Edstrom, "That Birdman").

<sup>38</sup> Morton Sobell, part of the convicted Soviet spy-ring that included the Rosenbergs, would actually be the individual to find Stroud dead in 1963 (L. Larsen 149).

his segregation had been lifted following his final transfer from Alcatraz to the minimum-security facility in Springfield, Missouri, a transfer that occurred because of his ill-health and age (qtd. in L. Larsen 153). In 1909, the year Stroud was arrested, Jack London published *Martin Eden* and Gertrude Stein published *Three Lives*, and Pablo Picasso and Georges Braque were experimenting with early analytical cubism; by the time Stroud died in 1963, Roy Lichtenstein had produced a number of Pop Art pieces, Andy Warhol unveiled his famous *Eight Elvises* silkscreen painting, and postmodern novelists like Julio Cortázar (*Hopscotch*), Thomas Pynchon (*V*), and Kurt Vonnegut (*Cat's Cradle*) all had early major post-modern works published.

In addition to the wide historical and cultural events that occurred during his incarceration, Stroud also lived through rather monumental shifts in penological practices. From 1909 through the late 1920s, Stroud was subject to rather outdated forms of punitive penology. The silent system, a holdover from late 18<sup>th</sup> and 19<sup>th</sup> century incarceration tactics, was still in effect in Western US penitentiaries. Men were routinely and widely beaten with wooden batons and rubber hoses for even minor infractions, and some were punished further by being chained to walls or straightjacketed in solitary confinement and kept on bread-and-water diets for days, even weeks, on end.<sup>39</sup> But beginning around 1910 shifts at all levels of justice began to occur. The Internal Revenue Code was instituted in 1913, significantly broadening certain categories of federal crimes. New vice laws, including the Mann Act, also known as the White Slave Law

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<sup>39</sup> Andrew Turner, the guard that Stroud murdered, was attempting to beat Stroud in the mess hall for some minor insubordination when Stroud stabbed him. Stroud's brother had traveled to Kansas to visit him but was turned away by guards at the gate because he had come on a day when visits were not allowed. Furthermore, at least anecdotally, the guard was notorious among convicts and other guards for his violent temper and propensity to employ his baton indiscriminately, and jailhouse scuttlebutt had it that "Turner had been transferred from Atlanta to Leavenworth because he had clubbed a prisoner to death" in his former prison (O'Neill 147). Gaddis in particular cites self-defense as mitigating circumstance in Stroud's stabbing, and this would later be picked up by others agitating for Stroud's release. The practice of straightjacketing was common enough during this period that it made appearances in popular literature. Indeed, Jack London would publish a novel called *The Star Rover* in 1915, a bizarre novel about a straightjacketed prisoner at San Quentin who discovers his capacity for astral projection, allowing him to travel through time and experience the lives of various historical figures, including a bystander at the Crucifixion.

(1911), and a new series of drug laws, including Prohibition, occurred over this same period (Friedman 264-265). J. Edgar Hoover became the head of the new Federal Bureau of Investigation in 1924, which significantly expanded the regulatory and investigatory powers of the state. Supposedly Stroud actually met Hoover on a tour of Leavenworth in 1936 and the director bought a singing canary from the prisoner for ten dollars, though Hoover would deny this as “an old falsehood” ten years after Stroud’s death (“Alcatraz Birdman”). Finally, the federal prison system was officially created and slowly expanded to five separate sites between the late 1890s and 1934.<sup>40</sup>

The influence of physicians, psychologists, behavioral scientists, and the like—what Foucault describes as the “whole army of technicians” that emerges in the 19<sup>th</sup> and early 20<sup>th</sup> century (*Discipline* 11)—and their concerted effort to promote rehabilitation is the most notable change in penal policy during Stroud’s time in prison. As early as 1915, one prison physician articulated the need for prison doctors to serve the mental health needs of inmates as well as their physical needs. He contended that

An alienist’s skill is obviously needed in every prison where there are malingerers to be detected, cases of insanity to be recognized, or any attempt made to classify inmates on the basis of mental capacity and efficiency. The prison physician who is himself an alienist has an essential armamentarium of resourceful experience with which to test the capabilities, detect the psychopathic departures, and influence the opinions of his subjects. (Fernald 922)

The establishment of disciplines such psychology, psychiatry, criminology—as well as “eugenics, euthenics,” and related pseudo-sciences—gave rise to the rehabilitative model; some

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<sup>40</sup> The prisons, in order in which they were opened, are Leavenworth; Atlanta (1902); McNeil Island, Washington State (1904); the Federal Industrial Institution for Women at Alderson, WV (1927-1928); and Alcatraz (1933)(Friedman 269). Before being designated as federal spaces, both McNeil Island and Alcatraz had previously functioned as local, rather than federal, penal spaces. Beginning in 1867, McNeil Island served as a territorial prison, while Alcatraz operated as military garrison in the 1850s and would later serve as a fulltime military prison after the Civil War (“McNeil Island”; “A Brief History”). All but Alcatraz and McNeil Island still serve as penal institutions; the latter finally closed in 2011.

institutions, particularly in the Northeast, set up “criminological laboratories” in prisons and courts in order to collect quantitative data and cases histories (923). Though the philosophical core of long-term incarceration has always been an implicitly diagnostic one—“To condemn someone to perpetual prison term is to transpose a medical or psychological diagnosis onto the judicial sentence; it is to say, ‘He is irredeemable’” (Foucault “To Punish” 462)—rehabilitation foregrounded its medical origin and mission to “heal a mind diseased” and repair the dysfunctional or criminal back into society’s good graces (Fernald 922). But it would not be until the 1930s when its adoption became more widespread across the nation, and even then it would be unevenly adopted and viewed with skepticism from older prison wardens, the public, and even certain members of the disciplines whose work ostensibly supported rehabilitation. The rehabilitative project did help to usher in the era of indefinite sentencing, as well as the institution of a multi-tiered system of penal institutions (from minimal to maximum security facilities). Indeterminate sentencing allowed judges the discretion of suggesting a length of time for a convict’s sentence and effectively placed the criminal’s capacity for and progress toward redemption in the hands of therapists and case workers; indeterminate sentencing implicitly functioned according to the idea that “the length of time necessary for rehabilitation varies with the individual himself” (Papurt 71). The tiered system allowed for better observation, to keep the worst of the incorrigibles (like Stroud) away from those who were most likely to be successfully rehabilitated and reintegrated into society.

By 1936, rehabilitation depended on the institution of case work units in some prisons, but critics were also already demonstrating that the fact-gathering and diagnostic demands of this work (as well as the often naïve disciplinary zeal of newly minted, college-educated case workers) interfered with the therapy they were also supposed to initiate (Papurt 69-70). As would

be the case over the entire duration of the rehabilitative experiment, convicts themselves were also dubious of case worker or therapist intentions from the outset. This was in part because the case worker rarely “sold himself to the inmate,” but also because the young professionals out to make names for themselves often concentrated initially on the “so-called abnormal inmates,” rather than those who would be most amenable to rehabilitation (72). However, as is clear from various reports and minutes from national meetings and prison administrator congresses held in the late 1930s, these governing bodies increasingly turned to the adoption of rehabilitation and away from more punitive measures. At these meetings there were holdovers from previous regimes who supported practices like “a liberal dose of the ‘the old grey mare’ on that part” of the convict’s “anatomy which is generally considered to be the tenderest” (qtd in Baker 602). Nevertheless, these iron-glove approaches were increasingly marginalized (in part because they often were practiced most comprehensively in the margins of the nation: the South, the West, and the Southwest) in favor of “intelligent discipline,” the kind that “must be based upon the future adjustment of the individual rather than disciplinary obedience only” (qtd. in Baker 602). But even as rehabilitation initiated wide-ranging penological debate as *policy* to be adopted, its theoretical and philosophical underpinnings were already being questioned, both by prisoners like Stroud, as we shall see below, but also by certain prison psychologists, such as J.G. Wilson and M.J. Pescor, who argued, in essence, that the project of rehabilitation and the material conditions of incarceration were entirely incompatible (qtd. in “Reform” 12).

Although historians often frame the early period of Stroud’s incarceration in Progressive Era rhetoric about wide-sweeping (penal) reform, they now doubt the overall efficacy of the penal changes that occurred. As the previous paragraphs suggest, the period itself was marked by deeply divided camps and factions who doubted the other side’s efficacy and intentions, so much

so that the project of rehabilitation never had a legitimate chance to comprehensively take hold. One tangible result of Progressivism, however, was the rise of the modern “Big House” built across the country. The Big House was an imposing institution that now “exemplifies the superficiality of Progressive reforms in recreation, work, and assimilation with the open society” because its primary functions were custodial, not rehabilitative, in nature (Rotman 165).<sup>41</sup> Edgardo Rotman contends that there were wide discrepancies between reformers’ desires and what actually took place on the ground: “The Progressive ideal of treating rather than correcting criminals had only scant application” (163). Even though rehabilitation became the stated and codified goal of penal institutions during this era—“in 1929 the Federal Bureau of Prisons had turned rehabilitation into a policy” (169)—it was rarely instituted and hardly systematized as protocol. Moreover, by this time, Stroud had already been incarcerated for twenty years and completely institutionalized, so even if rehabilitation had been treated more seriously by administrators, these principles surely would not have been retroactively applied to someone as seemingly incorrigible and irredeemable as himself. In fact, as early as 1922, Assistant US Attorney Alton H. Skinner wrote a letter to the US Board of Parole outlining why Stroud should never be released from prison. In that letter Skinner categorically denies Stroud’s capacity for rehabilitation before the term had even become a matter of penal protocol or even common currency by penologists and administrators. This is apparent when he asserts, “I do not believe that prison treatment or any other kind of treatment will ever cure his criminal instincts, and the only time that he will cease to be a menace to those who must of necessity come in contact with him, is when he comes to the end of his life” (qtd. in L. Larsen 151). This sentiment would be echoed years later, after Stroud’s parole appeal was denied in 1961, when Carl F. Zarter, deputy

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<sup>41</sup> For a recent reassessment of the proliferation and subsequent cultural impact of the Big House on American consciousness, see Stephen Cox’s *The Big House: Image and Reality of the American Prison* (2009).

warden of Leavenworth, would attest that he could only name “five” convicts “for whom there would be no hope of rehabilitation. Stroud would head that list. He could look you straight in the eye, reach in his pocket for a straightedge razor, and cut your heart out. He never would change expression” (qtd. in L. Larsen 155).

During the early years of Stroud’s imprisonment, prison wardens were given wide latitude and discretion to run their prisons as they saw fit, and he often manipulated this discretion for his own benefit. Although technically there was a federal system of penitentiaries across the nation, it was only loosely organized until 1929, when a wide-sweeping process of centralization and reorganization took place. This reform effectively stripped the individual power accorded to each warden and consolidated that power in a Washington, DC bureau who managed all federal prisons. An attendant ramification of this juridical and administrative consolidation were “prelude[s] to the organization of a system of prison industries” cropping up in various prisons, including Leavenworth. Prior to this moment prisoners were sometimes allowed “to engage in private businesses” like the production of handicrafts, but these practices were forbidden in the late 1920s and early 1930s as federal and state prisons adopted increasingly centralized and industrial forms of labor for the incarcerated (O’Neill 148). This industrialization eventually exploded in the 1940s as prisons sought to contribute to the US war effort abroad. These penological and labor-oriented contexts are crucial in understanding Stroud’s ornithological work, because his labor was the direct result not only of individual drive, determination, and “genius,” but also from official sanctions by various Leavenworth wardens and guards operating under an older and largely outdated penological system. While the increasingly obsolete penological form that Stroud lived under for the first twenty-odd years of his prison sentence were largely idiosyncratic, and often brutal and brutalizing, this system’s

capriciousness also afforded convicts opportunities for more privileges and rewards. Informal contracts, agreements, and understandings between prisoners, guards, and administrators created a penal system that was hardly uniform from prison to prison; the system was also quite disorderly. Thus, over the course of his experiments Stroud could bribe, borrow, cajole, trade, and buy from guards various pieces of equipment he needed, but only some of this equipment was acquired through *sub rosa* and/or criminal activities. Initially, he routinely broke prison rules about contraband, having various items like bird seed or razor blades smuggled in to him prior to seeking official approval, which was then normally granted after the fact, and he also sometimes stole things from the prison itself. Yet, Stroud would seek official approval to acquire material just as often as he surreptitiously acquired items, if only because that meant less risk to his work.

The covert and overt approval Stroud was granted proved to be more formal than guards saving bits of food or wood for the convict-scientist. Stroud posed serious questions about property ownership, rights-to-work, and convict behavior more generally at a time where these rules simply did not exist or were in the process of evolving. Always one step ahead of prison guidelines, he “had learned to move between interstices of rules” (Gaddis 115). Until their power was reduced by the federal government, the series of wardens responsible for Stroud and his fellow convicts were complicit in his expanding business and intellectual labor, as they saw how tractable Stroud became as a result of his birds. Here, we should keep in mind Foucault’s description of labor as an instrument employed to docilize prisoners and instill in them a different sense of discipline. Early on, one warden allowed Stroud two safety razors to continue his work on dissections, and from there these official allowances would soon mushroom. Stroud’s approved contact list would eventually include a number of trade magazines and individual canary fanciers—a luxury categorically denied to other prisoners—and he was tacitly

allowed to conduct a business from a post office box addressed inside the prison, using his mother, and later his wife, as a go-between and mediator.<sup>42</sup> He was also allowed to publish under his own name so long as he “concealed his identity as a prisoner” and did “not draw sympathy to himself, nor attempt to exploit his privileges by agitating for his freedom” (136). Stroud would openly flout this demand as soon as his business and research were threatened in August 1931, and he used his wife to smuggle out a hand-written letter “mailed to thousands of bird breeders who were told to inform their Congressman of Stroud’s plight” (Edstrom, “Business Booms”). Eventually he was given the extraordinary privilege of using a second cell in the solitary wing for his birds and laboratory, and prison officials would see fit to construct a passage between the two cells so that Stroud could work in peace.

Stroud had managed to use his fame and public pressure to negotiate this extra space, in exchange for a cessation of his publication, but Gaddis notes that Stroud continued to smuggle out articles, as well as the manuscript of his first book, *Diseases of Canaries*, after the second cell was given to him. Even the federal government begrudgingly sanctioned his experiments. By the time they tried to shut down his work as part of the systematic prison reforms in 1931, Stroud had established himself in trade magazines and in epistolary exchanges as a preeminent and respected scholar, a reputation he cashed in on when the government threatened to take away his birds. He successfully agitated among the community of bird fanciers and those who believed in

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<sup>42</sup> Stroud would “marry” a widow, Della Jones, while in Leavenworth. In addition to his ornithological work, he dabbled in the law and, regarding his marriage, attempted to initiate a complicated legal argument in which he cited the French Treaty of Paris (from 1783), which predates federal law, in an effort to contend that as a federal prisoner he was exempt from Kansas law and its statutes on marriages. Kansas was a part of French territories sold to the United States in the Louisiana Purchase, and at that time those living in former French territories had insisted that they were governed by French law, not US law. The Treaty of Paris recognized marriages based on “a signed declaration of a man and woman that they were husband and wife” (Gaddis 166), and so Stroud attempted to marry Jones simply by producing a document, signed by both of them, attesting to their wedding. The legal nature of this was dubious at best, and the marriage permanently ended Stroud’s relationship with his mother, who was intensely jealous of Stroud’s affections for Jones. She would later tell the courts—and the newspapers—that her son should never be released, largely, it seems, to spite him (Gaddis 177).

rehabilitation to force the government to backtrack on their decision. Government representatives even offered to pay him a salary and to invest a portion of his profits from selling birds into the common prisoner fund, a compromise he angrily rejected outright as an attempt to “socialize” his endeavors (156); were he not a twice-convicted murderer and completely anti-authoritarian, his libertarian, entrepreneurial spirit would have probably been lauded by certain conservative politicians of his day. Nevertheless his public presence forced the government to stay its hand and allow him to continue his work for a few more years.

Perhaps no better evidence indicates just how much latitude Stroud was accorded than the final inventory of his cells prior to his transfer to Alcatraz. By the time he left Leavenworth, his personal laboratory would contain dangerous, explosive chemicals like “potassium chlorate” (Gaddis 130); “a wood-alcohol Bunsen burner” (145); a scalpel, screwdriver, and scissors (181); a homemade “microtome,” a device meant to slice tissue up to “1/12,000 of an inch” for microscopic slide studies (187); an icepick, wood chisels, and a claw hammer (212). Apart from the obviously scientific material, officials also discovered “a stiletto-like dagger hidden in a hollowed-out niche under a table” and equipment used in the manufacturing of prison-house moonshine; Stroud had built “an improvised still heated by a homemade electric hotplate” and at the time of his transfer also had “three one-half gallons of mash and various quantities of alcohol concealed in sealed glass tubes” (Edstrom, “Research”). In total, his personal cache weighed 1,144 pounds, property amassed by licit and illicit means in order to carry out his work (Gaddis 211). By this time, too, the guards had run “out of rules to stretch for Stroud” (131), and his increasing fame outside prison became a proverbial thorn in the government’s side. Additionally, prison officials felt that the punitive aspect of his solitary confinement had long been evaporated in the face of his constant demands, so the transfer to Alcatraz was thus a way to shut down his

operations, effectively silence him, remove him from his base of power in Leavenworth, and reintroduce a stiff measure of penalty into his incarceration. The fact he is referred to as the “Birdman of Alcatraz” is thus misleading; he would never again be able to research or write about birds after transferring from Leavenworth, even though the *Digest* was published a year after the transfer.

### **3.3 THE DIGEST GENRE: WORKING AGAINST EXPECTATIONS, IN AND OUTSIDE THE MARGINS**

As a book, Stroud’s *Digest* is rather peculiar. It is an alphabetically arranged and cross-referenced dictionary of diseases and bird disorders, collecting fact and fiction, scientific observation and personal vendetta, anatomical drawings and various musings on bird and human behavior. The length of each entry in the *Digest* depends greatly in the subject matter. Some only include a cross-reference to another term, while others are about a paragraph in length. A majority of the entries average between one and three pages. A handful—entries on avian diphtheria (the longest, at nineteen pages), blood (fourteen), fowl paralysis (seven and a half) leukemia of poultry (eight), and uremia (seven)—extend for many pages, often include multiple illustrations, and are broken down into subheadings like “etiology,” “morbid anatomy,” “symptoms,” and the like. It is in these longer entries where we see the most variety in terms of topical and ostensibly extraneous subject matters, as they are often on issues that Stroud had done the most amount of research. He therefore had more interest and dedication invested in these diseases, and he treated them territorially. Stroud spends quite a few pages laying out his assessment of the disease, defending his theories, and attacking the work of other researchers.

Structurally, the *Digest* also contains a separate sixty-six page glossary following the main entries, and concludes with a section entitled “Techniques” that lays out Stroud’s recommendations for measuring medicinal dosages for small birds, or the making of blood smears and microscopic slides, among a host of scientific operations he had performed over the years.

Although a bulk of the text is in the service of naming, describing, and curing bird diseases, the *Digest* also includes many narrative moments and anecdotes regarding his experimentation and bird business; rants against the US government, farmers, and particular professional veterinarians; and misanthropic asides and digressions about the general stupidity of human nature, especially when compared to the behavior of birds. Typographically, the *Digest* is marked by Stroud’s consistent use of italicization, capitalization, and boldface words that repeatedly call attention to the text. This may have factored in to the way critics received his prose as subpar, or even strident. Stylistically, too, the entries are hardly uniform. A few are written in an impassive, objective, and clinical register that reads mostly like “science-writing” (with little first or no first-person narration, and sometimes in passive voice), but this is not the norm. Some entries are dominated by anecdotes and narratives culled from his years of experiences. Others even assume a kind of hardboiled crime fiction language and tone, though it is unclear if Stroud read from or enjoyed the genre as much as his fellow convicts. In some ways, these latter passages actually anticipate the current fad of forensic investigation crime thrillers. He begins his entry on “Morbid Anatomy” thus: “The six birds arrived dead. The express agent had been thoughtful enough to make a note of the time of each death. All had been dead less than twelve hours and two less than three hours at the time of delivery. They were examined at once. Rigor mortis was pronounced in all six bodies” (54). Had Dashiell Hammett or near-

contemporary prison- and crime-writer Chester Himes attended to the burgeoning science of forensics in their fiction, they might have produced similar statements in their own hardboiled fiction.

With its sheer variety of subject matter and styles, the scope of Stroud's *Digest* ultimately far outstrips the rather modest ambitions Stroud intended for it. In the introduction to the book, he claims to have wanted the book to serve as an immanently accessible guide that "no ten-year-old child could fail to understand" (vii); he does so by constantly interjecting himself in the book in ways that reviewers have found distracting and unnecessary. Babyak critiques the work as "indulgent, overlong, didactic, rambling, with wildly inappropriate digressions, and off-the-cuff opinions," observes that it "lacked the organization and professional restraint of his first book," and that it is, "in short, a testimonial" (140), rather than scientific writing. As a result of these eruptions and emergences, Stroud himself acknowledges that, compositionally, "I have tried to make this book a personal digest, and have tried to sift and interpret the findings of others in the light of my own experience" (ix). It is clear from this statement that he understood that other readers would see his many digressions and tangents as wholly extraneous to his scientific project, and that they could be viewed as entirely unscientific. A closer examination of the genre, style, textual conventions, and structure of the *Digest* itself allows us to better contextualize and understand the ways that Stroud understood this project, engaged with the book as a scientific treatise of sorts, and constantly negotiated or undermined issues like audience expectation or generic conventions.

Perhaps most importantly, the *Digest* represents an up-to-date compendium and repository of Stroud's scientific research, one that significantly revises and overturns a number of findings originally published in his 1929 book *Diseases of Canaries*. In the introduction to the

*Digest*, Stroud writes the he felt his first book was “hastily executed and badly garbled in the hands of the publisher” (v), so the second book was necessarily composed to articulate something much closer to his vision of his own work. How his publishers “garbled” the first book remains unclear. Babyak insists that it was successful because of the strong editing hand of a “Herbert C. Sanborn, Ph.D. from Vanderbilt University”; the philosophy professor and bird hobbyist significantly “toned down” Stroud’s “hyperactive sentences” and rendered Stroud’s scientific explanations to “brilliantly clear, forceful, and elegant” (118). When compared to the *Digest*, it is obvious that what was cut from the first book was any and all sense of Stroud as an individual. In that book, he does not come across as a writer seemingly incapable of rhetorical restraint; his personality was pared away from the science that he produced in it, and the “I” in that text has little depth or substance when compared to the narrative voice that emerges in the *Digest*. Stroud was probably unhappy that Sanborn also made extensive use of footnotes in which he chimes as editor, often adding seemingly extraneous, irrelevant, and unrelated observations—a method Stroud would soon re-deploy in his next book. And because of contractual malfeasance on the part of the publishers, he never received any money from the first book’s publication, thus providing added incentive to disown it. But beyond the extensive cutting that occurred without Stroud’s consent, we must also consider that during the ten-year interval between the publication of *Diseases of Canaries* and the *Digest*, Stroud was able, by hook or by crook, to acquire any number of tools and pieces of equipment that enabled him to do better work. As he states in the introduction, in that ten-year period he had developed a new professional ambition: to compose “a complete description and classification of the diseases and ailments of pet birds and to the development of a practical and effective system of avian therapeutics” (v), and the *Digest* is the product of that ambition.

One of the ways that Stroud consistently engages but also negotiates with the generic expectations of science writing is his extensive use of footnotes, which serve a variety of rhetorical, stylistic, and even personal uses. Some serve informational and citational—that is to say, scholarly and scientific—purposes only; throughout the book Stroud acknowledges influential articles and helpful researchers by title and by name. But this use represents only a small fraction of the variety of footnotes within the *Digest*. The footnotes also consistently, though unevenly, contain some of what certain readers might find the most irrelevant, irreverent, and extraneous parts of the book. On a few occasions, for example, Stroud employs the footnote in an effort to reference, quite indirectly and circuitously, his status as a convict. When he cautions readers of the dangers of feeding naphthalene (the main chemical ingredient in mothballs) to birds, he warns that “the drug has a narcotic reaction” and could produce comas or death: “The bird to which an overdose of naphthalene has been administered becomes dopy and droopy and acts very much like a person to whom an overdose of morphine has been administered” (270). In a footnote to this entry, Stroud explains the seemingly disconnected observations of bird and human intoxication by commenting, “I have seen hopheads eat moth balls to break a morphine habit” (270, note). Obviously, this footnote would probably seem out of place and incongruous for a mild-mannered canary enthusiast and hobbyist writing from Kansas, especially for those early readers who did not yet have the extra-textual information regarding Stroud’s status as a prisoner. It must be noted, however, that by the time Stroud had started to compose the *Digest* (1938-1939), his story had become national news and he was no longer concerned with the earlier strictures about concealing his incarceration. For those still unaware of his incarceration, the admission in the footnote would probably seem puzzling: Why has Stroud seen hopheads—*plural*—eat moth balls to cure morphine addiction? Where would he

have seen this? What kind of friends does he have? For the majority of his audience who were aware of his incarceration, this footnote generates a different kind of interest: it underscores his experience as a convict, albeit in a strange, curiously self-censorial, and roundabout way. Because he footnotes this observation, we can gather that Stroud clearly recognizes it as extraneous, and many readers (including, perhaps, prison censors) may have completely ignored it, especially since this particular note comes about midway through the book, following other extensive footnotes that serve purely citational functions. Later still, Stroud uses a footnote to recount a humorous incident involving Stroud ingesting quinine and a host of other chemicals in an attempt to beat a fellow convict (presumably) at a game of handball, thus winning a sizable sum of cash (326). These two footnotes add little to the scientism of the text itself, so their inclusion is odd; but in helping to articulate a subjectivity and personality behind that science, these footnotes do lend a certain worldly credibility to his authorship that compliments the scientific persona he cultivates throughout the book. They demonstrate, on a small level, that he has truck with people, populations, and events outside the rather circumscribed coterie of avian scientists and the larger fraternity of fellow bird enthusiasts. Nevertheless, in both cases, the margin of the page strategically serves Stroud as a place where he can edge dangerously close to the formerly-forbidden subject of his prison life, thereby surreptitiously circumventing prison censors, even if it is ultimately unclear why he continued to obey those earlier demands to avoid any mention of prison so late in his career as a cause célèbre.

When *Digest* reviewer Henri Seibert criticizes Stroud for lashing “out in exceedingly vivid statements at [. . .] some veterinarians in particular” (105), he no doubt had in mind a series of comments originally located in the footnotes that eventually transcend the textual superstructure/marginal apparatus divide. Stroud’s use of the footnote in this combative manner

is hardly original. Anne H. Stevens and Jay Williams contend that the footnote serves as the place where rhetorical and scholarly excess is either safely containerized, to be sublimated in a collective professional identity (211), or where that excess is given almost free reign and expression, depending on one's scholarly affiliation, field of expertise, or the publication tradition within that field. Footnotes, in part, "are the place for polemics (if the body of the essay is judged inappropriate for such matters); thus, a footnote may be marginal without being minor" (211). They may "also be a way for the author to reveal more of his or her personality, to step out of the bounds of the self created by formal academic discourse [. . .]. The footnote, then, can be distinguished not only spatially but aurally as well" (211-212). If footnotes in general may be read aurally, then some of the footnotes in Stroud's *Digest* are exceptionally loud and shrill, and they are indeed never minor, so long as we read his work autobiographically. In one of the longer entries in the *Digest*, "Fowl Paralysis," Stroud uses the margin to launch the first of many broadsides against one "A.J. Durant, Department of Veterinary Science, University of Missouri" (172, note). Durant actually served for some time as the head of Missouri's School of Veterinary Science, and had published a number of articles on poultry diseases, but is largely forgotten otherwise.<sup>43</sup> The story of this particular professional and personal antagonism unfolds over a series of footnotes before leaping out of the margin and into the text; the fullest articulation arises in the late entry "Leukemia of Poultry," another longer entry. It is therefore notable in and of itself that Stroud spends so much ink combating Durant in two of the longest entries in the *Digest*, on topics in which he felt most fully invested. These entries therefore serve as a kind of

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<sup>43</sup> Anecdotally, Durant's only other claim to fame, apart from his public spat with Stroud, regards a rather famous dog nicknamed Jim the Wonder Dog, who supposedly could predict the sex of unborn babies among a host of other "uncanny" powers. Durant and his colleagues examined the dog, had it solve a number of apparently unscripted problems, and concluded—again, anecdotally—that "they were convinced that Jim possessed an occult power that might never come again to a dog in many generations" (Ferguson). It is unclear when this supposedly happened, especially in relationship to the dispute between Durant and Stroud, though one can only wonder what Stroud, who viewed himself as a real scientist, would think of Durant's supernatural assessment of Jim's precocious abilities.

discursive battleground in addition to functioning as vehicles for his research. In the first footnote of this series, which begins at the bottom of one page and takes up the entirety of the subsequent page, Stroud announces,

It will be seen from the following excerpts from Dr. Durant's article that in discussing the disease in poultry in the text, my memory has played some tricks on me. It would be an easy matter to rewrite the text to correct the errors. I prefer to let them stand, however. I have not been very lenient with this gentleman in other places in this book (see LEUKEMIA) and have no intention of being any more lenient in this section, so it would be manifestly unfair to suppress the evidence of my own shortcomings. (172-173, note)

Stroud then quotes at length from Durant's article, entitled "Fowl Paralysis—Its Cause and Remedy," before castigating Durant's conclusions that since the cause of the disease is unknown, "control methods should be based on general sanitary principles" (173, note). Stroud takes issues with this conclusion, and quite unfairly charges, "I have underscored this last sentence for the purpose of contrasting the promise with the fulfillment—**FOWL PARALYSIS—ITS CAUSE AND REMEDY. We don't know what it is or what to do about it.** And that, my friends, is veterinary science at its best" (original emphases 173, note). (Unless otherwise noted, all emphases are Stroud's, as I have tried to reproduce the typographical nuances and idiosyncrasies of the *Digest* faithfully.) The battle carries over in another footnote, keyed this time to the Latin phrase "vasa deferria," which Stroud translates and then explains: "Both ducts. A rather silly way to form a plural, but if I did not use it someone disagreeing with my views might take it upon himself to publicly point that fact rather than debase himself by stooping to argue with one such as I. Are you there, Durant?" (191, note).

But it is only in the entry on "leukemia" where we see why Stroud spends so much time defending his place as an intellectual and a scholar by confronting Dr. Durant in print, for it is here that the marginal debate becomes an integral part of the text itself. In that entry, Stroud

explains that he was approached by a fellow researcher to review an article by Durant, which Stroud found lacking. He said so in the form of a critical letter, and later received in turn a letter including a newspaper clipping from Columbia, Missouri. The doctor had given a public interview to a newspaper “in which Dr. Durant had given excerpts from my letter to the press and expressed amazement that I, of all his thousands of readers, should have the temerity to question his findings, which were, of course, arrived at by the usual veterinary consideration. My arguments, naturally, were beneath consideration” (236). Making the most of his opportunity to grind his own axe, Stroud reasserts his original position, this time concretized for all posterity in the primary text of his *Digest*, when he declares, “I want to hereby inform Dr. Durant that I still question his diagnosis because he does not offer evidence enough to support it” (236). After spelling out more directly why he feels this to be the case, he ends with a series of “parting shot[s],” including the following: “On the basis of the original researches reported in this book [the *Digest*], particularly my work on avian therapeutics, I see no reason for standing in awe of the veterinary profession, which in its entirety has been able to find cures for but three bird diseases, and those it borrowed from human medicine” (236).

In his irreverent and formally experimental paean to the marginal gloss, which also happened to serve as a critique of “the long hegemony of the footnote” (639), Lawrence Lipking contends that the contemporary footnote now serves a thoroughly modern (even postmodern) utility, whereas the longer scholarly tradition held that footnotes were usually employed chiefly to subordinate the essential from the irrelevant. “Certain knowledge,” in previous eras, was “brought to light in the text,” whereas “conjectural or historical evidence” was contained below; the text was the vehicle for the “search for truth,” the footnote perhaps the signpost along the way that supported, but sometimes even momentarily distracted us from, that search (639).

Given postmodernists' skepticism regarding the general construction of knowledge, the footnote now serves an altogether different purpose. Lipking continues,

the footnote appears less a means of forcing disputants to demonstrate their proofs, more a means of cleverly asserting the priority of the text. Footnotes, as everyone knows, are defensive. They stand for a scholarly community, assembled by the author specifically so that he can join it. But a critic who considers that community an illusion, fabricated for self-serving ulterior purposes, can choose another allegiance. (639)

It is here that Lipking asserts the need for more marginal glosses and less footnotes in criticism, because the gloss has a dialectical relationship with the text: the footnote is often ignored, but “marginal glosses always cry for attention and threaten to split the experience of reading asunder” (640). But the heart of Lipking's criticism regarding footnotes is pertinent to a consideration of Stroud's strategic deployment of them in the *Digest*. Stroud's running battle with Durant through the *Digest*'s pages, occurring both in the margin and then in the text itself, serves as the most explicit means for Stroud to engage with fellow researchers and to assert the primacy of his own research and conclusions, which informs his attempt to redefine his own subjectivity. Having established his intense familiarity with a rival's work—doing so in the exceptionally long footnote that first deconstructs Durant's work on fowl paralysis and then criticizes the entire field for its apparently unsophisticated approach—Stroud carves out his own place in that field. That place is marked by his originality, a fresh approach underscored by his lack of formal instruction, in his native intelligence and his daring intellect not tainted by scientific dogma or held back by received wisdom. These footnotes then also validate the original labor that went into research and ratify the text to which they are keyed. The text of the *Digest* is living proof of his own expertise because it rests, in part, on a foundation of marginalia and scholarly apparatuses that demonstrate his engagement in the field and his continuing work in it. Stroud is really only half-joking when he directly addresses one faction of his readership in

a footnote titled “**Note to Breeders**,” the first footnote of the entry “Leukemia of Poultry,” where he writes, “You are not supposed to understand this paragraph. It is included for the benefit of some of my scientific friends and really does not mean anything of importance” (233, note). A page later, what has textually only been a marginal disagreement thus far erupts into full blown (if ultimately one-sided) combat between rivals, and between intellectual peers, in the text proper. Stroud’s breeder-readers are supposed to know *exactly* what this entire entry is about: namely, it is the attestation that his science is good and reliable, proven by his fierce intellectual debate with someone else who has already been credentialed by his university training. The footnoting, in other words, is a means of rhetorically reinforcing his ethos—the presentation of his scholarly persona—by way of demonstrating his familiarity with scholarly conventions, what we might consider a form of logos.

### **3.4 MERCY KILLINGS, LESBIAN CANARIES, AND AVIAN PSYCHOLOGY: THE KALEIDOSCOPIC CHARACTER OF ROBERT STROUD IN THE *DIGEST***

The introduction and prefatory remarks to the *Digest* make manifest the ways that Stroud viewed his own work, understood his role as a leading figure in his newly emerging field, and dealt with the material and even rhetorical restraints placed upon him as an imprisoned researcher and writer. He sketches the broad contours of the restraints—“I have had to carry the multiple handicaps of lack of training, lack of the equipment and reagents essential to carrying forward independent research, and very limited opportunities for keeping myself informed”—while largely avoiding the direct question of his condition as a prisoner (v). He notes that his research has been “fortuitous” and quite modestly asserts that he has been the beneficiary of “**happy**

**hunches”** (v). He imagines his readership to be comprised of “the poultryman, the veterinarian, the veterinary student, the zoologist, the aviculturist, the pet dealer, and particularly [. . .] the breeders of canaries and other pet birds” (v), and because of the varying degrees of education, knowledge, and experience dealing with birds among this broad community, he “make[s] no pretense of literary style” (vi), instead preferring a more democratic approach.

Indeed, he envisions himself a kind of unfree free agent, an independent researcher and intermediary simultaneously conversant with specialists or weekend hobbyists. Regarding his style, he argues that he “would rather be accused of literary atrocity than of putting my material in an obscure form beyond the grasp of my most humble readers” (vii). The *Digest* includes a number of personal anecdotes and stories from the lab “to avoid [the] dryness and heaviness [. . .] so common to scientific tomes” (vii). This layman’s approach is largely the result of his antagonism for professional scientists, a common theme throughout the *Digest* first established in the introduction. There, he sounds off: “In my opinion, most men of science have a supreme contempt for the intelligence of the average man. When writing for the general public, they act as if they were writing for a class of morons, and their work usually sinks to a level that makes the average man wonder if that is not the true classification of the writers” (vii). He ends his prefatory remarks with a short section entitled “Indebtedness,” in which he acknowledges certain scholarly articles and individuals who made his work possible. Prison officials do not figure here in any capacity, but prison does: in an purposefully ironic and revealing moment he admits that “we all stand on the shoulders of dead men” (ix). This phrase perhaps seemed like nothing more than an innocuous bit of rhetorical flourish or purple prose for the few readers left who were unaware of Stroud’s story. But it takes on a different context and tenor when we consider that a double-murderer living and working in solitary confinement wrote these lines. There is a steely

edge to this aside, because in some way his career literalizes the phrase: his career as an avian pathologist did begin, to a greater or lesser extent, with the murder of two men, and it would be fertilized by the bodies of hundreds of dead birds, many of which were violently dispatched in the name of science. We can certainly interpret this moment as a tacit, covert admission of guilt in a book that otherwise avoids any open discussion of criminality or prison at all, but it also demonstrates the kind of flippancy, obstinacy, and dark humor that his handlers found so exasperating.

The kaleidoscopic character of Robert Stroud that emerges from the *Digest's* pages is a complicated one, arising in fits and starts throughout Stroud's various research narratives. The entry "Post-Mortem Examinations" is exemplary for the shifts in tone and revolving subject matter. It is one place where Stroud seems to embed his own notions of his scientific method and theory, one predicated mostly on curiosity, observation, and first-hand experience, rather than on the circulation of received wisdom and technical training. In it Stroud directly addresses his readers: "You do not need any special education; you do not need any special equipment. All you need is two hands and two eyes and the will to use them. [. . .] Years of work, of study, of careful observation; the lives of literally thousands of birds, the disappointments and heartbreaks of hundreds of blasted hopes have gone into these pages; almost every line, every word, is spattered with sweat and blood" (312). He provides an extended example, detailing how autopsies may be carried out on dead birds with no tools except one's fingers: "At this point, the breast must be removed. You will be able to do a nicer job with a very thin pair of scissors, but you can easily pick it to pieces with your fingernails if necessary. [. . .] Carefully crush the bones of the spine between your fingernails and remove them from the spinal cord, then note the condition of the cord" (313). He likens his method to that of Louis Pasteur, who "turned his

constructive imagination loose” on the problem of “rabies” after failing time and time again (314). Finally, Stroud cannot resist another subtle jab at Durant, which he wraps up in the language of useful instruction for his readers:

The finest laboratory equipment money could buy failed to work out a method for the control of FOWL PARALYSIS; though it may be egotistical for me to mention the fact at this place, I solved that problem with a couple of pails of sand and some bird droppings. And I did it at a time when I had never seen a microscope at close range. This preachment may bore some of my readers; they may consider it a waste of space, but if it stimulates just one person to use his eyes and his mind it will have been devoted to a better purpose than any other space in this book. (314)

This passage is remarkably self-aware and decidedly tongue-in-cheek, evident in part in the way that he balances his informalities (the take-down of Durant; the showmanship; the casual, off-hand reference to fecal matter) with a sudden over-formality. This passage might be received as a “preachment,” and for that he half-heartedly apologizes. Stroud did, in fact, predict the reception of how this and other passages similar to it would be received, and this attests, in part, to his understanding of generic and stylistic conventions and reader expectations. The personal anecdote, the encouraging direct address to potential researchers, and the insincere apology for his apparent egotism have virtually no place in the scientific writing with which he was already familiar. If anything, those conventions are more characteristic of the genres of gallows addresses, prison memoirs, and certain 19<sup>th</sup> century fictional conceits, in which the prisoner is allowed to address his audience directly because of the pedagogical and social value of his message. The criminal’s message is motivated by the imperative that the gallows’ throng make (or, in most cases do not make) the same decisions that led him to prison or the noose. As Foucault reminds us, the genre of “the last words of a condemned man,” reproduced ephemerally as popular song and broadsheet, was intended to function as a “sequel to the trial; or rather they pursued that mechanism by which the public execution transferred the secret, written truth of the

procedure to the body, gesture[,] and speech of the criminal” (*Discipline* 66). But in reality, this was hardly the only political effect. These speeches often made heroes out of the condemned, and galvanized the throngs at the foot of the scaffold, because “indomitability was an alternative claim to greatness: by not giving in under torture, he gave proof of a strength that no power had succeeded in bending” (67). Stroud’s passage serves a similar narrative and thematic function: it is a moment of pure self-aggrandizement, of braggadocio, in which he claims a better and purer science—actualized informally, in the cell of a prison with only the most basic and rudimentary of tools, his fingernails—than the best that professional science could muster. Thus in this eruption of selfhood from what seems like a tangent, we actually see Stroud attempting to reach some compromise between the conventions of two radically different writing traditions—the literary and the scientific. In other words, Stroud invests this excursion into personal anecdote with a multiplicity of narratological and rhetorical functions that serve to carefully compose a heroic image of himself.

The entry “Post-Mortem Examinations” is also remarkable for what contemporary avian researcher Christal Pollock has noted is Stroud’s rather violent approach to his research, what she sees as the “ruthlessness which led to Stroud’s incarceration” (131). In writing about amputations, he suggests that birds may not lose enough blood to be affected (which has subsequently been proven true by other research), and on two occasions contends that “in the case of a canary most wounds can be cauterized with a lighted cigarette” (Stroud 65). Pollock cites Stroud’s comments on amputation as indicative of his violent approach, though she does also not take necessarily take into consideration the exigencies of prison-based research in her assessment. Certainly, solitary confinement and prison conditions profoundly contributed to Stroud’s relationship with his subjects—he could not, for instance, probably afford the more

humane ways of treating injured birds or euthanizing severely diseased, injured, or dying birds. Nevertheless, her critique cannot be entirely discounted. Stroud himself confronts the violence of his project, doing so quite unapologetically, and he rarely concedes that a lack of materials was the cause of this violence. Regarding obese birds with sluggish thyroid problems, he recommends that

it is best to choke them and use nothing but strong, vigorous stock in the breeding room. Which brings me to a thought I probably should have expressed before. I am interested in saving of birds as a scientific proposition. I want to put them in vigorous health; I want to prevent as much suffering among them as possible; but that does not mean that I would use a defective bird in my breeding room. There may be some justification for the human doctor filling the world with misfits, though I doubt it, but there can be no excuse for the bird doctor imitating him. (288)

Later still he admits that death is sometimes an unexpected and difficult part of his work: “I have killed birds when it was almost as hard as killing one’s own children. I have had birds die in my hand when their death brought me greater sadness than that I have ever felt over the passing of a member of my own species” (313). And there is the passage quoted earlier, in which Stroud meditates on the death and destruction that helped produce his *Digest*: “the lives of literally thousands of birds, the disappointments and heartbreaks of hundreds of blasted hopes have gone into these pages; almost every line, every word, is spattered with sweat and blood” (312).

As is evident in these passages, Stroud’s approach is informed by a particularly ruthless Mendelian-Darwinian perspective. His scientific allegiances are made clear in the index, where he briefly recapitulates the historical significance of Gregor Mendel’s early work in hereditary genetics across a number of different terms that he defines for his readers. In the definition for “Dominant,” Stroud writes, “The word was first used in the sense here indicated by Johann Gregor Mendel in his work on heredity. A work, by the way, which was ignored for sixty-nine years, until thirty years after his death” (425). Clearly, Stroud was influenced not only by

Mendel's scientific model (one replicated by Stroud's experiments on phenotypical inheritance governing plumage color) but also by Mendel's biography, especially the fact that the Austrian was virtually ignored or forgotten for nearly two generations. Mendel, in some ways, went about his business quietly, sequestered as a priest-researcher in an Austrian abbey, and Stroud saw in him a kindred spirit and fellow scientific-underdog who worked at a significant physical and even intellectual remove from the scientific establishment of his day. In addition to Darwinian and Mendelian influence, Stroud was also familiar with the social theories of Herbert Spencer and the broader movements of eugenics, both positive and negative. His passing comment on human doctors allowing defectives to "fill the world" in the quotation above, is a typical eugenic statement, one of many that he makes throughout the *Digest*. In terms of balding and experimental matings, for example, he contends, "There are cases [. . .] where it is only by violating nature's laws that we can open the door for improvement we wish to bring about. In such cases conduct your mismatings with your eyes open. Know what you are doing and why, and then have the decency to destroy the misfits you produce" (60). When he uses the words "moron" and "idiot" throughout the *Digest*, Stroud indirectly references eugenicist Henry H. Goddard's infamous intelligence classification scale, where "moron"—a word Goddard invented, derived from *moros*, a Greek word meaning dull or foolish—and "idiot" represented gradations of "feeble-minded" individuals with subnormal intelligences (Black 78). It is perhaps surprising that Stroud would support a eugenic position in his book, especially since the eugenicists took a decidedly negative view of criminals in the first three decades of the 20<sup>th</sup> century. In 1907, Indiana, under the influence of the eugenic movement, was the first to pass an involuntary sterilization bill targeting so-called mental defectives or "imbeciles," and eventually thirty other states would adopt similar measures (Black 67). Sex criminals—especially

homosexuals, pedophiles, and rapists—were sometimes other targets of sterilization and even castration legislation.<sup>44</sup> But perhaps his time spent in prison also confirmed what he thought was a necessary measure of population control, as prisons have historically housed a number of mis- or undiagnosed individuals with extreme mental and physical disorders.

In any event, Stroud's eugenic violence regarding his birds also had a practical component. For years he not only researched birds but ran a bird-breeding business from his cells, so defective birds put an undue strain on physical space and precious resources like food. He admits, moreover, that that violence was not only directed at obviously misbred or defective birds. In fact, he discarded certain, frustrating members of his flock who proved excessively weak, lazy, or untrainable, which gave him fresh material to examine and experiment upon: "Every breeder has such birds, and usually he gets disgusted with them sooner or later and chokes them. I am no exception. Rather than choke mine, however, I experiment with them. The one drawback to such experiments, however, is the uncertainty of the diagnosis, which robs the results of the value" (263). Unlike Pollack, I find it difficult to assess just how thoroughly these passages demonstrate Stroud's supposed violent tendencies, because the line between an economically and scientifically informed practicality and unwarranted violent capriciousness is never fully articulated in the *Digest*. Stroud straddles that line, admitting his desire to throttle defective birds, and in so doing he certainly displays a certain eugenic logic and misanthropic tendencies, but harboring these desires is not exactly the same thing as giving in to them. For Pollack, as for Stroud's biographer Jolene Babyak and probably those prison administrators who happened to have read his work, these moments exist as signifiers of some unredeemed violent streak in Robert Stroud, as proof positive that Stroud was ultimately, irredeemably violent in his

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<sup>44</sup> For an extended examination of apparent "aberrant" or "perverse" sexualities and the eugenic movement, see Nancy Ordover's *American Eugenics: Race, Queer Anatomy, and the Science of Nationalism*.

relationship with everyone, including the things he loved the most. A more nuanced understanding of his relatively restricted position as prison-bound researcher rendered certain approaches impossible. Maybe Stroud could have actually attempted to acquire the “anesthesia or analgesia” necessary to minimize the pain that his birds suffered per Pollack’s assessment (131-132), given his propensity to acquire any number of other useful chemicals and equipment to further his research, but perhaps he was unsuccessful in doing so. He also barely had enough room to live among his subjects and material, even after prison officials knocked down a wall and gave him the use of a second cell, so a lack of space and material made tolerating defective birds as part of his business and flock simply unfeasible.

Avian sexuality, like violence, is another topic that routinely arises in odd configurations and manifestations throughout his writing. In one of the most bizarre passages in the *Digest*, Stroud observes the homosocial and homosexual tendencies of his flocks, which he frames in the language of scientific observation. Of the male canary, Stroud writes, “if caged with other male birds he will try to make love to them, and fights follow the repulsing of his advances. He often masturbates, using any object for his purpose, even the finger of his owner” (85). The females act as strangely, though in different permutations: “When caged together, female canaries make use of each other in the gratification of their sexual desires, sometimes piling up four high. There is less serious fighting among the females than among the males, but usually more actual damage is done by them, since what they are interested in is nesting material, and they have no compunction about using the feathers of other birds” (85). Stroud later modifies his tone, when describing waterfowl sexuality, by making a bawdy reference more at home in the coarse language of his fellow prisoners than in the refined, objective, and ostensibly scientific language that he regularly employs elsewhere in the *Digest*: “Some waterfowls, drakes and ganders for

instance, have a single, well-developed penis, which, after coition, can be seen hanging out—the drake’s will drag on the ground as he gives himself a satisfied shake and waddles away” (191). In a footnote he attends to the fascinating case of two birds that suffered from hermaphroditism. Though not overtly about sexuality per se, Stroud’s reflection that “birds, particularly the small flying birds with their keen curiosity and restless activity, get themselves into some queer situations and suffer some queer accidents” could nevertheless be a statement about the sex lives of birds as well as a general observation about the institutional in which he tended his flocks (216).

I am not interested in reading these moments in the *Digest* as rather simplistic Freudian returns-of-the-repressed, or as slips that betrayed his own repressed homosexuality, though I think one could certainly take that tack. Instead, I think Stroud deliberately interjected these moments to muse upon sexuality as a category of lived experience, in a manner similar to another famous prison writer, the Marquis de Sade. Indeed, as one form of many human activities that Stroud considers in the book, sadism makes an odd appearance in the *Digest*. Using the single passing mention of sadistic tendencies among bird-owners as a pretext for its inclusion, Stroud defines “sadism” in the Index: “**SADISM** (sa’dizm). Donatien Alphonse Francois Conte de Sadem [sic], 1740-1814. A form of sex perversion in which pleasure is derived from inflicting pain upon another. Anyone who takes a keen delight in the infliction of pain is designated a **sadist**” (460). Like the footnote that references hophead addiction, the inclusion of this entry is puzzling. He clearly states that birds do not engage in sadistic behavior. When they appear to do so—when hens pluck the feathers from other hens, for instance, or when they eat each other’s eggs—Stroud always carefully indicates a structural, physiological, or pathological reason for doing so: disease, competition during the mating season, a lack of key

nutrients in their diet, and so forth. Although Stroud regularly contends that small birds in general have more sense than man, he nevertheless denies that they have the capacity to rationalize their existence or their decisions. Thus, when he speaks of “avian psychology,” he means a superficial understanding of mental powers: “Birds, particularly the small flying birds, have reasoning powers that would often put an engineer to shame; still in many situations they appear to have no reasoning powers whatever. I believe this is because their actions as based upon coordinations entirely divorced from thought” (82). Stroud undoubtedly felt that man is the only species on earth capable of sadism; this much is true every time he makes a misanthropic judgment about humanity. As a result of his hoboing, his frontier experiences in Alaska, and later still in prison, he understood that man is brutal in his relationship to his subjects, but he is equally as brutal to other men, if not more so. Nevertheless, this does not answer the question as to why he takes up the question of sadism, even in a nominal sense, in the *Digest*.

The answer lies in caging, because for Stroud, both tendencies—to govern sadistically over the animal as well as the man—are clearly exhibited in certain kinds of caging. Sadism itself is made manifest in the architecture of the round bird cage. For Stroud, the round cage is indicative of man’s general stupidity and cruelty:

I am qualified to speak for but one group of birds on this subject, the small seed eaters. I do want to go on record, though, against that very popular and very stupid abomination, the round canary cage. That a bird is able to live in one of these contraptions says a great deal for his adaptability. It says nothing for the humanity or intelligence of his owner. Birds like corners for the same reasons that you like them; they give him a sense of protection. This may be a throwback to the time when both of us crawled out of the sea and hid under a rock, but it is so very real that a large proportion of humanity would go mad if compelled to live in round rooms. (89)

This is perhaps the clearest indictment against prisons that we see in Stroud’s work. He directly likens the condition of encaged birds to imprisoned human beings, and in so doing draws on a

long literary tradition of the cage-as-prison metaphor, one best evoked by King Lear, as indicated in this chapter's epigraph.<sup>45</sup> Fear is the inevitable outcome of caging birds in these rounded, corner-less spaces, and they only produce physical stress and madness in their inmates. Ostensibly he criticizes bird cages, but allusively he is also "going on record" against the stupidity of all cage-minders and jailers, including his own. The *Digest* and the narrative within it speak to his qualifications as an expert on canaries, one which he affirms here, but his long time in prison, especially in solitary confinement and segregation, also make him an expert in the handling and caging of men, which operates as a kind of subtext, a strong underground current, in this passage. The various ways that little, unimportant men (like the seedeaters) learn to cope in prison speak to their adaptability. Stroud thus speaks collectively here, and generously too; this is a moment of cross-species and pan-prisoner solidarity that exists in an interesting tension to his otherwise notable misanthropic tendencies and general refusal to acknowledge prison as the site of his own productivity.

### 3.5 ON THE QUESTION OF "REHABILITATIVE" LABOR-VALUE

In the *Digest*, Stroud often assumes the guise of a researcher still in the midst of working with his birds and their diseases, and he routinely claims "priority in the discovery of" certain future cures or "therapeutic properties" (25). Conveniently, he uses these claims of discovery to promote the selling of his various prison made cure-all concoctions, like Stroud's Specific, Stroud's Salts No. 1, Stroud's Effervescent Bird Salts, and Stroud's Special Prescription.

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<sup>45</sup> There should be no surprise that the bird cage-as-prison metaphor is ubiquitous. For an extended treatment of the metaphor, see Monika Fludernik's "The Cage Metaphor: Extending Narratology into Corpus Studies and Opening it to the Analysis of Imagery."

Naturally, these products have dedicated entries in the *Digest* and are cross-listed as well, and like any good businessman (or snake-oil salesman), Stroud routinely promote his products, making claims like the following: “During the five or six years this products was on the market I was able to cure hundreds of thousands of sick birds of dozens of different species with it” (366). His business was eventually stopped by the federal government soon after the publication of his first book in part because the concoctions proved to be fraudulent. Babyak claims that by 1933, a veterinarian work at the Food, Drug, and Insecticide Administration had deemed Stroud’s Specific utterly “worthless” (120). In spite of this, nearly ten years later Stroud would cite numerous letters and anecdotes that attest to the Specific’s restorative qualities, and in so doing would recommend a cure that literally did not exist on the market. In a last-ditch effort to resuscitate the Specific, though, he does give away his magic formula in the *Digest* so that others might develop their own batch at home, and on the back cover of the book Stroud’s publishers claim that his “treatments do not require prescriptions,” unlike the newest treatments discovered by science. In 1962, *Washington Post* columnist Eve Edstrom would report that “a staff member for *Scientific American*” had fact-checked Stroud’s work with several scientists who informed him that “‘Stroud had put out a number of medicines that were absolutely no value’ but there were ‘five or six areas where he had made real contributions’” (“Business Booms”).

We might approach this act of claiming priority from a number of different, though interrelated, avenues. Stroud was well-known and thoroughly disliked for his egotism and arrogance, his recalcitrance and obstinacy, and his willingness to disobey personal agreements and administrative rules to pursue his work. Certainly many passages in the *Digest* smack of pride and arrogance, especially when Stroud confronts what he perceives to be personal slights or veterinarians’ own collective professional arrogance when dealing with hobbyists and

weekend enthusiasts. But how much of this pride and egotism might we legitimately accord him as his due? After all, his story is, in fact, a compelling one, and he did manage to make important and lasting contributions to an emerging field from within the bowels of one of the country's most notorious prisons, even if the narrative of those achievements is more complicated and much less heroic than the usual story of the solitary, oppressed genius that Hollywood told about him. When does the self-lauding "I" become pure self-aggrandizement—pompous and offensive—rather than something that he has, in some way, actually earned through his labors?

In some ways, Leavenworth prison administrators were responsible for feeding Stroud's apparent egotism, in much the same way that they were responsible for supporting his work. His research made him a popular stop for visiting prison officials and federal prison inspectors, because in addition to scientific experimentation and his breeding business, Stroud took pains to train his birds to sing and to perform a variety of tricks. For Stroud, these visits afforded him some human contact and gave him center stage, and they also gave him opportunities to sell some of his birds and extend his business. But these "public-relations tours" had a particular value for Stroud's keepers, too, as they demonstrated, in some capacity, that the regime's stated goals of rehabilitation were working (Gaddis 112). Stroud would later describe the warden's performance:

He would certainly lay it on, telling them how many people I had killed. "Why, when I came here," he would say, "this man was so dangerous that they were afraid to open his door to give him food." Then I would show off the birds . . . and he would praise me to the skies. We went through this little scene as often as eight times in a single day . . . without ever deviating from our script. Onlookers went away saying to themselves: "My, what a fine, courageous, humane warden." (qtd. in Edstrom, "Deputy Warden")

This working relationship between warden and ward resulted in an "act that was a masterpiece" (Edstrom, "Deputy Warden"). These performances would be adopted by other wardens and

continue for another ten years, ending around 1937 (Gaddis 190-191). As soon as they ended, however, Stroud would replace his one-man show with a new set of discursive performances that deliberately transcended his solitary confinement.

Stroud was shrewd enough to capitalize on his increasing notoriety as an expert in the pages of hobby journals and later in national newspapers once his identity as a prisoner was revealed and his business and research were threatened by the federal government. We might very well consider these discursive acts as elaborations and extensions of his original one-man bird shows. In effect, Stroud would adapt the federal administration's announced rhetoric of rehabilitation—and his status as one of the most “rehabilitated” prisoners in Leavenworth—in an effort to preserve the basis of his livelihood and professional identity, a process that caused the administration no shortage of public relations problems. So long as Stroud remained a local example of effective prison administration, so long as his work remained merely idiosyncratic and confined to experiments in the bowels of Leavenworth, he could be presented as a dramatic symbol for the success that each warden claimed, whether or not they actually attempted to engender any serious attempts at rehabilitation or resocialization among their prisoners. This effectively rendered him a mute novelty for various wardens, a kind of dancing bear to be displayed to officials, dignitaries, and other important figures. But serious problems would arise when Stroud began to insist, quite publicly, that his work had real-world value; this call would soon be picked up and carried by large sections of the US population, including groups of influential community leaders, writers, psychologists, one of which was headed up by Gaddis (“New Group”). The call for his release was predicated upon his years of research, his publications, his apparent value to hobbyists and to science itself, and the eventual success of the Burt Lancaster film. Although he would never be released, his strategic redeployment of

rehabilitative rhetoric would help him to continue research for a few more years, but more importantly it would be one of the first and notable examples of a prisoner publically challenging rehabilitative logic while implicitly undermining the stated goals of the federal prison system itself. It is thus notable that his case rested entirely upon the understanding that his work had significant labor-value, and his assertion of this line of argumentation would force the federal government to admit the failure of the rehabilitative project itself.

It must be made clear that Stroud never actually insisted that he was, himself, “rehabilitated.” His arguments for his unconditional release were not based on any admission that he had been “cured,” or that he was a changed man as a result of his incarceration. Quite the contrary. If prison had any effect on his personality, it seemed to harden certain qualities, especially his fierce contrariness, his general inflexibility, his libertarian political streak, and his disdain for all kinds of authority. This hardening also had an impact on his approach to the question of parole. As many commentators have observed, Stroud was obstinate in his total rejection of seeking out parole, as he felt it unfairly placed conditions on his mobility and freedom. Parole, in other words, was simply an extension of incarcerated life. He maintained that he could have been paroled or released if he had capitulated to prison authorities, but he felt that this was beneath basic human dignity: “I am neither a moron nor a sycophant, the only types they conceive worthy” (qtd. in O’Neill 140). Instead of using his intellectual labor as demonstrable proof of his rehabilitation, Stroud instead based his arguments for unconditional release on the general premise that his labor had specific social and scientific value, that he had “spent twenty years attempting to be of some use to the world” (O’Neill 151). Later, after this line of argumentation failed, he would author an unsuccessful writ of habeas corpus in an attempt to free himself. The judge would commend Stroud for “much logic and sound reasoning [. . .] in an

exhaustive and able brief” and find that the order demanding complete solitary confinement had been “an unwarranted assumption of power and [ . . . ] wholly void” (qtd. in O’Neill 154), but the writ itself would nevertheless be denied. Both approaches made use of his own labor and intellectual ability, and even after these attempts failed Stroud preferred to remain incarcerated rather than rely on the mercy of the courts or the intercession of others working on his behalf.

Stroud’s refusal to employ the language and rhetoric of rehabilitation did not stop his supporters for adopting them as a means of demanding his freedom. Even before the successful opening of the film, Stroud supporters began to write letters in earnest seeking his release. One writer sums up a prevailing sentiment shared among some canary-enthusiast “votaries,” who proved “incapable of believing ill of a man who loved a bird” (O’Neill 148). Stanley Kauffman speaks for a significant section of Stroud’s supporters when he maintains that “the probable truth about Stroud is the probable truth about many criminals except psychopaths. Long after puberty he remained ethically and emotionally that most willful and antisocial of creatures, a child; but with sex impulses and muscles” (28). But his time in prison resulted in Stroud rehabilitating himself in spite of “considerable opposition” (30). The release of the film mobilized even larger sections of the public to consume the story of Stroud’s life and to write letters on his behalf; anecdotes abound of enthusiastic female bird lovers, “dressed up in bird costumes” protesting for his release (L. Larsen 159). Generated by the film’s distributors who were “flooding the mails with reprints of newspaper and magazine articles about Stroud,” the outpouring of support for Stroud became so rapid and intense that it gave Kauffman reason to pause and wonder, “Is it cynical to ask whether their crusade will continue after the film stops playing?” (30).

Naturally, not everyone was convinced of the value of Stroud’s work as proof of his rehabilitation, and they, too, took to public debates to defend Stroud’s indefinite segregation and

incarceration. There were many among his supporters who felt that a true bird-lover would never be dangerous to other human beings, but then again, this work with birds was also caustically dismissed as insincere and “phony” (Gregory 89). That he worked with canaries—small pet birds—could also be read as trifling, useless, a waste of time and energy too. But more often than not these rejections had less to do with the legitimacy of Stroud’s work itself than it had to do with the way that that work was interpreted as indicative of Stroud’s manipulative power and his unrepentant, hardheaded refusal to capitulate to authority. His open homosexuality was often cited as a mark of his abnormalcy and rebelliousness as well. Both are evident, for instance, in a public letter composed by Francis Biddle, an Attorney General from 1941 to 1945 familiar with Stroud’s case, who wrote a scathing rebuttal to Kauffman’s film review. Biddle insists that Stroud “remains an aggressive and dangerous homosexual, with homicidal tendencies” (30). The peculiar order of his criticism is revealing. Biddle possibly assumed that Stroud’s homosexuality could be cured as part of the rehabilitative process, but that cure did not take, and it is only after citing Stroud’s sexuality that Biddle also includes the true reason why Stroud was incarcerated in the first place. Biddle ends his letter by decrying “how detrimental to proper law enforcement, particularly among the impressionable young, is this romanticizing and glamorizing of murders in which Mr. Kauffman indulges” (31). One of the final judges that dealt with Stroud, Judge William Becker, maintains that Stroud’s intense individualism and rejection of authority was the sole reason for his incarceration: “He just rebelled against any authority. He could have been pardoned or paroled many times if he hadn’t been such a rebel in prison. He would not admit the validity of any authority” (qtd. in L. Larsen 159).

In the end, Becker was only partially correct, for Stroud, did, in fact, admit to the validity of his own *intellectual* authority, at least for a time. But in an era where conformity and

capitulation to the norm was the standard, insisting on the value of his experience and expertise was viewed as obstinacy and hardheadedness. Paradoxically, it must be stated, Stroud did possess a number of qualities lauded as authentically “American”: he was hard-working, thrifty, resourceful, daring, entrepreneurial, loyal, anti-authoritarian, anti-intellectual, libertarian, and even downright politically conservative, if we consider his rebuff of attempts to “socialize” his business and his healthy skepticism of fellow prisoners. These qualities, no doubt, contributed to the myth of the Birdman, too: supporters saw the best of themselves as Americans in his struggle to work hard and improve the world. But he was all of these things *and a convict* first and foremost, a fact that colored all of his potentially positive attributes. His status as an unrepentant murderer, his unwillingness to bend his knee to prison administrators and the state, rendered his intellectual labor suspect from the outset. Moreover, there is a certain glee or Schadenfreude embedded in his antagonists’ accounts of the worthlessness of Stroud’s discoveries and his work in general after the discovery of antibiotics rendered his findings obsolete and invalid. We might, from our vantage point, understand that there was a certain value in positing theories and testing them out as a way of contributing to and advancing scientific knowledge, if those theories turned out to be incorrect. At the time, however, his detractors used the overturning of his theories as demonstrable proof that he was a quack and a sham artist the whole time, that, in fact, all his labor was for naught.

### **3.6 CONCLUSION: OF PELICANS AND ALBATROSSES**

In closing, I want to consider one last facet of Stroud’s work: the intentionally open-endedness of Stroud’s *Digest on the Diseases of Birds*, its vexed relationship with the field that it helped to

shape, and Stroud's own notion of the worth of that work. Although the book exists as a repository of his scientific work up until its publication, in more than one place Stroud acknowledges that there is still much to be done in the burgeoning field of avian pathologies and therapeutics. Most of these instances appear quite self-serving. Stroud begins his long entry on "Blood" by observing that he had committed over

three thousand hours over my microscope, studying bird blood; I have written and studied the most thorough work on human blood to appear (Osgood's Atlas of Hematology, Stacey, Inc., San Francisco, California, 1937); I have tested 65 different staining techniques, most of them original with me; and I have worried Dr. Zellermeier—who has done research work in avian embryology—so much that I can no longer get him to talk to me. And after all this work, I am forced to warn you that, concerning what is to follow, I probably do not know what I am talking about and have grave doubts as to whether anyone else knows anything about the subject, either. (67)

What follows, however, is thirteen-and-a-half pages that laud his extensive research, and only here and there does Stroud actually point to a few places that could use future elaboration or testing. Elsewhere in the book, on the topic of "fungoid skin in canaries," he writes, "this condition has, so far as I am aware, never been closely studied" (186), and he wonders about the "open question" regarding "how many different types of avian tapeworms there are" (372). On the question of avian tuberculosis, Stroud declares, "I also wish to suggest that should this work fall into the hands of a competent investigator, he test the effect of this drug on inoculated rabbits, and this in reporting his results, he remembers the source of this suggestion" (383).

By the time of the *Digest*'s publication, antibiotics research had established penicillin as a new superdrug. Just two years later, in 1945, it was being mass-produced, and early researchers of the drug (Sir Alexander Fleming, Sir Ernst Boris Chain, and Howard Walter Florey) shared the Nobel Prize in Medicine awarded that year. For one reason or another, Stroud makes no mention of antibiotics in the *Digest*. This might be because he genuinely did not know about

them, but this is highly unlikely; it is more probably that his refusal to acknowledge antibiotics is a function of his obstinacy and unwillingness to face up to a rapidly changing scientific landscape. After all, the development and proliferation of antibiotics quickly replaced what little value was left of the more speculative or theoretical aspects in the *Digest*. Antibiotics rendered many of his working theses wrong, or moot at best. In fact, he would be unable to admit that his book had little scientific merit until twenty years later, during his final court appearance. In 1963, during Stroud's failed habeas corpus appeal, his lawyer asked him, "You're the most important expert on the treatment of birds and their diseases in the United States and the world, aren't you?" (qtd. in L. Larsen 159). In a moment of brutal resignation and honesty, Stroud replied, "No, since the invention of antibiotics, everything I have written has become irrelevant" (159). The presiding judge observes that the "air leak[ed] out of all the bird-lovers in the courtroom" as a result of Stroud's reply (159). That court date was November 7, 1963; he died two weeks later, on November 21, 1963.

Ultimately, it remains unclear how many, if any, of the suggestions that Stroud makes were actually taken up and researched by others. To extend the work of others and deepen the profundity of scientific knowledge, actually, is not the point of these signposts. Instead, they are embedded in the text and function in a manner similar to his footnoted battles to Durant and to his claims of priority in discovery: they attest and sustain the character of Robert Stroud, researcher, eminent avian pathologist, a figure who by the time the *Digest* was published no longer actually existed. These moments affirm a body of research that was entirely past tense upon publication; they indicate, in some ways, completely uncharted territory for Robert Stroud, Birdman of *Leavenworth*, because by the time the *Digest* was published, Stroud had been relocated to Alcatraz and would never again work with birds. Though he leaves these research

questions open, ostensibly to be resolved, their very open-endedness nevertheless marks for Stroud the very end of the line, the demarcation between the known and the unknown, indicating only what could have been, as he was categorically forbidden to complete his research upon entering Alcatraz, barely allowed to work on the manuscript of the *Digest*, and subsequently disallowed to edit a second edition of it by prison officials (Babyak 11). In at least one sense, then, the publication of the *Digest* was a posthumous one, because the researcher that Stroud envisioned himself to be, the professional identity that he had carefully crafted in the pages of his magnum opus, had ceased to exist a year earlier—had in fact died the minute his birds and his matériel were confiscated by the state and he was sent in manacles to Alcatraz. How cruelly ironic then, that he would achieve notoriety for his intellectual labor only after it ended, on an island whose name is Spanish for “pelican,” and whose etymology can be traced back to Arabic, in which the word refers to that most solitary of seabirds, the albatross (“Alcatraz”)?

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As mentioned earlier, Stroud dabbled a bit in the law, producing a few unsuccessful writs after he was transferred to Alcatraz. He also died before a writ of habeas corpus that he produced could be argued in federal court (*Stroud v. Mayden* 1964). The petition sought to free his confiscated manuscripts in order that he might publish them, but once the court saw some of his six-volume history of US incarceration it moved to impound the lot, probably as a result of one section devoted to homosexuality in prison. In some ways, producing legal documents was a mental exercise for Stroud, one that allowed him to read widely in a new field and discipline, to test out new ideas, and to try on and produce new discourses. But it seems that his legal experimentation, such as his early attempt to evoke colonial French law in order to marry Della Jones, was often employed simply as a ruse to find new and interesting ways to annoy his

captors. While his right to engage the law was constitutionally protected, he seems never to have taken his own chances in court all that seriously, and as such his work was viewed, and dismissed, as frivolous.

In the next chapter, I take up this term—frivolity—and the question of legal meritlessness more fully. The chapter examines the legal career of a near-contemporary of Stroud, Caryl Chessman, who was also accused of producing frivolous and meritless legal documentation, work produced in order to save himself from the gas chamber at San Quentin. Unlike Stroud, Chessman was adept at producing important legal arguments on his own behalf, but that work, the fruit of his intellectual labor, was nevertheless dismissed by state and federal courts as a form of professional gatekeeping. That chapter, like this one, thus seeks to resurrect a largely forgotten or fetishized cultural figure—a prison scientist in Robert Stroud, the first successful jailhouse lawyer in Caryl Chessman—in order to understand how intellectual labor and prison writing was produced and received in the first half of the twentieth century.

## **4.0 CHAPTER TWO: OF FRIVOLITY AND CONTEMPT OF COURT: CARYL CHESSMAN AND THE LABOR-VALUE OF LEGAL SELF-REPRESENTATION AND PRISONER LITIGATION**

“He who fails in a syllable fails in his whole cause”

—English translation of the legal Latin maxim *Qui cadit a syllaba cadit a tota causa*<sup>46</sup>

### **4.1 THE RED LIGHT BANDIT**

The story of Caryl Chessman (1921-1960) is a one that ends badly for its narrator, though by the time of his death he was one of the most famous prisoners in the United States and around the world. He was dubbed the “Red Light Bandit” for a series of robberies and two “sex crimes” he supposedly committed at two different lovers’ lanes by imitating a policeman flashing a red light at his victims. For these crimes, Chessman was sentenced to death for violating the “Little Lindbergh Law.” This was a rarely-used law drafted after the sensationalized kidnapping and murder of Charles Lindbergh’s child that “made it a capital crime to kidnap a person for the

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<sup>46</sup> Quoted from Melinkoff 174. The origin of this phrase extends back to the days before English common law, when most people were illiterate and thus forced to memorize the law in the form of specifically worded oaths. The practice of law was ritualized, verging on (and sometimes functioning as) the practice of magic, and these rituals required practitioners to recite legally binding oaths word for word. A lapse in the pronunciation, a forgotten word or phrase, or incorrect syntax or word order were all grounds for rendering the oath incomplete and nonbinding, sometimes with deadly results. As Melinkoff puts it, “in an illiterate society only word-for-word repetition will insure survival of ideas too important to risk losing” (42).

purpose of inflicting physical harm” (Bisbort xx). Chessman was the only individual put to death for violating this law in California, and between 1942 and 1956 only one other man was sentenced to die for committing crimes in which no one was killed; the other man eventually had his sentence commuted to life in prison (xx). Although his story and presence quickly faded out of American cultural consciousness by the early 1970s, the controversy surrounding his case ignited a global discussion about the death penalty that in many ways both anticipated and is comparable only to Mumia Abu-Jamal or Stanley “Tookie” Williams’s respective impacts on contemporary incarceration practices, legal issues, and capital punishment. It is because of this initial influence that Chessman’s legacy would exercise a profound impact on American juridical issues and American political life for more than a decade after his death. In more ways than one, Chessman’s trial, his many years on Death Row, and his eventual execution were unprecedented.

Many complications ensued during his trial. He maintained his innocence until his execution, swearing that a false confession was beaten out of him by the police.<sup>47</sup> His supposed victims could not correctly identify Chessman as their attacker. Legal scholars reviewing the case years later would also find ample evidence of prosecutorial misconduct and prejudicial behavior on the part of the trial judge. Most importantly, the court reporter assigned to the case died two days before Chessman’s sentencing, which made completing a court transcript impossible. Some parts were recorded in highly idiosyncratic shorthand, while others were simply undecipherable or illegible. It was this detail—the incomplete and therefore potentially inadmissible court transcript—on which Chessman focused much of his critical attention, and

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<sup>47</sup> Chessman’s initial interrogation and forced confessions occurred well before the landmark case *Miranda v. Arizona* (1966), in which the US Supreme Court found that a defendant’s self-incriminating statements obtained via interrogations were admissible in court only if his rights were read to him beforehand and he waived them. Thus, Chessman’s confession was legally valid at the time it was used as evidence in his trial, though even by this time the legality of these kinds of confessions were becoming more dubious.

legal protocol made it possible for him to appeal for stays in his execution while the courts decided if Chessman's appeals over the transcript had any legal merit. Nevertheless, after living twelve years on Death Row in Cell 2455 and publishing four books, and in spite of eight separate stays of execution and the widely-held beliefs that he was either an innocent man or completely rehabilitated, Chessman was executed in the gas chamber at San Quentin by the state of California on May 2nd, 1960.<sup>48</sup>

Chessman's story is instructive in terms of what *productive*, let alone *prolific*, writing entails. Though the four books he had published were themselves impressive feats—especially after Chessman was specifically targeted for confiscation and censorship by prison officials after the successful publication of *Cell 2455, Death Row*—he also produced a staggering corpus of legal documents tied directly to his case and the cases of other men he helped while on Death Row. Joseph Longstreth and Alan Bisbort note that “One brief alone, the Appellant's Opening Brief in the Supreme Court of California, dated September 2, 1958, contained 318 pages. And the page entitled NOTE XVI begins with two simple statements: ‘There are several different transcripts before the Court on appeal. These total some 60 volumes’” (xii). Even more remarkable is the fact Chessman was, at least regarding the law, a largely self-taught individual; he authored many of his own writs and appeals and represented himself in court as a *pro se* defendant over his legal career.<sup>49</sup> At the time he seemed somewhat of an intellectual and legal eccentric and he presented real problems to the authorities who wanted him to die, and in many ways he commanded a popular (and controversial) reputation similar to that of Robert Stroud.

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<sup>48</sup> Chessman would write three memoirs, conceived of as a trilogy—*Cell 2455, Death Row* (1954), *Trial By Ordeal* (1955), and *The Face of Justice* (1957)—and one novel, *The Kid Was a Killer* (1960), while on Death Row. The novel was published posthumously. Among his many outspoken public supporters were Pope John, Albert Schweitzer, Shirley MacLaine, Marlon Brando, Aldous Huxley, Christopher Isherwood, William F. Buckley Jr., and Eleanor Roosevelt (Bisbort xi-xii).

<sup>49</sup> *Pro se*, Latin for “for himself,” means advocating on one's behalf without the benefit of legal counsel or representation (“Pro se”).

His legal endeavors from within prison were not entirely without precedence—as discussed at the end of the last chapter, Stroud himself tried his hand at producing appeals in the service of his own situation—but Chessman’s reputation as a legal mind was unique, and he would directly or indirectly influence a subsequent generation of California prison-writers and intellectuals including individuals like prison novelists Malcolm Braly and Edward Bunker. His sphere of influence would even extend to others like future outlaw country singer Merle Haggard, whose time as a young convict at San Quentin overlapped with Chessman’s final years in prison.<sup>50</sup> Now, after decades of increased and (sometimes) successful prison litigation, we would probably no longer consider Chessman an eccentric. Instead, we would call him a jailhouse lawyer, a position he helped to define through his tireless intellectual labor.

Most of the critical discussion about Chessman has focused on his guilt or innocence, his immediate cultural impact in the 1950s, his influence on the debate over capital punishment, and his first three books. I do not seek to resolve the first issue, although I find that the total body of legal material amassed by Chessman and his advisors demonstrates beyond a shadow of a doubt that his appeals had significant legal merit; that the prosecution, various judges, the court reporter, and the state acted in a highly conspiratorial and prejudicial manner; and that only some of his defense tactics could be considered “frivolous,” all of which will be discussed throughout this chapter. This does not answer whether or not Chessman was actually guilty of the crimes for which he was originally prosecuted, though, and this sentiment was never resolved even after his eventual execution. His story generated two separate true crime books—based on the original trial and the subsequent appeals documents, both published in 1961—which attempted to pin

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<sup>50</sup> Haggard never actually saw Chessman; in his memoirs, he recounts having conversations with the famous prisoner six or seven times while Haggard was in isolation, always through an air duct. He claims that his song “Sing Me Back Home” was partly inspired by Chessman’s execution (Haggard and Carter 140).

down once and for all Chessman's culpability or innocence, and they naturally disagree on the verdict. Even more recently, in a history of "popular" U.S. crime, Bill James argues "there is every reason to believe that Chessman committed the crimes for which he was executed," that he "was in fact guilty and had in fact received a fair trial" (192-193). Thus the debate over his innocence or guilt has never really ended.

Instead, this chapter takes up what I feel are largely underexplored or ignored facets of Chessman and his work. When he is discussed in terms of "prison writing," which is itself rather rare, his staggering corpus of legal writing is usually neglected in favor of his memoirs (especially *Cell 2455*), a trend that has marked the academic and critical study of prison writing as a whole. This chapter, then, seeks to address this tendency by looking at the ways in which Chessman used the law and his legal literacy to his advantage. I first examine how Chessman learned to become more adept at employing and producing legal discourse over his appeals process by comparing his strategies (and failures) during his initial trial to certain petitions he produced later in his "career." I then take up how this legal work was received and viewed by courts and the public at large, because, as I show in this chapter, a fundamental question about labor-value permeated the many layers of discourse in and about his legal battles. At issue was the fact that Chessman bent his considerable intellectual power, energy, and will toward a series of legal questions that many at the time considered "frivolous" and "without merit," terms that would gain considerable symbolic and legal traction among conservative circles and lawyers from the 1960s onward as more prisoners produced their own legal documents and writs in state and federal courts. Although I briefly consult the long legal tradition governing frivolity and merit to frame my argument, I propose a broader reading of these terms, a reading that takes into consideration the extra-legal or *non*-legal contours of this critique. That is to say, I read the

conservative critiques about Chessman's legal work as judgments about his labor, above and beyond normative legal definitions of frivolousness and meritlessness. This is because the legal record clearly shows that Chessman did, in fact, propose important procedural questions and did demonstrate that his civil rights governing due process were violated. Many of the judicial opinions handed down during his appeals process admit as much. So we must consider why he was still put to death. To this effect, I argue that Chessman set a troubling precedent in his ability to use and reproduce legal discourse, one viewed as "contemptuous" of the decorum and tradition of the law, and thus his execution functioned equally as a means of deterring future jailhouse legal activity as it did with punishing his past crimes. Chessman's decision to represent himself and to produce his own legal documents called into question the mechanics and the business of the law. He was viewed as an interloper whose intellectual activities made a mockery of US jurisprudence and who needed to be dealt with accordingly. Chessman's legal work and life story thus illuminate in rather dramatic fashion the early shifting boundaries of what constitutes permissible, valuable intellectual labor by convicts and that which the state deems frivolous and worthless, boundaries that he profoundly altered through his work.

## **4.2 A FOOL FOR A CLIENT: THE ORIGINAL TRIAL**

Before describing the original trial, I must provide an important caveat. Given the suspect and dubious nature of the preexisting court transcripts (which will be discussed in greater detail later in this chapter) as well as the sheer size of that archive, I have based my readings of Chessman's original trial in large part on two different sources, William Kunstler's *Beyond a Reasonable Doubt? The Original Trial of Caryl Chessman* (1961), and *Ninth Life*, co-authored by Milton

Machlin and William Read Woodfield (1961). Both books appeared the year after Chessman's execution and make extensive use of the trial transcript and the subsequent appeals process. A substantial future revision of this chapter would necessarily entail researching the voluminous original court transcripts and documents produced during Chessman's appeals. But even consulting the original trial transcript does not guarantee anything resembling a more "accurate" or "faithful" interpretation of the trial: the problematic nature of the transcripts, which in some cases were themselves translated, redacted, or even written over and crossed out (rendering portions of the transcript an actual legal palimpsest) means that there will never, in fact, be a completely unadulterated transcript to write about or quote from when discussing Chessman's legal endeavors.

Caryl Chessman had a number of run-ins with the law prior to the trial over the Red Light Bandit crimes, and he had, by his own admission, learned something of the law during each of these previous incidents. His tenure in state institutions began while he was a teenager, and by his early twenties he had committed himself to a life of crime and had been thoroughly institutionalized, bouncing around various juvenile detention centers in California. During early stints in prison he had participated in San Quentin's debate team and taught illiterate prisoners to read. He also secured many clerical and secretarial jobs, serving as a secretary to an education supervisor, to Warden J. Estelle, to the prison board, and to Associate Warden Fred Dickson, work experience that provided him "insight into the legal machinery that brought people into and out of prisons" (Machlin and Woodfield 28). During his Red Light trial, he was adamantly opposed to a court-appointed lawyer because that public defender would only serve as a "watchdog" to the trial (Chessman 286), that the public defender would be, by default, a pro-prosecution lawyer present at the trial only to hold up the decorum and ritual of American

jurisprudence. Moreover, he could simply not afford a superior lawyer. All who participated in and followed Chessman's trial—including the presiding judge—attempted to dissuade him from representing himself and urged him to acquire a lawyer, but only in hindsight Chessman would acknowledge the wisdom of this advice, admitting in *Cell 2455* that by electing to serve as his own attorney he wound up “with a fool for a client” (286).

Chessman's initial task was hardly easy, as he had to defend himself against eighteen separate charges, ranging from armed robbery attempts to rape and kidnapping. If found guilty of the final accusation, then Chessman could face the death penalty. His legal opponent, J. Miller Leavy, was an aggressive and successful lawyer who would go on to prosecute other notable cases, such as the murder case of Barbara Graham in 1953; Graham would be executed well before Chessman, dying in the gas chamber in 1955.<sup>51</sup> To compound the degree of difficulty even further, when Chessman finally accepted a court appointed legal advisor, he wound up working with Al Matthews, a fairly inexperienced public defender who would match wits with Leavy a total of twenty-eight times during their respective careers—and Matthews would never win a single case against his opponent (Machlin and Woodfield 77). Finally, to make matters even worse, Chessman would argue his case in front of a judge already notorious throughout the state of California, Charles Fricke. Fricke was a man who “specialized in capital punishment

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<sup>51</sup> The Barbara Graham story would be sensationalized by filmmakers and released as the 1958 Susan Hayward vehicle, *I Want to Live!*, which won an Academy Award for Best Actress. The film claims that Graham was innocent and thus unjustly executed. The fates of Graham and Chessman appear to have been rather intimately connected via the California court system and in the public imagination. In March 1960, Governor Pat Brown granted one of the final stays of execution for Chessman in order to have the state legislature debate a possible anti-death penalty bill. In response, J. Miller Leavy provided deliberately misleading information to state lawmakers about a pre-execution confession of guilt that Graham had supposedly made to San Quentin Warden Harley Teets. This confession was later revealed to be a complete fabrication and an utter lie, but it was effective in swaying lawmakers against the bill. Brown later “attributed the failure of the March abolition bill to the Graham confession, although the evident hostility of the legislature made for certain defeat anyway” (Hamm 131). This confession resonates with Leavy's misleading description of life without parole to Chessman's jury; fearing that he might be released, they voted for the death penalty instead.

cases,” felt that “he himself ‘represented the prosecution’ in the courtroom in the absence of an official prosecutor,” and had, by the time of his retirement, “sentenced more people to death than any judge in the history of California” and who also held the dubious distinction of having “had more decisions reversed than any other judge,” as well (76).

Over the course of his trial and extensive appeals process, Chessman naturally become more adept with the law, but at least initially, Chessman failed more often than not. He was, as Bill James puts it, “constructively incompetent” (189); Machlin and Woodfield observe that Chessman’s defense was “in a manner originally inept and later offensive to the courts” (317). The first indication of this apparent incompetence was Chessman’s three unsuccessful motions at the end of the grand jury phase. He attempted to enter an insanity plea; requested a change of venue in light of a series of salacious articles published in a local gossip magazine that he felt made it impossible to receive a fair trial; and demanded a continuance in order to prepare his own defense, because the administration at the county jail refused Chessman access to any legal material (Kunstler 39-40). All of these were summarily denied, and viewed as little more than time-wasting attempts; this would become a common refrain throughout his legal endeavors. But perhaps a better indicator of Chessman’s over-estimation of his legal abilities occurred during jury selection, which resulted in a jury composed of eleven women and one man. Most of the women were middle-aged, and a few were mothers. Over the criminal trial, Leavy would continually highlight the rape accusations because doing so had a profoundly negative impact on Chessman’s relationship with the jury. Chessman never really understood the complicated gender dynamics of jury selection and composition, even though he was specifically advised that “in sex cases [ . . . ], the burden of proof is often actually on the accused, because of the emotional

nature of the complaints and the great sympathy evoked in the minds of any jury by an aggrieved woman” (Machlin and Woodfield 64).

In addition to this tactical missteps, Chessman’s defense strategy, which proved wholly inadequate to the task, was built on three major threads that also largely ignored the gender dynamics, class affiliations, and age differences between his jury and himself. The first line of argumentation involved his attempts to discredit the testimony of the various robbery and rape victims who took the stand and accused him of those crimes, and he spent a lot of time pointing to technical discrepancies in their identification of the criminal and his own physical and facial features to little or no avail. The second thread, which emerged later in the trial, is that his supposed confession was beaten out of him, and that he only admitted to the crimes in order to stop the interrogations. Finally, Chessman sought to convince the jurors that he was *only* a thief, and a professional one at that, trying to convey the sense that a professional thief would not stoop to rape his victims or commit the number of the bungling errors that the Red Light Bandit committed over the course of his crime spree. He felt that by demonstrating his prowess at professional law-breaking on the stand, the jurors might be convinced that he was a sophisticated criminal with enough good sense not to commit particularly violent and salacious crimes that would endanger his livelihood and reputation. As we might expect, this final thread proved to be devastating for the defense and much more useful for the prosecution, as it forced Chessman to incriminate himself regarding other crimes in order to prove his technical abilities and standing as a professional hood.

Chessman would not be able to make much use of his accusation that the police had beaten his (false) confession out of him. Although this admission created a day-long lull in the overall trial—Judge Fricke decided that the accusation merited another *voir dire*, a “trial within a

trial” to determine the validity and admissibility of the confessions as evidence in the criminal trial—Chessman’s decision to bring in two fellow convicts and his father as witnesses failed miserably.<sup>52</sup> The convicts had both been at the jail the night Chessman was arrested, and they attested that they had seen a bruised and bloodied Chessman after his interrogation. However, their testimony was measured against that of the testimonies of the arresting officer, the detective in charge of the questioning, and the doctor working in the jail that night. The doctor, J. Paul de River, was famous in the Los Angeles area and in penological circles for his research into sex crimes, which would eventually culminate in the publication of a book entitled *The Sexual Criminal* (1949). Each man categorically denied that Chessman was manhandled or beaten; the detectives claimed that Chessman confessed willingly. With such well-respected and authoritative witnesses denying Chessman’s claim of physical abuse, Fricke had little reason to believe convict testimony, and thus allowed Chessman’s confession as admissible evidence.

Chessman’s odd decision to defend himself by accentuating his criminal activities rather than minimizing them was, by far, his worst decision during his legal career. Judge Fricke already viewed Chessman as an arrogant smart aleck with no respect for decorum or the law simply because he had decided to defend himself, and Leavy worked hard to maintain and bolster this characterization throughout the trial. Chessman’s decision to try and explain the code of the street to a jury full of middle-class white women smacked of folly and arrogance, and it only reaffirmed the prevailing view of Chessman as unredeemable and dangerous. His own testimony on the stand did little to persuade the jury that he was not constitutionally incapable of rape, that his underworld code as a thief, in fact, forbade it. His admission of being a professional

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<sup>52</sup> *Voir dire*, a law French term meaning “to speak the truth,” has two different uses regarding trials. The first is pre-trial examinations by lawyers to select a jury. The second, during a trial, is “a hearing out of the presence and hearing of the jury by the court upon some issue of fact or law that requires an initial determination by the court or upon which the court must rule as a matter of law alone” (“Voir dire”).

robber and car thief was simply more ammunition for Leavy, especially when Chessman admitted to holding up a number of Los Angeles area bookies for \$2,300, which accounted for the large amount of money he had on his person when he was arrested. Chessman's co-counsel Matthews tried to object to this line of questioning, understanding that it would definitely incriminate Chessman, but Fricke denied the objection, sardonically observing that Chessman himself "had opened the door" (qtd. in Kunstler 157). Later, in recapitulating the day of his arrest, which resulted in a high-speed car chase and a running gun battle with police, he proudly maintained that it was the first time he had ever been captured; Chessman's overconfidence interfered with his good sense during his recitation of the hold-up. During Leavy's cross-examination, the prosecutor also produced a new piece of evidence, a map and floor-plan of a mansion owned by a Hollywood film producer, written on a piece of Folsom Prison stationery. Chessman lamely and unconvincingly argued that it was provided to him by another convict who knew the owner, and that Chessman had it on him because he was working on a novel about Hollywood and wanted to meet the producer (Machlin and Woodfield 117). To the jury, of course, this looked like another crime in the making, one averted because of his timely arrest. This tack was clearly doomed from the outset.

In the closing comments, Chessman ran into more problems that only helped the prosecution's case. Leavy summed up his case by observing that a "depraved" sex criminal like Chessman would always represent a menace to society (136), and that nothing less than death would guarantee that his crimes would stop. He dismissed the defense as nothing but a diversion of "technicalities" (132), the first of countless times that Chessman's legal work would be undermined on the grounds of time-wasting and frivolity, and he observed that Chessman already demonstrated—and even admitted to—an escalation of violence in his criminal career,

one in which murder was the next logical step. On his end, Chessman was almost immediately disallowed to pursue his plan for the closing arguments. He wanted to have his co-counsel Matthews argue the legal questions regarding the death penalty. By this point, Chessman had realized that his character had been thoroughly destroyed in Leavy's powerful cross-examination and that Matthews, who "was untouched by the evidence of bad character [. . .], could make a more effective opening" (141). But Judge Fricke denied this immediately, stating that he would only "allow *one* counsel to address the jury on each side" (141). Fricke also physically handicapped Chessman's remarks, forcing the accused to remain standing at his counsel table and disallowing him the opportunity to get closer to the jury and appeal to them in person. Naturally, these unwelcome surprises had a negative effect on his closing statements, as it forced Chessman to rethink his entire strategy on his feet, rather than allowing him to fall back on a well-rehearsed argument. To his jurors, he was metaphorically and symbolically handcuffed to his table (appearing, in a way, then, prejudged and pre-condemned), and he had to make his final appeal from across the courtroom like a common criminal, which is exactly the impression that Chessman hoped to avoid—and yet, paradoxically, it was also the impression that he had strived to cultivate and maintain over the course of his defense prior to his closing remarks. Having been disallowed daily transcripts from the trial's outset, and therefore unable to quote directly from the trial's proceedings; incapable of leaving his desk, and therefore forced to lean towards the jury, which made him look desperate; pursuing a rambling, unconnected argument predicated upon technicalities and an already failed line of defense regarding his professional criminality; and following in the wake of the thorough and persuasive dismantling produced by Leavy in the prosecutor's final statement: all of these factors contributed to the failure of Chessman's final statement, and the guilty verdict and death sentence afterward were hardly surprising.

### **4.3 ADDRESSING THE SUPREME COURT: READING CHESSMAN'S APPELLATE PETITIONS**

Chessman's first years on Death Row were entirely devoted to his appeals process. He maintained that his constitutional rights guaranteeing due process were violated because of the way the trial transcripts were handled after the sentencing. In perhaps an existentially ironic twist of fate, it was the sheer illegibility of the transcripts that prompted Chessman's entire written body of work. On June 23, 1948, the court reporter on Chessman's trial, Ernest Perry, died, having only transcribed about one-third of the transcript, representing the first "646 pages" of the record (Bisbort 250). The rest of the shorthand notes—what would eventually total around eleven hundred pages when translated—were deemed completely undecipherable, and the county hired Stanley Fraser to complete the translation/transcription. Over the next few years Chessman produced document after document seeking to challenge the validity of the new court report, to question the constitutionality of the shady procedures that produced the final document, and to cast doubt on Fraser's competence and ability as transcriber.

To aid in the preparation and transcription, Fraser consulted with Leavy, Chessman's prosecutor, on many occasions, though Chessman was never himself included in these discussions. Nor was he allowed to consult Fraser's working draft. In fact, Chessman would only be allowed to see the completed draft in the spring of 1949, and what he saw outraged him: "Pages of testimony appeared to have been left out. Other pages were so muddled and garbled that they made absolutely no sense. Page after page contained words that had been twisted, misread, or wrongly attributed" (Machlin and Woodfield 171). Almost immediately he filed a document entitled "Motion to Augment and Correct the Record," in which he requested that two hundred and twenty separate corrections, changes, and emendations be made to the transcript.

Judge Fricke, the original trial judge, would also preside over the first case concerning the court record, but Chessman was not allowed to be present. Fricke called on both Fraser and Leavy to attest to the transcription's validity, and both would argue its soundness. In reality, this hearing was little more than perfunctory, as Fricke had already demonstrated time and again his disdain for Chessman during the original trial. Finally, with the aid of Leavy and Fraser, the judge privately reviewed Chessman's recommendations and approved eighty of the original two hundred and twenty requested changes. The transcript was then officially approved.

Other people who knew Chessman and would write about him felt that his four published works grew out of his initial legal endeavors, which were prodigious indeed. At the end of *Cell 2455, Death Row*, Chessman describes his legal work up to the point just before he began writing that book:

Thus far, originally based on 2400 pages of trial record, litigation of the case has involved the preparation and filing of seven appeal briefs, four petitions of writs of mandate, two petitions for writs of prohibition, nine petitions for writs of *habeas corpus*, four petitions for rehearing, four petitions for a certificate of probable cause to appeal, five petitions for stays of execution, four petitions for writs of *certiorari*, with either supporting briefs or memorandums of points and authorities usually accompanying the petitions; two motions to augment and correct record, three motions for hearings, and a complaint in equity; plus numerous other incidental papers necessarily prepared and filed. These documents listed contain more than 450,000 words in all. (318-319)<sup>53</sup>

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<sup>53</sup> A writ of mandate is "a judicial command; especially, an official mode of communicating the judgment of the appellate court to the lower court" ("Mandate"). A writ of prohibition is defined as "a prerogative writ issued by a superior court that prevents an inferior court or tribunal from exceeding its jurisdiction or usurping jurisdiction which it has not been given by law"; it is considered "an extraordinary writ and is only issued when the party seeking it is without other means of redress for the wrong about to be inflicted by the act of the interior tribunal" ("Writ of prohibition"). A rehearing is just that: "a retrial or reconsideration of the issues by the same court or body" ("Rehearing"). The writ of *certiorari* is "a common law writ, issued from a superior court to one of inferior jurisdiction, commanding the latter to certify and return to the former the record in the particular case" in order "to inspect the proceedings and determine whether there have been any irregularities" ("Certiorari"). A complaint in equity refers to the "first pleading of the plaintiff setting out the facts on which the claim for relief is based" ("Complaint"); "equity" historically is a synonym for "justice" in legal language ("Equity").

The legal work itself (manifested in his collection of books and journals, his pages, and his typewriter) would eventually overrun his cell, and as a result prison authorities allowed him the privilege to use an empty cell in Death Row, Cell 2439, as an office (Bisbort 135), a decision similar in many respects to the one made by Leavenworth officials to afford a second cell to Robert Stroud. San Quentin chaplain Byron Eshelman claimed that Chessman “practically ran a full-time, non-paying law office” from this cell, using it to file his own claims and those of other inmates as well (qtd. in Cummins 36). With the prison’s begrudging approval he also “put together his own collection of law books” and “started a lending library of his own on the Row” (Cummins 37), establishing and maintaining what some critics called “a sort of Death Row Court of Last Resort” (Machlin and Woodfield 177). He estimates that his own legal work entailed “at least three thousand hours [. . .] in actual preparation” and “conservatively, another ten thousand hours in study” (Chessman 319), and he repeatedly states that he worked sixteen or even eighteen hours a day in his Death Row prison office. His legal research totaled, at this point, reading “some two thousand legal books, journals, reports, texts and the like,” and he prepared “another half a million carefully organized words” prior to writing and submitting actual writs and petitions (319). Among the latter, he “drafted” for his own use “a two-hundred-page text on *habeas corpus* and a four-hundred-page text on federal practice and procedure as it relates to state court convictions,” in addition to writing and reading “more than two thousand letters of a legal character while conducting the litigation” (319). This labor, he claims, would have cost him “a minimum of \$60,000 and probably closer to \$100,000 had I paid counsel to litigate the case for me” (319). In a moment of dramatic understatement, he understandably exclaims, “All this simply in fighting to keep myself alive!” (319).

In spite of his unprecedented privilege regarding his office-cell—one that has never since been replicated—and his relatively unlimited (if uneven and hard-won) access to legal material, especially as a Death Row inmate, Chessman was viewed as an arrogant, obstinate prisoner. His non-legal labor, the writing of his memoirs, served as his primary outlet, and prison authorities promoted this work because Chessman “was found to be more tractable when writing. Accordingly, he was encouraged to write, some say, because it was felt this was the easiest way to keep him quiet and in line” (Bisbort 133-134). If, in other words, he was concentrating on his own life story he was less likely to cause problems for the administration, such as agitating on behalf of other prisoners or leading various kinds of demonstrations, something he was accused of time and time again. Thus it is that under certain conditions even forms of intellectual labor, such as memoir-writing, might be deployed as a pacifying or docilizing activity by prison administrations. The processes of individualization—the telling of one’s own story—can be weaponized by the state as a way of disrupting collective action, even if that individualization is in fact initiated by the prisoner himself. Moreover, *Cell 2455* was a direct result of Warden Harley O. Teets challenging Chessman to make use of his first stay of execution. Chessman explains that Teets quietly gave him the court-ordered stay and said, “If you have the guts, Caryl, now you can make some sense out of your life and do something with it to repay Judge Stephens for the chance he’s given you” (344). Eric Cummins suggests that prison officials urged Chessman to begin other forms of writing as a subtle means “to dissuade him from further writing, which was customarily regarded as an obstruction of justice” (37). Similarly, Bernice Freeman also promoted the book idea: “I felt rather strongly that Chessman needed an interest besides studying law and preparing writs, activities which were filling his every waking moment. If he could involve himself in something else, I thought, he might become less tense” (qtd. in

Cummins 38). In 1968 Marshall Krause would comment, “It is surprising that no one has studied the therapeutic value of writing; it is possible that writ-writing provides an outlet for prisoners who would otherwise become disciplinary problems” (377). In Chessman’s case, it is probably safe to say that the opposite is true—writ-writing proved less “therapeutic” than working on a book manuscript: writing his life story rendered him a more docile prisoner because it served as an attractive, powerful, and even remunerative distraction from his legal endeavors.

In 1951, Chessman would have his first major appeal denied. The majority opinion is highly uneven in its treatment of Chessman’s original trial, however. The opinion seems fairly divided, as though Justice B. Rey Schauer (the opinion’s author) did not really know what to make of Chessman and his legal endeavors. He begrudgingly admits that there were, in fact, many procedural inconsistencies during the criminal trial. The fact that Chessman was disallowed to see daily transcripts of the trial’s proceedings is a “seeming discrimination” with no obvious legal reasoning behind it (*People v. Chessman* 1951). But he counters this observation with the contention that Chessman nevertheless “presented his case and delivered his argument without any indication of confusion or uncertainty” that may have arisen as a result of not having had the transcripts. Schauer also “regrettably” concedes that Leavy, the prosecuting attorney, did in fact present “his case in an overzealous manner, both in addressing the jury and in improperly bringing in evidence of misconduct of defendant for which he was not on trial.” But because Chessman did not object to this at the time, the prosecutor’s prejudicial behavior does not matter; the court thus views his appeals as a manner of objecting to the prosecutor’s behavior after the fact. And twice the court’s opinion returns to Chessman’s decision to represent himself as more significant than any procedural inconsistencies or prejudicial behavior that may have occurred. Schauer opined that “a defendant who intelligently refuses counsel and insists

upon personally conducting and controlling his defense does lose the status of prisoner and become entitled to extraordinary privileges not accorded [to] defendants who are represented by counsel, nor does he become entitled to proceed in a manner different from that permitted to attorneys.” Later, he declares that

defendant deliberately (and not naively) determined to represent himself; part of the technique of his representation appears to have been the studied omission to interpose objections, the frank admission that he was a criminal, and the argument that the crimes charged were committed by a blundering person rather than a clever professional such as the evidence indicates he was [. . .]. We are not disposed to permit a defendant who thus developed a record to claim prejudice from it, although the cumulative instances of misconduct might in other circumstances constitute ground for reversal.

This final statement is the most revealing. Schauer readily acknowledges that the total number of procedural errors, prosecutorial prejudice, and the like that occurred during the criminal trial are in other cases sufficient grounds to overturn the original decision, to vacate the guilty verdicts. But Chessman’s defensive strategy—admitting to a prior record, but not objecting when Leavy and Fricke made use of that record for their case—is reason enough to ignore any and all misdeeds from the opposition. In effect, Schauer argues that Chessman was not knowledgeable enough during the trial to object to Leavy’s remarks and is, in effect, getting punished twice for it: there was no original objection, so any self-recriminating testimony preserved in the record is legitimated and recognized by default. Thus, while he may have “intelligently” refused counsel and argued his own case, he clearly was not intelligent enough, and any repercussions of that decision are his fault alone. The pattern indicated in this opinion would be replicated again and again throughout Chessman’s appellate process: the courts would concede to prosecutorial and judicial malfeasance, but would in effect argue that those errors and misdeeds were outweighed by Chessman’s foolhardy decision to represent himself.

However, Schauer's majority opinion would be vehemently criticized in a dissent drafted by Justice Jesse Carter, who would serve as Chessman's greatest ally in the Supreme Court of California. Carter (along with Douglas Edmonds, another justice) claims, "A reading of the majority opinion [. . .] convinces me that many flagrant errors were committed during the trial which would ordinarily be held to be prejudicial and require the reversal of a judgment of conviction" (*People v. Chessman* 1951). Most significant is what follows: "In fact, the only way I can rationalize the majority opinion is that those concurring therein feel that a person charged with 17 felonies of the character charged against the defendant, and who represents himself, is not entitled to a trial in accordance with the rules applicable to the ordinary case. I cannot subscribe to this doctrine." Although it is buried in this dissent, Carter articulates the heart of the problem for Chessman serving as his own lawyer: the effrontery of doing so renders all normal legal procedures inapplicable. Order and the law must be righted at all costs; that someone even *accused* of seventeen charges might seize upon the law to defend himself disrupts the natural, traditional order of things.

Although Chessman would grow much more adept and at home producing legal documents over the course of appeals process, he seems to have always carved out a space for his own language and discourse in them. Part of this is a function of the kinds of legal documents he produced, such as the generic expectations accompanying documents like the writ of habeas corpus. These particular writs are meant to protect the most basic rights of prisoners, and they take a number of different forms, which lawyer Marshall Krause enumerates:

The habeas corpus applicant may petition state courts and, after state remedies have been tried and refused, federal courts to challenge the legality of his conviction, his sentence, his continued confinement without parole, the use of prior convictions against him, the place of incarceration when concurrent sentences are pending, penalties imposed for violation of prison rules, and his general conditions of confinement. (372)

Because of the writ's obvious and exceptional elasticity, it is often called the "Great Writ." Beyond its immanent flexibility, its other discursive and legal utility for prisoners is that officials generally expect petitioners to keep their writs brief and without numerous legal citations or language: "technicalities are minimal" and the writ should be "a simple statement of the facts" (374). In many ways the writ of habeas corpus helps non-specialists circumvent all the linguistic peculiarities of legalese and legitimizes the use of their own language. It is thus a powerful democratic bulwark against the pitfalls of the uninitiated trying to use legal language unsuccessfully, as the stakes are already exceptionally high for many writers submitting their writs of habeas corpus.

But Chessman clearly insisted on individualizing his writs and petitions even when the documents themselves did not necessarily call for such; a closer examination of a brief that went before the Supreme Court from later in his career (1956-1957) will demonstrate how. He wrote in this manner even though he had successfully published other books by this point and thus had a legitimate alternative "literary" venue in which to shape his public persona. Like Stroud before him, Chessman often makes his mark in the interstices of disciplinary language, in seemingly throwaway statements and ostensibly unnecessary rhetorical flourishes occupying the gaps of otherwise entirely formal documents. But also like Stroud, this informal or nonstandard language eventually overruns those interstices as well, rendering the entire documents more personalized and idiosyncratic. Here it must be observed that lawyers and judges have employed a similar approach for years, that, in fact, a perusal of judicial opinions and courtroom transcripts would prove there is no monolithic legal discourse. Richard A. Posner notes that "[Louis] Brandeis, [Benjamin] Cardozo, and Learned Hand are examples of judges who succeeded in altering the norms of opinion writing" because of a kind of aesthetic sensibility and flair for style that they

employed to producing legal documents (*How* 63). Elsewhere, in writing of the literariness of judicial opinions, he attends very closely to the different styles of famous judges, such as John Marshall's "magisterial" style—"patient, systematic, unadorned, unemotional, unpretentious, it is the voice of reason—a quintessential Enlightenment style" (*Law* 350)—or Brandeis's alternating "jackhammer" and "hectoring" styles; the latter "grabs the reader by the lapels and shouts in his face, demanding assent rather than engaging the reader in a discussion" (354). But it is one thing for judges to toy, tinker, fiddle, and experiment with style and discourse. Already confirmed in their power and recognized by the state, they may do so with no penalty, apart from the accusations that doing so might "make the worst appear the better cause" or "muddy the law" (357), something that can be rectified by the drafting of new law. But this is not the case for individuals like Chessman, who had much to lose if this rhetorical and discursive strategy failed. Writing in the manner of his choosing risked alienating his readership, because his personality emerges in a kind of street-wise, no-nonsense vernacular completely at odds with the more austere forms of legal petition surrounding his prose. Taken together, these minor textual eruptions probably also confirmed the reputation Chessman had already earned, fairly or unfairly, for his combativeness, arrogance, and anti-authoritarianism.

Like the tradition of judicial stylistic experimentation, however, there also is a long tradition in legal writing of rhetorical "incongruity" by the semi- or illiterate individuals petitioning the powerful through the language of the law. Chessman, in some ways, participates in and extends this tradition. These texts are often imaginative and mimetic: the writers (the petitioners themselves, or scribes they hired to take down the words) indicate what they imagine legal language should sound like, with the peculiar "formulas or turns of phrase they believed to be required when one addressed the king or high officials" (Foucault "Lives" 17). But the true

strength of these documents lie in the inconsistencies, in their sheer inventiveness, when the writers

would stir in words that were awkward and violent, loutish expressions by which they hoped no doubt to give their petitions more force and truthfulness. In this way, crude, clumsy, and jarring expressions would suddenly appear in the midst of solemn and disjointed sentences, alongside nonsensical words; the obligatory and ritualistic language would be interspersed with outbursts of impatience, anger, rage, passion, rancor, and rebellion. The rules of this stilted discourse were thus upset by a vibration, by wild intensities muscling in with their own ways of saying things. (17)

In his own writing, Chessman evokes this tradition, but in doing so he also extends it, because mixing discourses is one way that he actually demonstrates his facility with legal language. His documents often display deftness in managing various levels of formal and informal discourse in the greater pursuit of producing sound legal arguments. Unlike other petitioners who had legitimate excuses for producing texts full of pseudo-legalese, malapropisms, and the like, Chessman continually proved his ability to produce “authentic” legal documents and to pose important legal issues, even if they were ultimately deemed spurious after the fact. Thus, he willfully includes these moments of mixed discourse, of varying linguistic and discursive registers, in full knowledge of the negative effects they may have on particular readers.

In 1957 Chessman submitted two related appellate briefs entitled *Chessman v. Teets* to the Supreme Court; I will concentrate on the document “Petitioner’s Reply Brief,” dated May 20, 1957 as well as the majority opinion of the court in response to this case. In these documents, he contests the validity of the transcript procedures and lays out his arguments regarding the prejudicial handling of the post-trial proceedings in which the final transcript was prepared and settled. The petitions are organized according to his arguments, such as “Petitioner did expressly seek the order of the trial court to be produced at the settlement hearing conducted by it,” or “Petitioner has not waived either his right to be personally present or to be present or to be

represented by counsel at the trial court settlement proceedings” (Petitioner’s Reply Brief). Beneath each point he elaborates his argument, and at least initially it is in the elaboration where his extra-legal voice first emerges. He calls certain statements by Judge Fricke “glaringly inaccurate,” and he argues that he “has complained about, and could have offered evidence of, the smoothing over of the People’s arguments, opening and closing, and the dropping (in the transcript as settled) of prejudicial remarks of the prosecutor and trial judge.” He even caustically attends to the numbers involved in just how much is missing from the settled documents, relying on the sheer impressiveness and apparent logical infallibility of math to do so (even if that math is, admittedly, more than a little fuzzy):

It can be demonstrated mathematically that Petitioner has been materially prejudiced by Fraser’s purported transcription of Perry’s notes of the trial. Transcribing his own notes before his death, Perry dictated 593 pages from 15 hours and 45 minutes of trial, for an average of 37.7 pages per trial hour. Transcribing Perry’s notes, Fraser prepared 1194 pages from 34 hours and 20 minutes of trial, for an average of 34.8 pages per trial. Thus, multiplying 34.33 times 2.9, it will be seen that Fraser has “lost” 99.557 pages of record in his transcription. Considering the serious nature of the due process rights involved, this is too great a loss to be ignored.

For the first half of this document, however, these elaborations merely serve as the place where he cites and quotes the relevant court cases pertaining to the legal merits of his claims, providing a legal foundation for them. His sources are extensive, ranging from earlier writs, briefs, documents produced by his opposition and appellate court opinions regarding his own case all the way to various appellate court and near-contemporary California and US Supreme Court decisions drafted by the likes of Justices Robert Jackson and Felix Frankfurter.

Some of the most telling work he cites is that which is provided by Chessman’s opposition. He quotes Warden Teets’s admission that “this is the very first time, after years of litigation, that Petitioner has succeeded in getting all the State court records and other evidence

on which the question is based before the Federal Courts.” This is under an argument contending that an independent court examination of the case should be the only way to determine whether his civil rights had been violated, and that that decision should not rely “upon prior negative decisions of State courts nor by adoption of Respondent’s [Teets’s] casuistic legal philosophy and ingenious but untenable and obstructive legal theories.” It is here, in this argument, where Chessman begins to fully emerge. He cannot help but call into question Warden Teets’s understanding of the law as specious and amateur, especially compared to his own supposedly superior arguments. Later, he also makes effective use of a particularly damning quotation by another judge regarding the length and duration of his appeals process: “Incidentally, it is quite likely that if Chessman had been present at the [settlement] hearing some eight years of appeals, petitions for *labels corpus* [sic], and more appeals might have been avoided.” In the rest of the document, he then takes on the task of juggling the generic demands of producing good law and employing terms of art (legal phrases, ideas, recognizable shorthand) and the deliberately mixing in of a kind of everyday vernacular, abandoning for good the more formal and austere style ostensibly demanded by the law.

The first notable example of Chessman’s rhetorical sophistication occurs immediately following the citation of various California rules governing procedures to settle a transcript. Usually, the court must broadcast a notice, hold a hearing, and have all parties participate in the settlement of the document. He writes,

But, the Rules aside, Petitioner was never given an opportunity to offer such. Consider the restricted time. Consider his situation, confined in a death cell. Above all, consider that on June 25<sup>th</sup>, 1948, at the new trial proceedings, Judge Fricke had stated there was nothing to show that a verbatim transcript could not be prepared. As the testimony before Judge Goodman shows, neither Judge Fricke [. . .] nor Petitioner [. . .] knew of the method employed by Fraser in attempting to decipher and transcribe Perry’s notes.

This is a strange and powerful moment in the document, in which Chessman, hitherto writing only as the “Petitioner,” assumes a different kind of narrative role. Ostensibly this petition has always been “narrated” by him, but that mode of narration is articulated in the form of orderly and logical legal procedures. The juridical figure of the Petitioner is tasked with telling a legal story, and he does so through the arrangement of argument, the citation of case law, and the laying out of facts in a recognizably legalistic manner. But in this brief moment a different kind of storytelling emerges: the language and discourse fundamentally changes. For here it is Chessman, the identity embedded in and obscured by the title of Petitioner, who directly addresses the Supreme Court. He does so in the imperative mood, requesting (or perhaps demanding) that they consider not only his legal argument but also common sense, independent of “the Rules.” The mode of persuasion shifts and becomes broader here, too: rather than relying solely on that professionally recognizable legal form of *logos*, Chessman’s appeal takes up the overtly ethical ramifications of these prior decisions in a way that also engages the mode of *pathos* as well.

This mixing of discourses and registers is the mode that marks the rest of Chessman’s petition. Even while he continues to maintain that his constitutional rights were infringed upon because due process had been denied, he no longer simply argues that this is a legal matter, a technical or procedural issue. In these moments he changes registers, communicating more clearly with less of the trappings of formal legalese. In summing up and rephrasing how there “was a clear failure of due process” in his case, he begins with the highly informal phrase “To cut brush.” This is a pithy and humorous transition, an obvious way of declaring that not all petitioning requires a complicated and nuanced legal argument. Indeed, sometimes the lawyer

must wield a discursive machete to carve out a path through legalese in order to be understood clearly. This is how Chessman “cuts brush”:

California’s automatic appeal law is an “extraordinary precaution” taken by the Legislature “to safeguard the rights of those upon whom the death penalty is imposed by the trial court” [ . . . ] As stated in Petitioner’s Brief, at page 53: “California’s mandatory appeal procedures were designed to protect Petitioner’s rights, not destroy them—and him—through an act over which he had no control, the death of the Court reporter.” In other words, this mandatory appeal, like due process itself, is a shield, not a sword.

It is clear that he is defending himself against charges that he has made a mockery of the law, that his work has been frivolous (to be examined in more detail shortly). He does not wield legal procedures combatively, but is calling on the law purely from a defensive posture. In fact, he also claims that judicial obfuscation from the original trial onwards is the real cause for his need to appeal continually. When one California appellate judge erroneously argued that “what the State of California affords by way of methods of providing a transcript is not the subject or concern of this court,” Chessman instead proves that it is by citing the legal statutes governing that issue. He follows: “Thus, it is apparent that Petitioner’s prayer in the alternative for a trial court hearing does *not* ‘play a game with the Court.’ Rather it is Respondent who plays a forensic shell game with the facts.” He insists that this is not a technical issue, but (as it always has been) a matter of life and death: to have the chance to argue his case in court “will serve to satisfy due process,” but a judicial denial “will serve only to satisfy California’s determination to see Petitioner put to death at all costs.”

It would be erroneous to call Chessman’s petitions complete failures, because, as the Supreme Court’s decision in *Chessman v. Teets* makes clear, they recognized the validity of his arguments regarding the ways his right to due process had been violated. Furthermore, they actually vacated the lower court’s judgments regarding the transcript, and remanded the case to

the district court to be reargued, with the threat that if the court did not act within a reasonable amount of time, Chessman should be freed. The opening statement of the opinion refers to “this long-drawn-out criminal litigation” at the same time that it also acknowledges that “a mere statement of the facts [. . .] material to the issue now before us will suffice” to overturn the lower court’s decision. After rehearsing Chessman’s argument and evidence, the court “must hold that the *ex parte* settlement of this state court record violated petitioner’s constitutional right to procedural due process. We think the petitioner was entitled to be represented throughout those proceedings either in person or by counsel.” Stated differently, “the petitioner has never had his day in court upon the controversial issues of fact and law involved in the settlement of the record upon which his conviction was affirmed.” But even this decision shows signs of judicial weariness, and this is not just true of the dissenting opinion composed by Justice William O. Douglas. In his dissent, Douglas articulate the prevailing sentiment—the “irresistible” conclusion—that Chessman “is playing a game with the courts, stalling for time while the facts of the case grow cold,” and that the majority opinion essentially “exalt[s] a technicality.” The majority opinion acknowledges the public sentiment circulating about the potential miscarriages of justice in Chessman’s appeals, as though they are girding themselves against more public scrutiny and outrage: “Without blinking the fact that the history of this case presents a sorry chapter in the annals of delay in the administration of criminal justice, we cannot allow that circumstance to deter us from withholding relief so clearly called for.” The Court defends its decision, “no matter how heinous the crime in question and no matter how guilty an accused may ultimately be found to be after guilt has been established in accordance with the procedure demanded by the Constitution.” Ultimately, the opinion argues that it is not Chessman’s life that is truly on trial, but the law itself: “the proponent before the Court is not the petitioner but the

Constitution of the United States.” All of this is important because these statements—both the actionable legal mandates in them but also the opinions themselves—are forever lodged in the legal record, existing as a part of US legal precedence that serves as the foundation of all new future laws. The recognition that Chessman was right is a part of the legal record, as much so as the recognition of his case’s singularity in stringing out the appeals process, or the dissenting opinions that his case was simply a patchwork of technicalities meant to waste time.

As a result of the Supreme Court’s decision in 1957, Chessman would get his day in court, in what would be his most ambitious and clearly articulated legal gambit. In 1958, Chessman would again argue about the validity of the court transcript, this time with the aid of a young defense attorney and in front of a different judge, Judge Walter R. Evans. During this trial, which lasted nearly a month, but for which Chessman had been preparing for years, he argued five main points:

- Stanley Fraser had lied about his special qualifications regarding his ability to read, understand, and translate the original shorthand transcript, based on his close friendship with Ernest Perry, the original court reporter whose sudden death caused the trouble.
- There was a demonstrable conflict of interest regarding the transcript, because Fraser had shown Leavy working draft on numerous occasions, and then destroyed them before Chessman could see them.
- The original notes were impossible to read given Perry’s declining health and his already highly idiosyncratic shorthand technique.
- “Put in homely terms,” Chessman argued, “the transcript is a mess, rife with prejudicial inaccuracies, omissions, and guesswork” (qtd. in Machlin and Woodfield 223).
- The duration of his incarceration, due to the clerical inadequacies of the transcript and the legal wrangling over it, constituted cruel and unusual punishment.

He also submitted a new list of demands to change to the record, nearly 2,000 separate corrections that in total amounted to “eighty-nine pages of changes” (237).

During these hearings, it was revealed that between 1940 and 1951, “Fraser had been arrested ten times for alcoholic-related crimes (drunken driving, public intoxication, public nuisance, domestic disputes, etc.)” (Bisbort 250). Moreover, a neighbor testified that “many

times during the period when he was working on the transcripts, she saw him pull up in his car in front of his house and then fall into the gutter getting out of the car, ‘spilling papers from his brief case’” (qtd. in Bisbort 250). He was even arrested for public intoxication once *while* he was working on the court transcript (Machlin and Woodfield 189). Additionally, Chessman would bring in handwriting and shorthand experts who attested to Fraser’s miserable attempt at transcription as well as the illegibility of the original notes. By this point, Chessman was a decent enough lawyer that he actually managed to have Fraser admit that he “might have left out as many as eight lines of [shorthand] symbols at a time” from the notes simply because he couldn’t read them, and that sometimes he “had not only *left out* symbols, but when things didn’t seem to make sense he had *added* his own symbols, often right on top of Perry’s original notes, and frequently in ink so that it became difficult to tell which notes were which” (Machlin and Woodfield 224-225). A shorthand expert and former court reporter called in to testify for Chessman admitted that if she had recorded every mistake she found between the original notes and Fraser’s transcription, “I would have had another volume here the length of *Gone with the Wind*” (qtd. in Machlin and Woodfield 226). Off the record, in a private consultation, she also noted the dubious, palimpsestic quality of the original notes, too, observing that in addition to finding passages that were scratched or altered by Fraser she had also found a third set of forged symbols, whose handwriting was “radically” different than both Perry’s and Fraser’s, though this was never formally submitted to the court as evidence (230). Finally, Chessman brought up the fact that Fraser was the brother-in-law of J. Miller Leavy, the lawyer who prosecuted Chessman (190). This relationship presented many conflicts of interest, especially since it was revealed that Fraser received three times the normal rate for the transcription job, a fact officially and vehemently protested by an organization of local court clerks. All told, these hearings, which

lasted twenty-five days, produced another 5,527 pages of court transcript, totaling twenty-two volumes (235).

And yet, in spite of the overwhelming evidence that Chessman and his team provided the courts that there had been malfeasance on the part of Leavy and Fraser, that, in fact, numerous laws had actually been broken in the preparation of the official record, the transcripts were nevertheless ruled legal on St. Valentine's Day, 1958. The reason, importantly, is not in fact that there was no evidence of wrongdoing, though Judge Evans apparently did his best to minimize the changes that Chessman requested of the official record, observing "that he didn't think they had much effect on the substance of the case" (qtd. in Machlin and Woodfield 237). Instead, the court's reasoning was that "Most of the defendant's claims of fraud and of bias and prejudice can be attributed to the fact that at all times during, and for some time after his trial, he refused to be represented by counsel" (237). In nearly every opinion that denied his legal arguments we find this same dual movement: the court recognizes that Chessman was correct in certain, meaningful regards. But in those same opinions there also exists an almost single-mindedness, even zealotry, to preserve the formal dignities and rituals of the law; we might call this a kind of professional gatekeeping. These opinions indicate the prevailing sentiment that if Chessman had been represented by someone else, his legal arguments would, in some ways, be *more* valid, correct, and worthy of consideration, but that the validity of his arguments is diminished simply because he has not been credentialed by the state as a lawyer. In hindsight, this opportunity was Chessman's best shot at winning an appeal, because than less than two years later he would be executed. And he would no longer be able to count on the Supreme Court to wearily insist on due process, either. The retrial confirming the transcript's validity constituted "due process" and thus satisfied the Supreme Court's mandate that Chessman get his day in court. The final petition

concerning his case to go before the US Supreme Court is a brief denial: “The application for stay of execution presented to MR. JUSTICE DOUGLAS and by him referred to the Court is denied. Petition for writ of certiorari to the Supreme Court of California denied. THE CHIEF JUSTICE took no part in the consideration or decision of these applications” (*Chessman v. Dickson*, 1960). In its brevity and in the total absence of an explanation—two notable distinctions in a legal process that produced lengthy petitions and copious mountains of documentation—this final decision seems to suggest that, at long last, there was nothing else left to say.

#### **4.4 THE “CONTEMPTUOUS” POLITICS OF LEARNING LEGAL LANGUAGE AND THE LABOR VALUE OF MERITLESS LITIGATION**

Legal language has been variously criticized as “wordy, unclear, pompous, and dull” (Mellinkoff 24), while traditionalists contend that it is actually a precise and durable language, one that is much more precise than common or everyday language. In his discussion of the long-standing debate over reforming legal language, legal scholar William O’Barr observes that “the traditionalists argue that the importance of consistency in interpretation by the courts of particular words, terms, and even entire legal forms outweighs the advantages of popularizing and simplifying legal usage” (393). Moreover, there are distinctly professional considerations at work in preserving this language. Conservative members and traditionalists defending the “nonordinary form of legal language” claim that a shared intelligibility between lawyers is more important than “laymen” comprehending it (393). This is because most legal discourse “is addressed ‘to the record’ (i.e. couched with the potential of an appeals court in mind). Legal

documents are prepared according to standard form books—not because these are tried and tested for lay comprehension—but because they ensure a greater predictability of how the courts will interpret such documents” (393). Finally, there is an altogether more practical, professional, and even, perhaps, mercenary rationale for preserving legalese’s distinctiveness. The density, verbosity, and strangeness of the language, the acquisition of which is “an arduous task for law students” (392), protects the realm of law and its applications from trespassers, what David Mellinkoff acerbically describes as “preserving a professional monopoly [. . .] by locking up your trade secrets in the safe of an unknown tongue” (101). If legal language were made ordinary and accessible overnight, there would hardly be a need for anyone to remain “consumers of the work of lawyers” (O’Barr 392).

Especially for individuals associated with revolutionary groups in the late 1960s and throughout the 1970s, legal language and the question of self-representation take on important political dimensions. This is especially true when we consider that the judicial system can, in fact, insulate itself from outsiders and ordinary language users by, for example, accusing individuals of “contempt of court” on certain legal and procedural grounds. 20<sup>th</sup> century Black revolutionaries around the world routinely describe the “crimes” of insolence or impudence—or for being “cheeky,” in the case of South Africans, something Nelson Mandela notes in his autobiography (241)—that often resulted in jail or prison time and/or physical abuse by police officers, judges, and prison guards and administrators. The slave’s “back sass” of the 18<sup>th</sup> and 19<sup>th</sup> century had, by the Civil Rights era, sometimes morphed into legal terms (sometimes little better than Orwellian doublespeak or administrative/institutional euphemisms) like “resisting arrest,” “failure to obey a police officer,” “obstructing justice,” and, if on trial, “contempt of court.” While in jail awaiting trial for her supposed murder of a New Jersey state trooper, black

revolutionary and radical feminist Assata Shakur befriended a “middle-aged sister” who was “arrested for drunken driving in the driveway of her own home” (54). This woman claims “that the cops had arrested her because they didn’t like the way she talked to them” (54). Shakur then observes, “In that jail it was nothing to see a woman brought in all beat up. In some cases, the only charge was ‘resisting arrest’” (54). During the jury selection phase of one of her own trials, Shakur and a co-defendant vocally protested the blatant racism underlying the selection, at which point she was assaulted and beaten by federal marshals, arrested, and charged with “obstructing justice” (91).

In another revealing piece included in Angela Davis’s anthology *If They Come in the Morning* (1971), an anthology collecting a number of pieces expressing outrage at Angela Davis’s persecution or expressing solidarity with her and her comrades, Margaret Burnham (a co-counselor for Angela Davis) extends this question of language to the courtroom itself. At the time, Ruchell Magee, a black revolutionary who was nearly freed by Jonathan Jackson (George Jackson’s younger brother) when Jackson raided the Marin County courthouse and took the judge hostage, was on trial fighting a kidnapping charge that could have resulted in a death sentence. Implicated alongside Davis for their involvement with the Soledad Brothers case (to be examined in Chapter Three), both Davis and Magee chose to defend themselves in court, but Magee was nearly denied his constitutional right to defend himself because the court found Magee both “intellectually incompetent to represent himself” and because “Mr. Magee’s demeanor and conduct this far lead us to believe that self-representation will be disruptive of courtroom order” (Burnham 235). Magee’s apparent inability to master the legal jargon of the courtroom nearly led him to be legally “in contempt of court,” which was defined in one 1969 court case as “conduct calculated to embarrass, hinder, or obstruct a court in its administration of

justice or to derogate from its authority or dignity, or bring the administration of law into disrepute” (qtd. in Freedman 135). With the broad strokes of this definition in mind, it hardly needs to be stated that Magee’s participation in Black Liberation activities meant he was already contemptuous of the court to begin with, that his activities in general sought to question or undermine the authority of the law, and that he did not recognize the dignity of the court room or the trial. Of Magee’s situation, Burnham asserts,

What these judges and others are saying is that one must speak and act like a lawyer in order to be recognized as a lawyer; that one, who, by reason of his captivity, is self-taught in the law cannot utilize his skill and learning to express himself on the subject of his own life; that one who has been a prisoner of the law and who has, as a direct consequence of racism, been deprived of formal training in legal matters, cannot avail himself of the law to defend his life. It is a white man’s law; white men shall apply and interpret it as it suits them; and Black men whose views of the law and whose legal language varies from the white norm, are thereby adjudged “incompetent” in the eyes of the law. (235)

We see in Burnham’s assessment that controlling a defendant’s capacity to defend him or herself orally is sometimes a deliberate tool of repression in a legal setting, specifically used against the poor, the colored, women, members of the lower classes, and the undereducated. Over the years, the courts have instituted rules protecting the law’s austerity and limiting subjects’ ability to access and use the law to their own ends. We must also keep in mind the sad fact that until late in the 1960s and 1970s, people of color were routinely (and sometimes categorically) disqualified from the processes of writing, enacting, and enforcing the law. For most of this country’s history, African Americans were simply subjects of the law, or even partial subjects of it (when African Americans counted only 3/5ths of a full human being); sometimes they were even codified as *objects* by the law, depending on what part of the legal record and legal precedence we examine. However, William O’Barr usefully warns that none of us are safe in the world of legal language. He writes that legal language’s “similarities to contemporary English deceive the ear; it sounds

as though it should be understandable to speakers of English” but “both the oral and written forms of the language of the law are alien to the styles of speaking and writing used by most Americans” (388). In essence, then, Burnham is only partially correct to say that the law is the white man’s law: it *is*, insofar as white men have been, by and large, the only ones to draft, employ, and enforce the law, but that does not necessarily mean that most white men (or anyone else, for that matter) can easily find themselves at home in the language of the law. The law is a cold, unwelcome, and inhospitable place for ordinary language users, and it has been for a long time.

Chessman faced the same difficulties experienced by those revolutionaries a generation earlier, especially those found guilty of “contempt of court.” His entire legal career was considered by conservatives as flagrantly contemptuous of the law. We may look to the opening paragraph of *People v. Chessman* (from July 7, 1959) to get a better sense of how Chessman’s various appeals were perceived as they wound down:

He attacks the sufficiency and correctness of the reporter's transcript on appeal, and the propriety and constitutionality of proceedings in which that record was produced, settled, and resettled. Defendant further urges that California, since the rendition of the judgments of conviction on June 25, 1948, has denied him equal protection and punished him cruelly and unusually by restraining him pursuant to such judgments while the various matters of which defendant complains were being litigated and relitigated. (7)

There is something seething just beneath the surface of two key phrases in this litany: “produced, settled, and *resettled*” and “litigated and *relitigated*.” Under the guise of seemingly neutral legalese the words “resettled” and “relitigated” nevertheless stand out, because embedded in them is the tediousness felt by those judges who had to review Chessman’s frequent appeals. This opinion was composed ten years after Chessman’s original criminal trial, after all.

The tedium, disaffection, and seething contempt cloaked in these two words would be more fully articulated in *Chessman v. Dickson*, a decision denying Chessman a certificate of probable cause for appeal and denying a request to stay his execution while he sought to submit another writ of habeas corpus handed down by the US Court of Appeals for the Ninth Circuit. That decision was handed down just three months before his execution. Interestingly, by this point the judge composing the brief, Arizona judge Richard Harvey Chambers, seems to have taken a page out of Chessman's rhetorical strategy: in keeping true to the traditions of Old West lawgivers, he cuts his own brush; to mix metaphors, he does not beat around the bush. In his opinion Chambers hammers away at Chessman's record of "specific trifling objections to this and that in the record" and sarcastically commends Chessman's legal team: "Petitioner is represented by able counsel and one must give them a grade of 'A' for ingenuity, but such ingenuity just doesn't put water in the bottom of the well where there is none." He laments former judges having "suffered with patience and interminably [sic] all sorts of irrelevancies and worse, at Chessman's hands." He points to "a basic weakness in our government system that a case like this takes so long," but is adamant that he cannot "see how we can offer life (under a death sentence) as a prize for one who can stall the processes for a given number of years, especially when in the end it appears the prisoner never really had any good [legal] points." As he concludes, he largely abandons his point-by-point denial of Chessman's petition, and instead takes the opportunity to utterly destroy Chessman's case and character:

We are told of his agonies on death row. True, it would be hell for most people. But here is no ordinary man. In his appearances in court one sees an arrogant, truculent man, the same qualities that Regina and Mary [the sex crimes victims] met, spewing vitriol on one person after another. We see an exhibitionist who never before had such opportunities for exhibition. (All this I get from the record.) And, I think he has heckled his keepers long enough. (4)

Chambers was hardly alone in his vociferous condemnation of Chessman's legal work. What is perhaps notable is the fact that a judge, a man supposedly tasked with upholding the austerity and dignity of the law and its appellate apparatuses, would stoop to author an opinion whose primary purpose was not to engage in an orderly rebuttal of a petition but to paint an individual with so broad—and so black—a brush. But then again, by this point, any opinion regarding Chessman's appeals and stays was newsworthy and immanently quotable. Chambers was thus not only speaking as a judge in this opinion, but he was also giving voice to a common public sentiment, articulating the collectively held beliefs of those who had grown tired of hearing about the uppity resident of San Quentin's death house. The novelty is that Chambers did so in a vernacular that would surely generate the next day's headlines.

To contemporary readers, Chessman's appeals process may seem like a rather standard procedure given how costly and how long it takes appeals to run out for Death Row inmates now, but during his day his appeals seemed almost interminable and were definitely unusual.<sup>54</sup> In the 1940s and 1950s those condemned to die “were normally executed in a matter of weeks,” and well into the 1940s most states required that those convicts wishing to file an appeal “must pay for the preparation of a trial transcript,” a demand so costly that it effectively prohibited nearly all poor and minority Death Row inmates from appeal (B. James 189). This would change by 1958, when changes to California laws stipulated that an imposed death penalty automatically merited an appeal to the state's Supreme Court (“Post-Conviction” 98).<sup>55</sup> To compound matters

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<sup>54</sup> According to recent US Department of Justice statistics (2010), the average time between sentencing and execution has more than doubled since 1984. That year, twenty-one inmates executed in the US waited an average of seventy-four months before their executions. In 2010, forty-six people were executed, and on average they spent 178 months, or close to fifteen years, on Death Row (Snell).

<sup>55</sup> The automatic appeals process in capital punishment verdicts that we now take for granted (and often criticize) is a much more recent juridical revolution, as mandated by the landmark Supreme Court death penalty case *Furman v. Georgia* (1972). That decision effectively found that capital punishment was cruel and unusual in its capriciousness and arbitrariness from state to state—especially in its apparent discriminatory application, since the overwhelming

for state authorities, and to circumvent the effective disenfranchisement and disincentives that other indigent Death Row inmates faced, Chessman would astutely fund his appeals in part from the successful publication and proceeds of his books. Like Stroud before him, Chessman's entrepreneurial spirit was something that would have been lauded (and used as proof of his resocialization and rehabilitation) were it not also viewed as entirely self-serving and disingenuous by his critics. Increasing support from California's new professional middle class and certain celebrities aided his cause as well, which was one of the many reasons why prison authorities sought to silence Chessman and censor any new work he attempted to publish.<sup>56</sup>

Because of the unusual duration of his appeals, many felt that Chessman was not serious in his pursuit of a fair trial and justice. In 1957, one judge would write, "[Chessman is] playing a game with the courts, stalling for time while the facts of the case grow cold" (qtd. in Brown, Sr., Alarcon, and Cooper 22). Chessman's appeals were felt to be "vexatious" because, on the one hand, he was a man desperately exploring every single legal means available to him in order to delay his impending execution, though this was an unpopular and indeed minority perspective on his work.<sup>57</sup> On the other hand, he faced a tremendously divided public and an incensed and antagonistic host of state representatives and conservative media outlets (including the William Randolph Hearst-controlled newspapers like the *Los Angeles Herald-Express*), who all argued that Chessman was not, indeed, actually making the most of his final opportunities afforded to

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number of those convicted to death were African American—and it was therefore deemed unconstitutional. The Supreme Court decision effectively put a moratorium on the death penalty while individual states revised their death penalty procedures more stringently in order to make them constitutional, effectively narrowing the number of crimes that could result in a death penalty, as well as (in some states at least) leading to a separate sentencing phase after the criminal trial and initiating automatic appeals, also known as direct appeals (Oshinsky *Capital* 57-59).

<sup>56</sup> For an extended treatment of the new middle class's contribution to the pro-Chessman camp in California, see Theodore Hamm's *Rebel and a Cause: Caryl Chessman and the Politics of the Death Penalty in Postwar California, 1948-1974*, particularly pages 106-122.

<sup>57</sup> "Vexatious," indeed, is a pertinent legal term to Chessman's legal work, although it refers to "civil action shown to have been instituted maliciously and without probable cause" ("Vexatious"), rather than criminal action.

him constitutionally by the law. (In point of fact, he was almost always operating from *within the law*, a fact largely lost on these commentators.) Instead, they felt he was making a mockery of the law by playing “games,” searching for loopholes, and building up a patchwork defense predicated upon the supposedly insignificant technicalities that littered his trial, while his celebrity status and vocal opposition to the death penalty grew beyond San Quentin’s prison walls. This is why biographers Machlin and Woodfield would later write that Chessman operated “in a manner originally inept and later *offensive* to the courts” (my emphasis 317).

Other terms in play regarding his appeals process (ones that remain with us today) were “frivolous, repetitious, and time-consuming,” as well as “meritless” (Brown, Sr., Alarcon, and Cooper 22). Conservative judges, politicians, and members of the public agreed with the mother of one of Chessman’s rape victims, Mrs. Ruth (Meza) Shaw, who felt that Chessman’s delayed execution led to a “loss of all faith in the law” (qtd. in Machlin and Woodhead 197). Others contended that the delays constituted a “light-hearted game of musical chairs with the able assistance of some members of the state judiciary,” according to the Los Angeles *Mirror* (qtd. in Machlin and Woodhead 197). One angry citizen observes that trials “have often become courts of skill in manipulation of technicalities, like games of chess,” and that “our softness of heart must have spread to our heads” to allow a “brute” like Chessman to escape justice on such “flimsy technicalities” (“Chessman Case Debated”). Federal Judge Louis E. Goodman strongly condemned Chessman’s supposedly instrumental role in demonstrating “our ‘nickel in the slot’ administration of criminal justice” (qtd. in Machlin and Woodhead 200). California Assemblywoman Dorothy Donohoe claimed that Chessman was perfecting a technique of “last-minute obstructionism” (283) and thereby “displaying complete contempt...[a] contemptuous attitude of law and order”; Donohue eventually voted for the abolition of the death penalty but

nevertheless felt that Chessman should be executed (qtd. in Machlin and Woodhead 272). Perhaps the most vociferous and fiery opinion is to be found in a Los Angeles *Times* editorial published in the wake of Chessman's execution, entitled "Chessman Will Be with Us." In it, the unnamed editorialist condemns Chessman and his counsel for making "a dirty trifle of habeas corpus, playing with a jewel on a dung heap," and lambasts Chessman's legal "stagecraft" of doling out "one or two" of his legal points of appeal at a time, "putting off the executioner with each play." He laments that "the greatest of writs became a legal quibble, the tinker tool of smart lawyers who seemed always to find a susceptible judge." The editorial ends by quoting the judicial opinion of Richard Chambers quoted above: "I think he has heckled his keeper long enough" ("Chessman Will").

These criticisms and concerns regarding Chessman's work are not just legal concerns—though they are, indeed, important legal concerns. They are also implicitly about labor as well. In the simplest terms, the conservative backlash against Chessman's legal endeavors sought to discredit his labor as useless and without merit—hence the chorus of condemnation referring to his work as an elaborate "game" with the law. This apparent meritlessness, the historical and judicial records amply prove, had less to do with the actual *legal* merits that Chessman and his advisors submitted to the courts. In fact, as his appeals slowly wound their way through the state and federal courts Chessman was eventually able to pinpoint very precise, even nuanced, elements of his case that the courts agreed with in principle, evident in the opinions quoted above. Instead, the supposed worthlessness of his legal efforts derived mainly from the fact that Chessman chose to represent himself, and in so doing actively encroached on territory reserved especially for "real" lawyers. It was his repeated "arrogance" in choosing to defend himself that

judges cited when they simultaneously acknowledged the validity of his legal arguments but nevertheless denied him further recourse to successfully argue them.

The supposed legal frivolity of Chessman's legal action is dubious at best. A frivolous claim is legally defined as one "clearly lacking in substance; clearly insufficient as a matter of law," and an appeal is deemed frivolous "if it presents no justiciable question or merit" ("Frivolous"). A different way to determine an appeal's legitimacy or frivolity is determine if it is "justiciable" or not, which entails deciding if an appeal is "capable of being tried in a court of law. 'Justiciability' is a question of feasibility, i.e., whether it is feasible for a court to carry out and enforce its decision" ("Justiciable.")). There are two important distinctions between the frivolous claim or suit and the frivolous appeal: the first is that there are simply less of the latter than the former, because the appeal has already reviewed by one judge or court and thus has already been screened in some capacity. More importantly, though, is that there may, in fact, be some legitimate legal bases behind frivolous appeals where there is none with the frivolous claim, but a court may decide to deem an appeal frivolous if they determine that "there is little prospect that it can ever succeed" as a legal question (Freedman 7). In one notable case, the New York Supreme Court defined a frivolous claim as "an objection so clearly and palpably without merit as to indicate bad faith on the part of the party making it without the necessity of even argument to convince the court there-of" (*Tomasello v. Trump*).

As the hearing on the court transcripts and many of the opinions denying his petitions and writs clearly demonstrate, Chessman did have many legitimate grievances regarding the legality and admissibility of the "official" court record. He was well within his rights to call attention to Stanley Fraser's mental and physical capacities as a known alcoholic, for example, and the expert testimonies regarding handwriting actually indicated that serious crimes had been

committed in the alteration of the original notes by both Fraser and possibly Leavy, the prosecutor. Moreover, as legal scholars reexamining Chessman's trial later revealed, Leavy had also committed a serious breach of conduct in his closing remarks when he deliberately misled the jury in describing "life imprisonment." In arguing for the death penalty, he stated that "punishment for life imprisonment without possibility of parole does not mean what it says" (qtd. in Brown, Alarcon, and Cooper 35), and offered up pardons, commutations, or legislative changes to the penalties as evidence that Chessman could, indeed, be paroled. This information caused the jury to rethink their verdict and punishment. They naturally feared that Chessman could one day walk free, and subsequently asked for clarification from Judge Fricke regarding the possibility of parole, who cited the same examples that Leavy brought up. Chessman correctly pointed out in one of his appeals that this misinformation prejudiced the jury into voting for the death penalty, though this appeal, too, was denied. In 1964, the state of California would review a similar case (*People v. Morse*) and decide that the "function of a jury is to consider facts surrounding the crime and defendant's background and to reach its decision on that basis, not to decide if the defendant will be fit for release in the future" (qtd. in Brown, Alarcon, and Cooper 36); this legal opinion was four years too late to help Chessman. And perhaps most ironically, Leavy ultimately proved to be correct while still be misleading in his instructions, as twenty-three years after the trial concluded, in 1969, the state of California actually decided to amend the language of kidnapping so that incidental movement of the victim during the commission of the crime could not constitute kidnapping, which would have freed Chessman were he not executed in 1960 (30). As the results of these other legal decisions indicate, Chessman's various appeals were not frivolous; in fact, from a legal standpoint his case was singular and without "precedent" in California law (41). Indeed, as Brown, Jr., Alarcon, and

Cooper contend, “the infliction of the ultimate penalty was an anomaly when it occurred, resting as it did on no traditional practice, and having spawned no [legal] progeny. It stands alone, and it does so on weak footing” (41). Had the penalty been reviewed even a few years afterward—had Chessman been sentenced to life instead of death—either the California or the U.S. Supreme Court “would unequivocally find that the punishment was excessive and in violation of the 8<sup>th</sup> and 14<sup>th</sup> Amendments to the U.S. Constitution” (41-42). This should give us pause and prompt the question: how could his series of appeals be summarily rejected and deemed frivolous, if those appeals had such strong legal basis?

Although Chessman never seems to have been officially accused of “contempt of court,” he nevertheless toed that line in his position as both accused criminal and lawyer. In fact, rather than simply commit one act of contempt of court, Chessman seemed to *embody* and *make manifest* contempt of court, or at least “contempt for the law” (a routine accusation against Chessman’s work), in his decision to represent himself, according to the prosecution, presiding judges, the Attorney General, and various the state and federal judges who viewed Chessman in a poor light. What these individuals seemed to care most about was the ritual of the law, the preservation and enactment of judicial spaces, roles, and norms—legal decorum, in other words—that Chessman could only “play” at, or make a “game” of, and otherwise demean or mock by virtue of the fact that he was not a trained lawyer and was thus perceived to be an interloper. It was in this supposed mockery that Fricke, Leavy, Pat Brown and others saw most clearly Chessman’s “arrogance,” and it was this arrogance that rendered his prodigious labor meritless, without value of any kind.

We might think about the impulse to doubly judge and condemn, made manifest in Chessman’s initial conviction as well as in the continual denial of his appeals and of his case’s

so-called frivolity. Foucault argues that modern law certainly still condemns “‘crimes’ and ‘offences,’” but embedded in these juridical decisions are also other kinds of judgments, about “‘passions, instincts, anomalies, infirmities, maladjustments, effects of environment or heredity; acts of aggression are punished, so also, through them, is aggressivity; rape, but at the same time perversions; murders, but also drives and desires” (*Discipline* 17). The prosecution’s almost singular attention to the two rape accusations during Chessman’s initial trial overshadowed the numerous other crimes for which he was also prosecuted. We must remember that during the late 1940s Southern California was considered a hotbed of sex crimes in general and sex murders in particular—like that of the Black Dahlia case—and there was thus a preponderance of media, public, and even scholarly attention turned to this issue. J. Paul de River, who testified in the *voir dire* sequence during Chessman’s criminal trial, would publish a kind of criminological zoology of the sex criminal in 1949, highlighting the many “types” (such as the “sadist raffiné,” or the refined sadist; the necrophiliac; homosexual sadists; pedophiles; sadistic zoophiles, among many others) that police, detectives, courts, and prisons might run into in their work.<sup>58</sup> Thus, Chessman’s case was pursued in such a way as to vilify and put to death not only the pervert but his apparent perversion as well.

But Foucault’s notion also applies to Chessman’s legal career after the trial, too, and this is not simply because people believed that justice was in a constant state of deferral in his case.

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<sup>58</sup> J. Paul de River is an interesting individual. He was responsible for the establishment of the first sex crimes bureau, through the Los Angeles Police Department, and he also served as the first official police department psychiatrist in the history of US police departments (B. King xxvii). His qualifications, his credentials, and even his identity would undergo intense scrutiny after he falsely accused a man of the Black Dahlia murder, causing the LAPD a public relations nightmare. It would later be revealed that he had made up a new identity for himself and forged a number of his credentials prior to being hired by the LAPD. He would eventually be suspended for writing prescriptions for family members and fired when he tried to countersue for lost wages accrued during that suspension. His lasting legacy is the creation of the first sex criminal registry in the US, a model that has expanded and grown more powerful over the course of the 20<sup>th</sup> and 21<sup>st</sup> centuries. For a more thorough treatment and biography, see “The Strange Case of Doctor de River,” by Brian King.

That a sex criminal could, through misappropriating the law, further taint the legal process itself (and, by extension American democracy—an important element in a decade preoccupied with the Cold War and US hegemony) was certainly one facet of the outrage generated by his appeals. But the legal emphasis on decorum, the refrain that his case would have had more legal merit had he simply used a lawyer like everyone else, is itself a powerful judgment about the business of the law. The law governs all subjects and all facets of life, but only those who have been credentialed and recognized by the law may use it and mold it. Those impostors who do not respect the law and attempt to use it to their own ends ultimately denigrate it. Thus the profusion of legal opinion, denial of appeals, and pronouncements produced in an effort to finally end Chessman's life also serve as a kind of deterrence to future jailhouse lawyers. It is significant that many of the judgments denying his appeals recognize the implicit legal merit of his writs, as indicated above. Because of the nature of US jurisprudence—most notably its complete reliance on precedence, on the seemingly infinite archive of previous opinions and law that serves as the bedrock and reference for all future decisions—judges associated with Chessman's appeals process have archived both their recognition that his case could have been justiciable, pending certain requisite conditions (having a “real” lawyer), and that, in the end, *it simply didn't matter*. The monumental discursive effort that he produced on his own behalf is dwarfed by the energy and writing that the law could summon up in its own defense. Chessman's name and place would be footnoted in the historical and legal record as someone who attempted to take on the law and failed; he should serve as an example to any and all would-be jailhouse lawyers in the future who think they may have a “real” case that their work will most likely be defined as “frivolous” and without “merit.” If we apply Sartre's definition of an intellectual—“*the intellectual is someone who meddles in what is not his business*”(230)—to Chessman's case, then we understand the

potentially lethal ramifications of what happens when that business is infringed upon by outsiders.

Implicit, too, in the conservative outcry over his delayed execution is the notion that the law itself necessarily must be swift, unencumbered—in a word, *efficient*. This, of course, is nothing new in US law. The Sixth Amendment to the Constitution specifically demands that “In all criminal prosecutions, the accused shall enjoy the right to a speedy and public trial, by an impartial jury of the State and district wherein the crime shall have been committed,” and a special provision was made for “speedy trials” in the Virginia Declaration of Rights—the immediate predecessor of the Bill of Rights—that was drafted in 1776.<sup>59</sup> Cesare Beccaria, the influential Italian jurist whose penal philosophy was much admired by early Revolutionary political thinkers (some of whom would go to draft the Bill of Rights and the Constitution), argued that “the more prompt the punishment is and the sooner it follows the crime, the more just it will be” (36), and that “the temporal proximity of crime and punishment, then, is of the utmost importance if one desires to arouse in crude and uneducated minds the ideas of punishment in association with the seductive image of a certain advantageous crime. Long delay only serves to disconnect those two ideas” (37). Language regarding celerity and efficiency can even be found in documents as far back as certain provisions in Magna Carta itself.<sup>60</sup> Moreover, in the 1970s a new discipline within law emerged that examined it through the lens of economics, and

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<sup>59</sup> Section 8 of the Virginia Declaration of Rights reads thus: “That in all capital or criminal prosecutions a man has a right to demand the cause and nature of his accusation, to be confronted with the accusers and witnesses, to call for evidence in his favor, and to a speedy trial by an impartial jury of twelve men of his vicinage, without whose unanimous consent he cannot be found guilty; nor can he be compelled to give evidence against himself; that no man be deprived of his liberty except by the law of the land or the judgment of his peers.”

<sup>60</sup> Clause 40 of the original Magna Carta (the Runnymede Charter of 1215) reads: “To no one will we sell, to no one will we refuse or delay, right or justice” (“Clause 40”). Mainly this refers to the practice of feudal lords buying their way out of justice, but embedded in the clause is an early notion of the need to maintain a certain kind of swiftness when executing the law.

efficiency is one of the key notions within that field. In his *Economic Analysis of Law*, judge and legal scholar Richard Posner would demonstrate in great detail how “the great common law fields of property, torts, crimes, and contracts [. . .] bear the stamp of economic reasoning,” with efficiency operating at the core of common law (18).

But the public furor over Chessman’s case indicates a different public sensibility than the constitutionally protected right to a “speedy” trial, or that his trial was simply inefficient. Perceptually, the criticism launched at his efforts was encoded in the language of economism itself: justice itself should be subject (and perhaps even subordinated) to some kind of fundamental economic efficiency, else we run the risk of “our ‘nickel in the slot’ administration of criminal justice,” a kind of pay-as-you-go-law, or justice-on-the-installment-plan. Chessman’s approach to the law—the sometimes painstaking pursuit of truth and justice—appears immoral because it is wasteful, or plodding, or inefficient. In the words of that angry anonymous *Los Angeles Times* editorialist: “Chessman brought the whole American judicial system into disrepute, and we shall hear his case cited, whether we like it or not, until the rules of appeal are amended and the writ of habeas corpus, the most honorable badge of Anglo-American personal liberty, has been made to shine again” (“Chessman Will”).

In effect, Chessman’s case proves that there is a definite limit to this legalistic economism. Foucault contends that the reform movement resulting in prisons sought to establish new ways to punish, to

set up a new ‘economy’ of the power to punish, to assure its better distribution, so that it should be neither too concentrated at certain privileged points, nor too divided between opposing authorities; so that it should be distributed everywhere, in a continuous way, down to the finest grain of the social body. The reform of criminal law must be read as a strategy for the rearrangement of power to punish, according to modalities that render it more regular, more effective, more constant and more detailed in its effects, which increases its effects while diminishing its economic cost [. . .] and its political cost” (*Discipline* 80-81)

If this still holds true, then Chessman, through his legal writing, insisted that he was a legitimate node in the circulation of power, and that the provisions governing something as permanent as civil death did not remove him from his ability to use the law, to inhabit its discourses and speak back to it. Elsewhere, Foucault refers to the “capillary” action regarding the diffusion of discipline through the body politics (*Discipline* 198); as he writes, the “political dream” of a disciplinary society is such that “the power to judge should no longer depend on the innumerable, discontinuous, sometimes contradictory privileges of sovereignty, but on the continuously distributed effects of public power” (81). If we apply and extend (and perhaps belabor) the capillary metaphor to Chessman’s case, we begin to understand that the public blowback against his case—from the high court decisions down to the solitary letter-writer submitting his outrage to a local newspaper—saw his legal action as a kind of clot, the choking off of the usually fluid dynamics of law and power. Chessman represented the threat of a future (later to be realized) of unending prisoner litigation, of mountains of casework piling up; his removal was a kind of social thrombectomy to excise that clot, to unblock and repair the conduits of power back to their original functionality. We should thus interpret the legal contestation over the products of his intellectual labor as a discursive battle regarding who is finally and forever excluded from the ability to wield a particular kind of power. Moreover, in this light, the letter-writing campaigns, especially those in favor of pushing through Chessman’s execution, should not be seen as simply a collection of reactionary members of society, future John Birchers, baying for blood. Instead, it should be viewed as a specific kind of democratic mobilization of sentiment and political power, reminding those public custodians invested with more political power of their ultimate duty to preserve the law.

The problem with the economic and efficiency argument regarding justice is that it totally ignores the complexity of the modern judicial system in favor of a system predicated largely upon social revenge, and it confuses bureaucratic efficiency with the execution of justice. Posner argues that efficiency may be a moral issue—legal efficiency and morality often overlap: “the common law may be viewed as an effort to attach costs to the violation of moral principles—principles that we have suggested operate to enhance the efficiency of a market (as of most other types of) economy” (*Economic* 186). Viewed from this perspective, criminal law and particularly its punishments—lashings, fines, incarceration, the death penalty—all function, in some capacity, as economic as well as social deterrents. The fines for speeding not only punish those caught speeding but also function to make it economically undesirable to speed, whereas capital punishment seeks to deter potential criminals from violent crime—rape and murder—with the threat of the loss of life. Thus, “the economic theory of law is a theory of law as deterrence, and a threat that is not communicated cannot deter” (190). This is, in part, at the heart of the widespread complaints from politicians, judges, and the California public regarding Chessman’s mockery of the law and interminable delays. The public, in the form of the original jury, and then in the form of various local, state, and federal judicial opinions, had spoken, and upheld, more or less, Chessman’s guilt and determined what they felt should be the penalty for his crimes. Any delay in his execution, for whatever reason, was therefore an affront to the people and an affront to the sovereignty of the law itself, because those delays in effect showed up the law, proving that it is toothless and that it does not function to deter criminals in the manner that it should. In the words of Ned E. Wheldon, a private citizen from Hollywood who gave vent to his feelings in a letter to his local newspaper editor, Chessman was “a creature who should have been eliminated *without hate or revenge*, but with the same swift loathing with which one would

stamp on a scorpion” (added emphasis, “The Chessman Case”). The law, from Wheldon’s perspective, should function mechanically, like clockwork, without emotion, weighing the risks and rewards of maintaining a dangerous creature in its immediate presence. Ultimately what was “loathsome” about Chessman is that as long as he lived he would present a specific set of problems to the courts and to the American people; his removal would nullify those problems.

But Posner also argues that there is another facet to efficiency and the law, one that was largely ignored by those calling for Chessman’s immediate death. He asserts that in order for the law to truly function economically, it first “presupposes machinery for ascertaining the existence of facts necessary to the correct application of the law. The deterrent effect of law is weakened (and in the limit would disappear) if enforced without regard to whether the circumstances are those to which the law was intended to apply” (*Economic* 190-191). Put in different terms, the law itself only changes and evolves when inefficient laws are challenged in court: “only litigated cases [. . .] can lead to legal change (Rubin 21). Paul Rubin explains this further:

Cases are settled when the expected value to the plaintiff of a case is less than the expected cost to the defendant. This will not occur if stakes are symmetric. However, inefficient laws can sometimes create asymmetric stakes because the inefficiency means that there are deadweight losses that cannot be bargained away in the settlement process. That is, an inefficient rule creates a loss to one party that is greater than the gain to the other because of future stakes in similar cases types. Thus, litigation becomes more likely when rules are inefficient, and so inefficient rules are subject to greater selection pressure, and more likely to be overturned. (21).

Although this largely applies to non-criminal tort laws and codes governing purely economic transactions (business law, lawsuits, and the like), it is generalizable to criminal law as well. Posner’s machinery, in Chessman’s case, was the network of judicial appeals that Chessman employed in order to seek out justice. As Justice Jesse Carter observed in a dissenting opinion, “stays are part of the ‘traditional equipment for the administration of justice’” (*In re Chessman* 6).

This network, this “equipment” evolved from the foundation of Anglo-American common law, and can be traced back, in part, to one of the most famous common-law precepts ever recorded, articulated by the English jurist William Blackstone. Blackstone’s formulation or ratio, from *Commentaries on the Laws of England* (1765-1769), is the clearest articulation of the presumption of innocence, and it reads thus: “All presumptive evidence of felony should be admitted cautiously; for the law holds it better that ten guilty persons escape, than that one innocent party suffer” (358). In effect, were Chessman not allowed to exercise his constitutional right to appeal his case by deliberately and carefully presenting what he felt were pertinent legal questions to state and federal courts, and then exhausting those appeals—a lengthy and cumbersome process, whether he represented himself or not—the law itself might have been weakened, because it potentially remains static and unchanging. We can look at the number of separate, related cases that revised the law following in the wake of Chessman’s legal ordeals to see that his appeals process was on the cusp of changing a number of different criminal codes. These include the significant revision of the laws governing what constituted kidnapping (*People v. Daniels*, 1969), or the role of the jury in terms of how they determine guilt and sentencing (*People v. Morse*, 1964); both of these legal decisions would have had profound retroactive effects on Chessman’s case, had he lived and been sentenced to life rather than death. And “since Chessman was not convicted of taking a life, the death sentence imposed by Judge Fricke would not withstand constitutional scrutiny today,” because in 1977, in *Coker v. Georgia*, “the U.S. Supreme Court found it unconstitutional to impose a death sentence in a rape case, holding that capital punishment was disproportionate to the crime committed” (Rutberg 6n11). Unfortunately, his efforts were simply too early to help his own cause, although his case may have well been the one that tipped the judicial scales in favor of new legal evolutions in the future. Not one of these

changes would have occurred if efficiency—celerity—were the only or most important criterion for the law.

#### **4.5 CONCLUSION: CHESSMAN’S DIALECTICAL RELATIONSHIP TO THE LAW**

The best way to consider the impact of Caryl Chessman’s legal labor is to look past it. He did die in the gas chamber at San Quentin, so if we are to find some value in his prodigious legal efforts, we must look past the immediate historical surroundings of his own case to consider the existential and epistemological lessons he left behind to fellow prisoners, prison writers, jailhouse lawyers, and other imprisoned intellectual laborers. This, in some measure, is the subject of the second interchapter, to be taken up shortly. But here, in closing, we should consider some of the philosophical traps that must be navigated in order to properly conceive of the impact that Chessman would have on those that survived and followed him, including the impact he had on the law itself.

Dragan Milovanovic and Jim Thomas warn us of two dangers in writing about the prisoner-litigant and his work. “First,” they write, “one must be chary of romanticizing the legal practitioner lest litigation behavior be falsely elevated to the status of political activism. Law, despite its utility, does not engender dramatic structural changes. Hence, changes in prison conditions brought about by litigation are, at best, modest” (53). The second is, perhaps, more important: “some critics correctly suggest that even reform occurring through litigation may *increase* coercive control by strengthening legitimate prior practices or by masking illicit ones under the ‘color of law’” (53). And because some of the writs produced by prison litigants challenge institutional policy and even bring suits against individual guards and administrators,

they are often singled out for extra institutional scrutiny and punishment. Citing a study from the early 1990s, Mumia Abu-Jamal asserts that jailhouse lawyers are the individuals most likely to be punished by prison administrators because their labor “challenge[s] how the joint is run”: “Jailhouse lawyers force prisons to change their formal rules and regulations, especially when they are illogical or downright silly, and for this administrators unleash their disciplinary arsenal with special vehemence. That is why in every hole, in every prison, you will find some jailhouse lawyers who are there on pretextual—and frequently false—disciplinary reports” (49). On many levels, this is a discursive battle, and according to Abu-Jamal each side must operate in relationship to the text, either “pre-textually” (the State’s preference: inventing reasons outside the actual work of the jailhouse lawyer to punish them, since to punish them for their constitutionally protected work is in fact illegal) or, on the jailhouse lawyer’s side, through the submission of the text itself. As we saw in Chessman’s case, however, the state does not even need to produce pretext to silence its most vociferous prisoners: Chessman was correct and he nevertheless choked to death on poison fumes in 1960.

The most notable example that bears out Milovanovic and Thomas’s caveat is the celebrated U.S. Supreme Court case *Gideon v. Wainwright*. Lauded as a defense of an individual’s civil rights, the Supreme Court ruling held that those without funds are entitled by law to fair and adequate representation in court by their interpretation of the 6<sup>th</sup> Amendment. But in effect, what this ruling ultimately created, according to Margaret Burnham, was a class of overworked, underpaid, and largely uninterested public defenders (P.D.s) who do not or cannot provide adequate legal services and often urge their clients to plead out and endure some form of incarceration. In other words, the net result of a supposedly pro-civil rights Supreme Court case is, in fact, more incarcerated (colored) bodies, and “despite the ‘right’ bestowed by the sixth

amendment, today, distribution of legal services still conforms to the capitalist formula for meeting needs. He who can pay for a good lawyer, gets one, he who cannot gets a lousy P.D.” (Burnham 225). In this sense, a prisoner’s legal “productivity” in maintaining his own civil rights and extending those rights to others ultimately broadened and strengthened the carceral system by creating new legal situations in which “work”—that of the public defender—eventually produces many new prisoners from the same social strata that was originally disadvantaged prior to *Gideon versus Wainwright*: the poor and the non-white.

A different way to conceive of Chessman’s impact is through Foucauldian discourse analysis. Predicated upon precedence, American legal discourse (like capitalism), is large and flexible and Protean enough to absorb any and all critiques and challenges to it. Erving Goffman points to the ways that administrations and institutions incessantly produced codes and rules and laws, almost as though the process is inevitable. This discursivity is certainly interminable, and there does seem to be no true “outside” to it; there is no real end to the archive of precedence as I conceive of it. To switch metaphors: an archaeologist (in the Foucauldian sense of the term) would never be able to dig through all the layers of sediment when dealing with the law. Chessman added a layer—in some ways the law had to reckon with him, and his stolidness and refusal to bend altered certain currents in the law forever afterward—but the law itself is massive, and powerful, and difficult to stop. Gramsci intimately understood this. He recognized (and respected, in some ways), what fascist bureaucracy was capable of, noting that its structure is deliberately created and maintained in such a way as to make it inefficient and glacial in its operations. He comments in a letter to his brother Carlo that bureaucracy “is never in a hurry and that is its strength” (*Letters* 1, 325). Chessman experienced a form of this as well: in spite of the overwhelming public desire to see Chessman executed, the law, as an institution, is also never in

a hurry. Like a glacier (to add one more metaphor to the pot), it eventually accumulates everything in its face, altering the land that it slides over.

Because of the sheer differential in power dynamics between Chessman and the state—because his use of the law was dwarfed by the vast reserves of legal precedent that the state could draw upon in order to execute him—it has proved exceedingly difficult for me not to “romanticize” or “elevate” Caryl Chessman’s work to political activism, because his work and his example proved to be more effective for others than it did for himself. If the ultimate goals of his self-education and writing were to stay alive and not be the victim of state-sanctioned execution, Chessman failed. We can only speculate about alternative endings to his life’s narrative were his execution not a material and historical fact. But what his life’s work does offer is invaluable instruction regarding the *potential* of prison-based intellectual labor, even in the face of material constraint and oppression, and Chessman’s example would prove to be an important one for the next generation of prison-writers, particularly those in California. As San Quentin historian Eric Cummins notes,

Chessman had taught the world much. To his prison keepers, his example had shown how much trouble educating inmates could cause them; prison administrations after him would initially make it much harder for inmates to read and write. But to the inmates themselves Caryl Chessman had given a precious gift. This Death Row prisoner provided a model of how a convict could gain power through writing and education and then use it to seek his freedom. (61)

Although Chessman would die, his twelve years on Death Row is an excellent example of social praxis, of a consciously dialectical relationship with the world. This possibility is important for what it symbolizes for all institutionalized individuals, indeed, for all citizens: “The irony that prisoners can shape, and often improve, both the criminal justice system and the wider society through their legal struggles has created a *dialectical* process, a process by which the social world, law or prisons, is transformed by those who would themselves be transformed by it”

(Thomas 10). Chessman's career, both his published work and his legal labor, embody social praxis, the "activities by which we transform our symbolic and material world" (15), because it changed the way we look at prisoners and because his work, and the work of many others he influenced, would indirectly strengthen our own status as citizens and people. His defense of his own civil rights has, in some regard, influenced and strengthened our own civil rights.

## **5.0 INTERCHAPTER TWO: THE PRISONERS' RIGHTS MOVEMENT AND CONTEMPORARY CONTEXTS FOR THE PRISON-INDUSTRIAL COMPLEX**

### **5.1 THE RISE AND FALL OF THE PRISONERS' RIGHTS MOVEMENT**

Caryl Chessman's legal endeavors occurred just a few years before the explosion of the Civil Rights movement. Chessman anticipated and no doubt initiated the growing tide of prison-produced lawsuits; his ability to keep his name in newspapers and his case in front of the courts served as an example to other US prisoners who sought to improve the conditions of their incarcerations. We could say, in fact, that he helped to usher in the Prisoners' Right Movement, which started in earnest in 1960 and lasted until it was completely dismantled legislatively in the 1980s and 1990s.

To understand the impact of Caryl Chessman's legal work, it is necessary to historicize that labor within the larger trends of the US—and specifically California—justice during his moment. To do so speaks volumes for the monumental task that Chessman assumed in serving as his own lawyer and writ-writer and in acting as the unofficial legal advisor of other prisoners on Death Row at San Quentin. In April 1968, eight years after Chessman was executed, *California Law Review* published three articles devoted specifically to the different facets of writ-writing in California prisons. A prisoner, a prison librarian (writing as a spokesman of the institution), and a lawyer published articles on the complicated nexus of issues surrounding both writ-writing and

the notable increase in “jailhouse lawyers” from their different perspectives as participants in the prisoner-litigation process. What prompted the concern over writ-writing was, in general, a sharp increase of “legal actions originating in the prisons” (C. Larsen 344), usually taking the form of the writ of habeas corpus, and the recent verdict of the US Supreme Court case *Johnson v. Avery*, to be briefly examined below. During the 1960s, as prisoners became more militant and gained more access to both education and legal material to help their cases, courts received more petitions than they could handle, many of which were deemed spurious because litigants had “no way of knowing whether their petitions contain[ed] legal merits” or not (Krause 372).

As the last chapter demonstrated, the penal system operated largely in opposition to Caryl Chessman and other jailhouse lawyer endeavors, but this is not to say that institutional procedures completely curtailed productive intellectual, literacy, and literary labors during this time. As Eric Cummins notes, Chessman benefited from penal experimentation geared towards rehabilitation at San Quentin. Behaviorists and progressive-minded officials experimented with a number of different programs during the 1940s and 1950s that sought to find a foolproof method of rehabilitating and treating prisoners. The most notable for this project was “bibliotherapy,” a program started in 1947 that was predicated upon “small-group therapy,” “therapeutic creative writing sessions” and “an inmate self-improvement discussion group” (Cummins 21). The convict who participated in the program was asked to write “a statement [. . .] in his own words explaining why he had committed his crime” (13), and he was also required to read and write on “Great Books” and write compositions as a means of “resocialization” (27). All of these documents, including a comprehensive list of the works that the convict read, were included in the convict’s official file, what convicts refer to as their “jacket.” The architect of this program was San Quentin librarian Herman Spector, who envisioned that the prison library would be the

center of the program, and, if successful, the eventual heart of the institution itself. However, bibliotherapy itself called for creative work during a time when “authorship and the possession of copyright were not possible for inmates” (24). Prison writing was interpreted as the product—and therefore property—of the prison because convicts were civilly dead and had no right to intellectual (let alone physical) property. As such, some writing was subject to both censorship and confiscation—as it was produced literally outside the law—although a handful of notable works of prison-writing were surreptitiously approved for publication during this period. Prison authorities were also divided on bibliotherapy, although most were ultimately skeptical of its efficacy, and internecine conflicts among the administration further eroded its success. Finally, convicts saw the program as part of a “rehabilitation game” (19). One prisoner explained, “I go to my counselor and he wants to know am I guilty of my crime. I told him I was, and he gets out this Bible and asks me if I’d like him to read from it. I figure that’s his trip, so I shine him on and let him do it, man, because I’ll do anything that will help me get out of here” (qtd. in Cummins 19). Another prisoner called bibliotherapy and other experiments “chickenshit routines” (19).

Bibliotherapy at San Quentin largely failed in terms of rehabilitating convicts, and what it did produce—a body of better educated and more militant prisoners who grew vocally critical of the system—was largely an unintended side-effect. Its decline coincided with the emergence of Black Muslim prisoners of conscience in California and elsewhere, whose activities jumpstarted the Prisoners’ Rights Movement, which roughly lasted from 1960 to 1980. With the aid of jailhouse lawyers and legal organizations in the free world, Black Muslims filed numerous lawsuits (at least sixty-six between 1961 and 1978) “asserting denial of racial and religious equality” (Jacobs 434); their suits claimed discrimination regarding religious practices, their inability to acquire and read religious material, and the recognition and protection of specific

dietary concerns, among others.<sup>61</sup> The legal work of the Prisoners' Rights Movement ran parallel to and often was informed by the increased militancy among prisoners themselves. Some, like the Black Muslims or US (Ron Karenga's group), were racial militants and black nationalists, while others, such as the Black Panther Party or the Black Liberation Army, were more Marxist and internationalist in orientation and outlook. Chapter Three takes up the work of one of these militants, George Jackson, in much closer detail.

During the Prisoners' Rights movement, certain Supreme Court cases, especially *Johnson v. Avery* (1969), helped to protect and even expand the rights of jailhouse lawyers. This was the case of a Tennessee prisoner who was confined to solitary for eleven months because he submitted writs on behalf of another inmate. In 1969 the Court held that the state could not bar prisoners from seeking legal aid from other prisoners if it did not first provide other avenues of procedure for illiterate, poor, or mentally or physically handicapped convicts. This case radically expanded the activities of jailhouse lawyers, who could labor more freely without fear of retaliation or reprisal (although this freedom was short-lived), and the new body of prisoner-litigants would help to initiate changes in the structure and administration of prisons across the country, aided with a new caste of energetic, young, and sympathetic civil rights lawyers and an amenable Supreme Court. In assessing the impact of the Prisoners' Rights Movement, James Jacobs acknowledges that the movement "expanded the procedural protection available to prisoners" (459), "heightened public awareness of prison conditions" (459), and "politicized prisoners and heightened their expectations" (460). Prisoners in a handful of states were even able to participate in and win several stunning class-action lawsuits claiming that their entire

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<sup>61</sup> For a thorough treatment of Black Muslim legal action, see Christopher E. Smith's "Black Muslims and the Development of Prisoners' Rights."

state's prison system was cruel and unusual, including *Holt v. Sarver II* (Arkansas, 1970) and *Ruiz v. Estelle* (Texas, 1980).

The dismantling of the movement began with a judicial backlash against “activist courts”—those judges and courts who often ruled in favor of prisoners’ rights—and against the increasingly litigious prisoner themselves. The class-action lawsuit outcomes alarmed conservative politicians, and as the composition of the Supreme Court evolved, from the liberal-centrist Warren Court (ending in 1969) to the increasing conservative constitutionalism of the Burger and Rehnquist Courts (1969-1986, 1986-2005, respectively), the victories achieved by the Prisoners’ Rights Movement would begin to be systematically taken apart, piece by piece. This occurred over a series of legal maneuvers initiated by state and federal courts as well as important Supreme Court decisions that reinterpreted laws governing prisoners’ rights, beginning in 1979 with the case *Bell v. Wolfish*. In that case, Justice Rehnquist penned an opinion holding that those arrested and jailed could be subjected to the same penal practices, like strip-searches, as those who have already been tried and sentenced; this decision resulted in what Colin Dayan refers to as the “allowable suffering paradigm” (92). The most important in the overturning of prisoners’ rights was the case *Turner v. Safley* (1987), which established a new legal “test” of deference to prison administrators in the execution of their policies. This test was concerned with establishing a “valid rational connection” between the prison rule and its ability to govern inmates: “When a prison regulation impinges on inmates’ constitutional rights, the regulation is valid if it is reasonably related to legitimate penological interests” (qtd. in Wimsatt 1217). Under the aegis of this new legal rationality and reasonableness test, many prisoners’ “rights” have been deemed less important than the proper administration of the prison’s day-to-day operations or its security (1216-1224). In effect, these rights—including certain religious observations, the

access to law libraries and access to legal assistance, visitation rights, and even one's ability to own or acquire reading material—have been turned into privileges that can and will be revoked (Dayan 96-102).<sup>62</sup> This, largely, is where we stand today in terms of prisoners' rights.

## 5.2 TOWARD THE PRISON-INDUSTRIAL COMPLEX

We might very well conceive of the new legal rationality test as part and parcel of the same economic philosophy that has affected current prison labor decisions and given rise to the prison-industrial complex. The almost programmatic dismantling of prisoners' rights slowly built up in the 1960s—the set of decisions that culminated in a legal and social sensibility that prisoners had “the right to some minimal dignity”—instead “lost out to the characterization of inmates as creatures dispossessed of any claims to personhood except what specific laws or regulations deign to confer upon them” (Dayan 78). Usually these are skeletonized Constitutional rights, the absolute bare minimum of rights that need protection so that a prisoner cannot initiate lawsuits against the prison or the state. The changes in the legal status of prisoners have occurred simultaneously with the proliferation of new labor processes and the reintroduction of the open market in penal decisions. But how did we get to this point: what does recent penal labor history look like, and where is it going?

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<sup>62</sup> In *O'Lone v. Estate of Shabazz* (1987), the Rehnquist court applied the *Turner* test in its ruling that a Muslim religious practice requiring a Friday communal prayer was not a valid reason for sacrificing “legitimate penological objectives.” The reasonableness doctrine was applied in 1996, when the Supreme Court decided in *Lewis v. Casey* that prisoners did not need access to law libraries or legal assistance to satisfy a Constitutionally-protected right guaranteeing their access to the courts themselves. Severe restrictions on visitation rights were deemed valid and reasonable in *Overton v. Bazetta* (2003).

The first interchapter ended with a discussion of artificial, “state-use-only” markets that, for a better part of the 20<sup>th</sup> century, were the only markets legally allowed for prison-made products. These markets now constitute only a small corner of the prison-labor landscape, as certain states have provided private companies unprecedented access to their prisoners. This process began in earnest in 1984, when two separate conferences were held in which penologists, policy makers, and politicians met in an effort to redesign and rethink the current state of incarceration, as it was then rapidly increasing under the Reagan administration. The second conference, called “Factories with Fences: The Prison Industries Approach to Correctional Dilemmas,” was attended by more than 800 people, and resulted in a national task-force seeking ways to expand prison industries across the nation, especially within the framework of the Prison Industries Enhancement Certification Program (Burger 756). A year later, as new prison construction was booming, then-Chief Justice of the Supreme Court Warren E. Burger weighed in, contending that these new prisons must be predicated on administrations that stress four new standards:

- 1) The conversion of prisons into places of education and training and into factories and shops for the production of goods.
- 2) The repeal of all statutes that limit the amount of prison industry production.
- 3) The repeal of all laws discriminating against the sale or transportation of prison-made goods.
- 4) The cooperation and active participation of business and organized labor leaders in programs to permit wider use of productive facilities in prisons. (Modest production facilities in some of our prisons lie idle because of laws that limit the sale of prison-made goods to cities, counties, and state governments. That limited market cannot meet the need to employ more inmates.) (Burger 755)

The short essay in which these standards are drawn, entitled “Prison Industries: Turning Warehouses into Factories with Fences,” is a remarkable piece of 1980s neoconservative, pro-

business rhetoric. This is apparent from the introduction of Burger's article, when he rhetorically asks, "What business enterprise could conceivably succeed with the rate of recall of its products that we see in the 'products' of our prison?" (754). He is extraordinarily adept at making his plans appear palatable for liberals or progressives, too, especially when he repeatedly refers to prison education programs. However, although Burger never fails to place "education" before "vocational training" or "work," the word is clearly only there to mask his obvious desire to make prisons profitable, and there are no concrete suggestions for how more prison educational programs might be instituted. However, he does have many definite plans in place for prison work. The second and third planks of his four-pronged plan cited above are part of the wide governmental deregulation that occurred under Reagan and that continued under the Bush and Clinton administrations. Here, the calls for deregulation are framed as commendable, noble efforts to introduce more "freedom" in the free market.<sup>63</sup> The last plank is a not-so-subtle scapegoating of unions and their protectionist policies, unions that were in full-scale retreats and sharp declines by the time of his writing. Burger contends that unions leaders are partly to blame for the downturn in the nation's productivity; that they would rather keep an idle shop than to participate in the vocational education of prisoners; and that they must take a more proactive approach at the bargaining table to help these new initiatives along. (Never mind that at the same time Burger and others were blaming unions in policy initiatives and in the press, unions themselves were daily losing any leverage and negotiating power they once had, and that the nation itself was bleeding jobs precisely because of the same deregulation that he promotes.) He

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<sup>63</sup> As the Autonomous Marxist thinker Franco "Bifo" Berardi observes, "The word *deregulation* is false. It looks as if it originated in the history of anti-systemic avant-gardes to bring a libertarian wind into the social sphere and heralding [sic] the end of every norm and constrictive rule. In reality, the deregulatory practices that accompany the victory of monetary neo-liberalism consist in clearing away all the rules, so that the only rules of the economic dominate, uncontested. The only legitimate rule is now the strictest, the most violent, the most cynical, the most irrational of all the rules: the law of economic jungle" (original emphasis 186).

even anticipates and refutes the long-standing criticism that prison work programs would interfere with free labor, assuring skeptical readers that

with optimal progress, it will be three to five years before programs of this kind have a market impact, and even then the impact will be slight. This great country of ours—the most voracious consumer society in the world—will easily absorb the production of all the inmates who can be trained without displacing private workers. That production would be hardly a drop in the bucket in terms of the gross national product. (755)

Perhaps the only thing Burger correctly predicted was our willingness to “easily absorb the production of all the inmates” we now warehouse. He truly did not miss the mark with that prophecy. But in every other capacity the situation has become worse. It took about a decade for the federal government to slowly wend new laws through Congress and the House of Representatives to effectively overturn those Depression-era laws that limited the impact of convict labor. They did so partly with the aid of powerful lobbying bodies and at the behest of policy think-tanks and organizations like the fairly obscure but influential ALEC, the American Legislative Exchange Council, a controversial non-profit organization comprised of conservative politicians and free-market businessmen working together to churn out conservative bills in various state legislatures. Writing for *The Nation*, Mike Elk and Bob Sloan dramatically recapitulate ALEC’s impact on recent legal and incarceration trends, which include the successful adaptation of the organization’s Truth in Sentencing proposal in 1995 by twenty-five separate state legislatures; the movement they spearheaded to change parole by “privatizing the parole process,” thereby increasing the private bail bond industry; and their lobbying efforts to build new for-profit prisons. The members of ALEC have also had a profound impact on prison labor. In 1993, Texas adopted a proposal crafted by ALEC member and State Representative Ray Allen. This proposal sought to reinvigorate and expand Texas’s modest PIE program, and thereafter Allen and ALEC worked to expand it across the country. They were successful, and

this resulted in the drafting of the Prison Industries Act in 1995, a flexible legislative template for state politicians to adopt, adapt, and revise depending on their local conditions and state economies. This accelerated the growth of the prison-industrial complex, as it provided a kind of legislative blueprint and foundation for states to adopt similarly worded laws and mandates governing the access of private business to prison labor. It is still easily available online.

So what is the prison-industrial complex? First coined by sociologist Mike Davis in 1995, the term is a direct reference to President Dwight D. Eisenhower's 1961 warning that a national economy predicated upon military buildup, weapons development and proliferation, and war was a dangerous threat to democratic principles and global peace. Davis was one of the first observers to note how increased incarceration rates and prison construction translated to more jobs, higher wages, and increased property values in rural, economically depressed sectors of California. He also carefully documented how the political power and economic contributions of prison guard labor unions, like the California Correctional Peace Officers' Association, managed to influence the political legislative process in state politics by donating considerable money to conservative law-and-order politicians and by lobbying for longer, tougher sentencing. Davis condemned the reallocation of state resources away from educational opportunities and community services to fund the prison-construction frenzy, and he was not alone in calling attention to the distinct way that this emerging complex overwhelmingly affected young, poor, and non-white individuals. Perhaps no better articulation exists of the prison-industrial complex than the vignette he provides of the small town of Calipatria, which underwent a "micro-renaissance" after two new prisons were constructed in Imperial County (231). The 1,100 new jobs enabled the opening of a "new grocery store and video stores on a main street that otherwise looks like the forlorn set of *The Last Picture Show*," and one citizen he interviewed confessed

that she was not sure “if the city could have afforded to light the Little League field without tax revenue from the cornucopia of prison wages” (231). When faced with the depth of this interpenetration of the economy and the penal spheres—when Little Leaguers can play night ball games because their community is so heavily invested in the mass warehousing of incarcerated individuals—we should seriously consider how Peter Moskos’s proposal to reinstitute flogging, discussed in the Introduction, could possibly serve as a revolutionary alternative to our current situation.

Since 1995, the term “prison-industrial complex” has become the dominant description of this situation, and if anything, it has become more serious and dire since Davis first alerted readers to the changing landscape of rural America transitioning away from failing agriculture toward mass incarceration. The prison-guard union in California has become richer and more powerful. Moskos observes that it now represents “thirty thousand workers in a \$7-billion-a-year industry and has a war chest of about \$22 million,” and he wryly contends that the union’s ability to effectively manipulate policy for tougher and longer sentencing have made contemporary prisons “a new Works Progress Administration without any of the constructive infrastructure, education, or culture” (78). Almost gone are the days of prison jute-mills and prison-specific industries like license-plate stamping or the manufacturing of goods and products to be consumed only by the state or by prisoners, though the latter still exists. A perusal of the catalog of Pennsylvania Correctional Industries, whose motto “Teaching Inmates to Work in Pennsylvania” is proudly emblazoned on its tractor-trailers, indicates that there are still some states whose prisoners produce goods like “inmate apparel,” mesh bags, furniture, and even cleaning chemicals to be used locally in the state corrections system (*Pennsylvania*). Beyond the continuities between 1995 and now, the major difference emerging over that period is the

increased exploitation of prison labor by private companies and corporations. Linda Evans and Eve Goldberg describe this situation succinctly:

For private business prison labor is like a pot of gold. No strikes. No union organizing. No health benefits, unemployment insurance, or workers' compensation to pay. No language barriers, as in foreign countries. New leviathan prisons are being built on thousands of eerie acres of factories inside the walls. Prisoners do data entry for Chevron, make telephone reservations for TWA, raise hogs, shovel manure, and make circuit boards, limousines, waterbeds, and lingerie for Victoria's Secret, all at a fraction of the cost of "free labor." (13)

What is notable about the current climate of coercive labor is not only the sheer variety of manufacturing work accomplished in prison, but also that it has successfully mimicked, in some capacity, the changing dynamics of free labor outside the institution. Service-oriented positions (like phone receptionists) have increased in and out of prison, as have more tech-oriented and ostensibly "white-collar" work (such as data entry and circuit-board construction). Market fluctuations now affect the inmates toiling behind the walls of the once-"total institution" in ways that undermine its supposed totality.

The wholesale adoption of the concept "prison-industrial complex" as a shorthand for the current penal situation is not without some controversy. The most vocal and outspoken opponent of the term is French sociologist Loïc Wacquant. In describing the rise of the contemporary security state that coincided with the decline of the welfare state and increasing precariousness and social and economic insecurity, he writes in *Punishing the Poor* that readers should not be misled into believing that "the penalization of poverty is a deliberate 'plan' pursued by malevolent and omnipotent rulers—as in the conspiratorial vision framing the activist myth of the 'prison-industrial complex'" (xx). Later, he clarifies this position, contending that overt repression has never been the historical goal of the newly deployed penal state, and that to speak only narrowly of "repression" contributes to "the discursive fog that enshrouds and masks the

sweeping makeover of the means, ends, and justifications of public authority at century's close" (*Punishing* 29). Those who critique the prison-industrial complex "mistake the wrapping for the package. They fail to see that crime fighting is but a convenient pretext and propitious platform for a broader redrawing of the perimeter of responsibility of the state operating simultaneously on the economic, social welfare, and penal fronts (29). Wacquant thus therefore fundamentally rejects

the conspiratorial view of history that would attribute the rise of the punitive apparatus in advanced society to a deliberate plan pursued by omniscient and omnipotent rulers, whether they be political decision-makers, corporate heads, or the gamut of profiteers who benefit from the increased scope and intensity of punishment and related supervisory programs trained on the urban castoffs of deregulation. Such a vision not only confuses the objective convergence of a welter of disparate public policies, each driven by its own set of protagonists and stakes, with the subjective intentions of state managers. It also fails to heed Foucault's advice that we forsake the "repressive hypothesis" and treat power as a fertilizing force that remakes the very landscape it traverses. (29)

In short, he argues against the totalizing and essentializing tendency of those who would critique the "prison-industrial complex" precisely because considering it a "complex" tends to elide or obscure the many unrelated, local decisions collectively gave rise to the current situation. In general, his projects attempt to analyze the historical particularities that eventually coalesced into the current economic, social, and penal landscape both here and in Western Europe (especially in Britain and in France). As such, he actively resists any attempt to generalize those differences because to do so renders them interchangeable. Rather, he treats them as socially, economically, and historically specific and contingent.

Elsewhere, for instance, he insists that we not use the term "mass incarceration" to discuss US incarceration rates, because that phrase "suggests that confinement concerns large swaths of the citizenry" (Response 59). Instead he offers up the term "*hyper-incarceration*," because the latter term foregrounds the historical fact that "the expansion and intensification of

the activities of the police, courts, and prison over the past quarter-century have been finely targeted by class, ethnicity, and place,” the target of which is “lower-class black men in the crumbling ghetto” (59). “The rest of society,” he continues, “including middle-class blacks—is practically untouched” (59). As is evident in this suggestion, Wacquant understands that part of his project is to tune more finely the analytical language used to contextualize and critique current penal practices, especially in the field of comparative sociology and penal studies. Thus, while some situations that comprise the so-called prison-industrial complex do, in fact, establish deliberate dishonest machinations and even evil intent—private prisons actively manipulating the law to fill their beds is certainly the most notable example of the latter—the total number of these decisions also indicates that economic gain was not always the driving force behind increasingly conservative law-and-order responses to social unrest and increased poverty during the last forty years, a fact that supports Wacquant’s thesis. However, the term is still useful as an analytical short-hand for the means of critique, especially when lodged against the confluence of politicians, lobbyists, and businesses who have sought to make money off of new laws and a relatively high and stable number of prisoners in this country.

Because convict labor is so inexpensive, some firms have started to return to their manufacturing operations to the US from foreign sweatshops in Latin America and Asia. Moreover, since Mike Davis’s initial naming of the prison-industrial complex, the US has also experienced a massive increase in the emergence of the private and for-profit prison phenomena. Angela Davis and others have noted the historical similarities of the private prison and the convict-leasing arrangements during the Reconstruction, but they are quick to note that the problem is not as simple as the already dubious ethics of a state paying a private company like CCA or Wackenhut (another private prison leader) to house and feed (and work) its prisoners (A.

Davis, *Obsolete* 93-95). Many, among them Peter Moskos, also demonstrate that prison companies, in conjunction with organizations like ALEC, have successfully spearheaded legislative change in order to continually fill their beds and their coffers, especially in more conservative states, thereby taking a page out of the prison-union playbook: “the CCA and other private prison groups lobby for and even help draft tough anti-immigration laws, such as Arizona’s controversial SB-1070” (81).<sup>64</sup> Private prison corporations have thus successfully created their own niche-market by effecting legislative change (in this case, tougher anti-immigration bills) and then offering up their services as convenient warehouses for those awaiting deportation, taking pressure off of already overfull state prisons. But the problems run even deeper. Some of these same companies are now “public,” insofar as they have listings on the international stock market in which the public can invest. What was once largely a local concern—taxes generated by increased wages helping to light Little League baseball fields—has become, instead a global one: anyone across the world interested enough can literally buy stock in warehoused human misery.<sup>65</sup> This is, in a word, what Foucault describes as biopolitics: the neoliberal mentality in which all aspects of life are driven by and interpreted through the discourse, rationality, and instrumentalities of (late) capitalism. Now, “good penal policy does not aim at the extinction of crime, but at a balance between the curves of the supply of negative demand” (Foucault *Birth* 256). In other words, we need crime in order to survive economically.

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<sup>64</sup> Moskos also notes that some states with particularly strong prison-guard unions like New York and Illinois have effectively blocked the introduction of private prisons in their states, undoubtedly because of the threat that these companies pose to their livelihoods (79).

<sup>65</sup> Since the global market crash in 2008-2009, the stocks’ success has been in steady decline. Stock market watchers have noted that cash-strapped states are now finally looking into alternative forms of sentencing that don’t involve prison terms, which has had a negative impact on the profits of private prisons (Tan; Loiseau; Takei).

## **6.0 CHAPTER THREE: TEACHING IN THE BELLY OF THE BEAST: GEORGE JACKSON'S EPISTOLARY PEDAGOGY**

I have written many a page in the book of life in spite of my limited years and I intend to write many more.

—George Jackson, *Soledad Brother*

### **6.1 BLACK REVOLUTION IN US PRISONS**

As outlined in the second interchapter, US prisons and US prison writing would change dramatically in the 1960s, especially as they began to reflect the increasing racial unrest and emerging militancy that occurred outside prisons. To convicts across the country, overt militancy seemed a more appropriate response—perhaps the only response—to claim their civil and human rights, especially in the light of what was seen as ineffectual, middle-class oriented, non-violent protests for equal rights. This became more widespread as latent forms of racism on the part of administrations, guards, and prisoners became more explicit; in prison, as many prison writers of this time would document, there was simply no room for non-violent tactics. This emerging militancy took many forms: prison-labor strikes, demonstrations, and sit-ins; agitation for more comprehensive rights for prisoners; involvement in cultural nationalist organizations like the Nation of Islam or in revolutionary groups like the Black Panther Party for Self-Defense (BPP)

or the Black Liberation Army; participation in race-based gang wars; violent retaliation against prison officials; and, sometimes, open rebellion, like the insurrection that occurred at Attica, New York in 1971, a “prison riot” that left thirty-nine people dead.<sup>66</sup>

Many histories have been written about the more notable forms of active resistance in prison during the 1960s and 1970s, but I seek to contribute to these conversations by examining the role of education within revolutionary groups inside prison.<sup>67</sup> In particular, I focus on George Jackson and his impact on extending revolutionary activity inside and outside prison by examining his role as teacher, or pedagogue. Jackson’s impact on U.S. prison culture and life since the 1970s—particularly on prison *writing*—is only rivaled by Malcolm X’s influence. H. Bruce Franklin argues that “contemporary prison literature can be dated from *The Autobiography of Malcolm X*” (236), and Brian Conniff contends that “the death of George Jackson on the yard of San Quentin prison [. . .] was the most dramatic and revealing event in the history of contemporary American prison writing” (147). Both Malcolm X and Jackson have attained a near-mythic reputation among African Americans and revolutionaries since their deaths, in part because while they were alive they provided models for how to respond to racist and class-based oppression. Both understood that they were looked upon as role models and mentors in the black

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<sup>66</sup> As Brian Conniff and others have noted, the only events at Attica that resembled a riot were the intervention of the state troopers and policemen who descended on the prison and initiated the violence. The rebellion itself “was not any sort of ‘anarchy’ or any sort of ‘regression’ to some barbarous state. It was not a ‘riot’” (Conniff 163). In fact, the rebellion was quite orderly: within “six hours” of the taking of one prison yard, “the inmates had selected two representatives from each cellblock, established a security force, set up a ‘sick bay,’ and rationed food. And it should not be surprising that the Black Muslim inmates—highly vilified in recent years in mainstream media and prison policy—had taken responsibility for guarding and protecting the hostages. Perhaps most tellingly, the inmates also deliberately proceeded to construct a forum for public debate, inviting into the yard television cameras and an ‘Observers Committee.’ The ‘Observer’s Committee’ was comprised mostly of political and media representatives who, in the inmates’ view, could be trusted to hold state authorities accountable for their promises and tell the story of the uprising, to the outside world, in terms that accurately reflected the inmates’ concerns and common humanity” (163).

<sup>67</sup> Among the many sources consulted for this chapter, see, in particular, Eric Cummins’s *The Rise and Fall of California’s Radical Prison Movement* (1994); Dylan Rodríguez’s *Forced Passages: Imprisoned Radical Intellectuals and the US Prison Regime* (2006); and Lee Bernstein’s *America Is the Prison: Arts and Politics in the Prison in the 1970s* (2010).

communities and thus had to embody and enact their militant, revolutionary ideals. For his part, Jackson adopted Fidel Castro's mantra, "The duty of every revolutionary is to make the revolution" (264), which he did through actual combat but also through education. Jackson's influence still profoundly resonates. Writing in 2006, prison abolitionist Dylan Rodríguez observes, "one can still encounter a significant number of imprisoned, formerly imprisoned, and 'free' people who attribute either Jackson's personal mentorship or his political influence as integral to their political formation" (119). His name still signifies for conservative politicians all kinds of social danger, too. In denying clemency for Stanley "Tookie" Williams, thereby clearing the way for his execution, then-California Governor Arnold Schwarzenegger writes that in publically acknowledging Jackson's influence (at the beginning of an anti-gang book intended for children), Williams indicates that he "is not reformed and that he still sees violence and lawlessness as a legitimate means to address societal problems" (qtd. in "Full Statement").

Jackson's reputation for revolutionary militancy within prison was already well-established by the time he and two other black prisoners, Fleeta Drumgo and John Cluchette, were accused of murdering a white Soledad prison guard, who was killed in response to the shooting deaths of three black inmates by a different white guard during an earlier prison riot. After the story of their arrest and impending murder trial became public, the Soledad Brothers (as Jackson, Drumgo, and Cluchette were deemed) became a cause célèbre among the Left in California. The failed attempt by his younger brother, Jonathan Jackson, to take hostages from Marin County Courthouse on August 7<sup>th</sup>, 1970 and exchange them for the Soledad Brothers' freedom only added to George Jackson's mythos; in that attempt the younger Jackson, two other prisoners—Ruchell Magee and William A. Christmas—and one of their five hostages, Judge Harold Haley, were all killed. The series of personal letters edited and published together as

*Soledad Brother* (1970), which was dedicated to the memory and example of his brother, firmly cemented George Jackson's reputation as a spokesman for imprisoned political prisoners, and his posthumously published, urban guerilla handbook and manifesto *Blood in My Eye* (1972) would add an exclamation point to his short though dynamic career as a revolutionary and political thinker and teacher.

Because of his widespread and controversial influence among convicts, much has been written about Jackson and his politics. Angela Davis, who shared a close personal and epistolary relationship with Jackson, has argued that he should be read alongside Antonio Gramsci, for both are "examples of prison intellectuals who devoted some of their energies to the process of engaging critically with the implications of imprisonment—at a more concrete philosophical level" (*Abolition* 21). C.L.R. James sounds a similar note, writing of *Soledad Brother* that "the letters are in my opinion the most remarkable political documents that have appeared inside or outside the United States since the death of Lenin" (54). Others, including Franklin, Conniff, and Lee Bernstein, have noted his profound influence on the Attica Prison riots. Because of Jackson's influence in the early 1970s across the penal and cultural landscape, Bernstein entitles a chapter of his recent monograph *American Is the Prison: Arts and Politics in Prison in the 1970s* (2010) "The Age of Jackson."

What has been critically underrepresented, however, is Jackson's role as a teacher, as a revolutionary pedagogue. Bernstein has noted this gap, and part of his chapter on Jackson addresses it by acknowledging the *Soledad Brother's* "participation in an organized system of covert education that presaged theories of internal colonialism" (52), a *sub rosa* network that arose partly as a result of the "disintegration of reformist programs first created during the Progressive era" and that responded to a general refusal to grant educational opportunities for

outspoken radical convicts (56). But Bernstein merely points to the possibility of future work with Jackson's pedagogy. My chapter seeks, in turn, to take up his invitation by taking a closer look at what I call Jackson's "epistolary pedagogy." I want to contextualize the letters in *Soledad Brothers* as pedagogical instruments and artifacts, and to account for the pedagogical impetus behind many of his letters, which represent a dominant but unexplored theme across the letters. The fundamental issue regarding revolutionary pedagogies outside prison, such as that theorized and practices by the Black Panthers, concerned how to teach the revolution while simultaneously fomenting it, a dynamic that Jackson certainly responds to in many ways, but his incarceration and general immobility also dynamically changes his own approach to it. Thus, we must consider asking a different set of questions regarding Jackson's epistolary pedagogy: How does one teach and instruct purely through heavily mediated, and often censored forms, like the personal letter? What is to be learned from the disembodied teacher, writing from solitary confinement, whose lessons are mostly exhortative and didactic and always mediated through text? How can one propose a critical, revolutionary education that requires dialectical exchange but that materially usually operates, at best, as a dialogue with long silent interludes, or, at worst, as a monologue, depending on the circulation of individual letters? Essentially, a different way to ask these questions is, simply, how can someone teach—and also foment—the revolution by writing letters from inside the belly of the beast?

In order to properly contextualize Jackson's role as teacher, it is necessary to chart out briefly the particular influence of the Black Panthers and its take on education before considering Jackson's pedagogy. Jackson would learn much from his limited contact with Party members—in spite of the fact that his relationship with them was almost entirely textual in nature—and his influence on the Party was also tremendous. Though Party Chairman Huey P. Newton and

Jackson never met, and Jackson would never actually leave prison, Newton nevertheless honored Jackson's work inside California prisons by making him a Field Marshal of the Black Panther Party. It must be noted that all of this transpired *after* Jackson became politically self-aware, a process that happened as a direct result of his incarceration and one that he pursued largely independent of any particular group prior to the creation of his own revolutionary cohorts and eventual membership in the Black Panthers. Like others of his era, Jackson was not a militant when he first entered prison. In 1960, at the age of 18, Jackson was indefinitely sentenced to one year to life for his part in a gas station robbery that netted \$70, having been convinced by his court-appointed lawyer that pleading guilty would minimize his punishment. Once inside, however, he would begin a process of self-actualization and self-education, of self-reclamation and "unlearning" (*Soledad* 124), that would garner the attention of prison officials and other militant prisoners, especially BPP members. He then helped others undergo this "transformation of a criminal consciousness into a political consciousness" as Angela Davis calls it, doing so through his tireless work as a teacher, writer, and revolutionary (qtd. in *Prisons*). By the time he drafted his will, Jackson had thrown in his lot with the Panthers, evident in the fact that he had bequeathed all his possessions, including his writings, to the Party in the event of his death. After his death, Jackson would be given a funeral presided over by the Party that reportedly had 7,000 attendees, most of whom were Panthers (Newton 334). Thus, it is clear that Jackson and the Panthers had an exceptionally tight bond, and a reciprocal, if sometimes uneven, relationship.

However, there is another reason to consider Jackson's work as a teacher in light of the Black Panthers' influence. Both Jackson and BPP members struggled to develop pedagogical approaches that would effectively draw on and implement revolutionary thought. Jackson's attention to education—both his own but also Jonathan Jackson's—in *Soledad Brother* reflects

the BPP's own preoccupations with schooling and the need to develop new modes and approaches that would inculcate radical self- and cultural awareness among students at the same time that it would also extend the Party and the revolution across multiple generations. As we shall see, the twin needs of fashioning new Party members and instructing rank-and-file members of the Party with a "correct ideology" presented Jackson and other BPP teachers with a unique set of challenges that may have ultimately interfered with the aims and goals of revolution itself. Where dialectical learning ended and revolutionary indoctrination began is sometimes impossible to tell in the Black Panther approach, as well as in Jackson's letters.<sup>68</sup>

I argue that Jackson remediates the Black Panther approach by reinventing his letters as field communiqués and by broadly reconceiving the purpose of his individual letters. As a subgenre, the communiqué is marked by certain formal features: its brevity; the commands in it, a result of an overriding sense of urgency; the implicit hierarchy between superior and subaltern, among others. These features allowed Jackson to sidestep certain pedagogical imperatives (such as developing a student-centered approach) and justify others, such as his over-reliance on indoctrination and didacticism. We should also look to Jackson's revolutionary philosophy, informed by Latin American revolutionaries operating in small cells called *focos*, as it informed his epistolary pedagogy. *Focoism* is predicated partly on the notion that the revolution cannot wait for the masses to be reeducated, that dramatic revolutionary activity, like instigating a class war in prison or an aborted attempt to free convicts from a California courthouse, will serve as the spark to inspire the masses to revolt. Another important part of *focoism* is its retheorization of

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<sup>68</sup> The following take up different critical perspectives on BPP education and pedagogy, which were instrumental to this chapter: Matthew W. Hughey's "The Pedagogy of Huey P. Newton: Critical Reflections on Education in His Writings and Speeches"; Charles E. Jones and Jonathan Gayles's "'The World is a Child's Classroom': An Analysis of the Black Panther Party's Oakland Community School" (2008); and Robert Stanley Oden and Thomas Amar Casey's "Advancing Service Learning as a Transformative Method for Social Justice Work."

failure—what we might call a pedagogy of failure: even in unsuccessful activities, even in death, the *foco* rebel should serve as a lesson to those he is attempting to free. Jackson’s imminent death motivated him to reconceive the value of single letters, and to start treating them as part of a comprehensive revolutionary philosophy instead. The letters in *Soledad Brother* are still ostensibly addressed to single named interlocutors, such as his younger brother Jonathan, who served as Jackson’s most important epistolary student. But towards the end of his writing career, he would also began to use his field communiqués to address posterity itself. Feeling that he would never truly be free to fight the revolution outside prison, Jackson would promptly begin to use his letters to teach the final lesson of a *foco* rebel. This, then, is how Jackson would powerfully overcome the difficulties and limitations of teaching by the single, fragile, missive; these are the contours of his epistolary pedagogy, which I will elaborate in more detail in this chapter.

## 6.2 BLACK PANTHER PEDAGOGIES

George Jackson, the Black Panthers, and other revolutionary critics of mainstream education all point to the distinction between “schooling” and “education.” Especially for African American and other minority students, the differences between the two can be stark. Mwalimu J. Shujaa defines “schooling” as “a process *intended* to perpetuate and maintain [. . .] society’s existing power relations and the institutional structures that support these arrangements” (15). In contrast, “education [. . .] is the process of transmitting from one generation to the next knowledge of the values, aesthetics, spiritual beliefs, and all things that give a particular cultural orientation its

uniqueness” (15). Shujaa contends that while both often do overlap, African American students have historically received more schooling than education, to the detriment of the race and African American culture and identity. In particular, schooling has often sought to homogenize and incorporate minority students into a collective national identity, and thus erase important differences like racial, ethnic, religious, or class affiliations and identities. It has also been the vehicle of particularly racist, colonial, and imperial agendas that marks minority students as “problems,” identifying them as individuals unworthy of receiving culturally or historically relevant information about themselves and their position in the world. Stanley Aronowitz has critiqued the impetus behind schooling as the main process by which students are prepared “for their dual responsibilities to the social order: citizenship and—perhaps its primary task—labor” (16). It is also important to note that those who call attention to the divide between schooling and education do so in the hopes that more emphasis will be placed on the latter, though even they also acknowledge that increased education is not enough to enact permanent social and intellectual change in the world. As Shujaa maintains, “fundamental change in schooling can only be accomplished within the framework of fundamental change in the society’s power relations”; anything less is mere “reform” (23). One group that intimately understood this charge and attempted to reformulate schooling and instruction as part of the fabric of revolutionary change was the Black Panther Party for Self-Defense.

The fifth item of the Black Panther Party’s ten-point platform and program, drafted in October 1966, covers the role of education for impoverished communities and peoples of color living in the United States. The plank reads, “*We want education for our people that exposes the true nature of this decadent American society. We wanted education that teaches us our true history and our role in the present-day society*” (original emphasis, “What We Want”). The item

is further elaborated thus: “We believe in an educational system that will give to our people a knowledge of self. If a man does not have knowledge of himself and his position in society and the world, he has little chance to relate to anything else” (“What We Want”). The item’s centrality on the platform is symbolic. It is situated halfway between two exceptionally broad, though similar demands. The first, “We want freedom. We want power to determine the destiny of our Black Community,” would eventually become sloganized by the Black Panthers and circulate widely among those on the Left in the 1960s and early 1970s. The tenth and final platform, which begins with the declaration “We want land, bread, housing, education, clothing, justice, and peace,” calls for a “United Nations-supervised plebiscite to be held throughout the black colony [. . .], for the purpose of determining the will of black people as to their destiny” (“What We Want”). For the Party, education existed as a bridge between these demands: education was the means to forge solidarity, galvanize the community, create new Panthers, and raise the self-awareness and solidify the self-determination needed to bring about the People’s Revolution.

The shape of this revolution varied widely among different radical groups vying for political ascendancy during this time. For the Panthers it included overthrowing the racist political system of the United States through armed conflict (and only later through legislative reform). The other major long-term goal of the BPP was to seize and transform the means of production within the country, effectively converting it from a capitalist into a socialist economy. It was this openly Marxist orientation to the question of labor that set them apart from other groups, such as their bitter rivals, the US (United Slaves) Organization, led by Ron Karenga. Karenga and other US leaders espoused a Black Nationalist approach and derided the Panthers’ use of European philosophy like Marx as insufficiently “black.” In turn, the Panther critique of

Black Nationalism was that it was equally as racist in outlook as white racist groups, and that focusing solely on the racial issue without also addressing economic inequality and exploitation would do little to effect actual change in the world.

The forms that BPP education assumed varied widely, depending on what was taught, and to whom; there was no comprehensive, centralized pedagogy disseminated to various chapters around the country. New York Black Panther Assata Shakur recalls that the Political Education (PE) classes sponsored by her party chapter involved three levels of stratification: “community classes, classes for BPP cadre, and PE classes for Panther leadership” (221). For Shakur, the most useful space of instruction was the community-based classroom, where “Panthers explained the ten-point program and the general objectives and philosophy of the BPP as well as various articles that appeared in the Black Panther newspaper” (221). Standard texts for the mandatory PE cadre classes included Frantz Fanon’s *The Wretched of the Earth* and *Quotations from Chairman Mao Tse-Tung* (his so-called *Little Red Book*), though their value for the rank-and-file, which included a few semi- or illiterate members, was sometimes dubious. Shakur explains that the approach to these more difficult texts was often decontextualized or dehistoricized:

The basic problem was not whether the teacher was good or bad. The basic problem stemmed from the fact that the BPP had no systematic approach to political education. They were reading the *Red Book* but didn’t know who Harriet Tubman, Marcus Garvey, and Nat Turner were. They talked about intercommunalism but still really believed that the Civil War was fought to free the slaves. A whole lot of them barely understood any kind of history, Black, African, or otherwise. [. . .] Most of these brothers and sisters had attended inferior schools which either taught them lies or nothing at all. Education of every kind was sorely needed. Without an adequate education program, many Panthers fell into a roboton [sic] bag. They repeated slogans and phrases without understanding their complete meaning, often resulting in dogmatic and shortsighted practices. (221-222)

Regardless of how useful the mandatory PE classes proved to be, Black Panther education was not simply devoted to raising political and historical awareness. The Party vanguard understood that revolution required practical knowledge and military know-how, so in order to groom soldiers for the revolution, BPP education also covered physical and technical education. Safiya Bukhari, another New York Black Panther, has written about both. A college student prior to joining the Party, Bukhari was immediately put to work in the front office typing and editing Panther documents, as she had a specific skill set that the local Party chapter needed to survive from day to day. But she was still in need of technical education, which covered “breaking down weapons, learning how to put them together blindfolded, and learning how the weapon works” (22). Physical education included both hand-to-hand combat and increased knowledge about personal health. Training took place in parks in Harlem and Central Park, and included calisthenics, running, tree-climbing, and endurance training (22). Across the country in the late 1960s and early 1970s, Black Panther chapters would institute their own versions of technical, physical, and political education classes to help train Party members for the imminent social and economic revolution. As we shall see, Jackson himself adopted versions of this in prison, teaching karate and self-defense classes in addition to political philosophy, and also using his letters to instruct his brother on sexual health and development.

The establishment of BPP Liberation Schools, later refashioned and renamed Intercommunal Youth Institutes, directly addressed Party educational and pedagogical concerns, and the schools’ evolutions regarding instruction—what was taught to students and how it was taught—is instructive in helping to contextualizing George Jackson’s own pedagogical concerns and methods. In total, nine cities had Liberation schools for a time; some of the shorter-lived schools, like the ones in Des Moines and Omaha, were the victims of deliberate “government

misinformation and bad publicity” (Bloom and Martin, Jr. 192). In his history of the Black Panther Party, former BPP co-founder and Chairman Bobby Seale contends that the schools were originally designated as auxiliary spaces of instruction for impoverished children: “We see the Liberation Schools as a supplement to the existing institutions, which still teach racism to children, both black and white. The youth have to understand that the revolutionary struggle in this country that’s now being waged is not a race struggle but a class struggle” (417). The supplementary nature of the Liberation School program would eventually give way to Intercommunal schools that were intended to provide an alternative space and model of education for young black students. In Seale’s description, it is plain to see that the schools inculcated and operated under an easily recognizable pedagogy, one we would now call “critical pedagogy,” to instruct their students.

A *Black Panther* article penned by a Liberation School teacher makes clearer the nature of instruction in the schools. Students ranged from ages 2-13, and older students were encouraged to help younger students along; the rationale is that “at the age of 10-13 children have seen and experienced things for themselves” and “they understand the need for their younger brothers and sisters to fully understand why there is a need for a Liberation School” (Douglas 172). This is in keeping with the idea that the curriculum revolves around the concrete experience of community members, and Val Douglas, an assistant teacher, reaffirms this approach, acknowledging that he has the opportunity “to stimulate” his students’ “minds to seeing clearly the state of repression that we are living in” (171). The subject matter of instruction “is based on true experiences of revolutionaries and everyday people who the children can relate to,” and the curriculum is rather preceptive and didactic in nature, evident in their weekly schedule: “Monday is Revolutionary History Day,” “Tuesday is Revolutionary

Culture Day,” and “Wednesday is Current Events Day” (172). Finally, instructors stress exercise and health, both on an individual and on a social level.

Having older students teach younger students—what in *Discipline and Punish* Foucault refers to as the “mutual improvement school” (165)—is not at all new. This configuration and pedagogy arose as part of the generalized movement toward the disciplinary society. It represents a diffusion and reinvestment of political power, authority, and agency across the body politic:

From the seventeenth century to the introduction, at the beginning of the nineteenth, of the Lancaster method, the complex clockwork of the mutual improvement school was built up cog by cog: first the oldest pupils were entrusted with tasks involving simple supervision, then of checking work, then of teaching; in the end, all the time of all the pupils was occupied either with teaching or with being taught. The school became a machine for learning, in which each pupil, each level and each moment, if correctly combined, were permanently utilized in the general process of teaching. (165)

What is novel about the BPP redeployment of this instructional method is that it inculcated a different version of efficiency than the kind that motivated the historical model. The original version was tasked with educating and assimilating new generations of students to the rigors of life in production-oriented, capitalist society: children destined to man industrial machines were primed for that life by being active participants in an educative machine. Each cog-child had an assigned role that must be carried out in order for the machine to work, and part of the learning process would be to internalize the rhythms of work, the hierarchies associated with business and industry, and the kind of self-discipline required to be successful in an increasingly disciplinary, labor-based society.<sup>69</sup> In contrast, the BPP’s version stressed a kind of pragmatic communitarianism that relied on life experience and community instruction. As a whole, the

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<sup>69</sup> This is also the principle behind Louis Althusser’s notion of the ideological State apparatuses, those social institutions that not only made “available labour power ‘competent,’ i.e. suitable to be set to work in the complex system of the process of production” (88), but also supplied the dominant class’s ideology without the overt threat of repression. Althusser argues that the educational state apparatus is the most important in “mature capitalist social formations” (103).

Panthers could ill-afford to employ lecture-based, student-centered instruction—that which Paulo Freire called the “banking model of education”—all of the time. Some instructors were very ill-suited for the task of instructor, being under-educated themselves. But more importantly, the Panthers needed an instructional form of efficiency precisely because of the dire conditions of their organization on the ground. Members were routinely arrested, jailed, on trial, injured, and killed. Developing a system that relied less on the presence of an instructor who functioned as the sole source and arbiter of knowledge thus allowed the early days of some Panther schools to function in spite of the constant threat of violence and police disruption.

But this student-center approach was unevenly applied from chapter to chapter. In hindsight, one of the limitations of these earlier Black Panther liberation schools is that they sometimes relied too heavily upon a doctrinaire approach that emphasized students memorizing, and then reproducing, “correct” Party ideology. Though this was hardly a uniform approach—Shakur and others actively resisted the simplified transmission of a standard Party line—it did permeate all levels of BPP educational activities, and critics of the Party were quick to label these practices as nothing more than veiled (and sometimes even overt) forms of political indoctrination. In a *New York Times* article from 1969, Charlayne Hunter describes anecdotes from a Liberation school in the Brownsville neighborhood in Brooklyn. Part of the class she observed covered the topic of “Pigs”:

Teacher: “What is a pig?”

Student: “A pig is a low-down person who can be any color who beats us up and tells lies.”

Teacher: “How many types of pigs are there?”

Student: “Four types.”

Teacher: “Name them.”

Student: “The avaricious businessman pig” [“who may be a landowner or a store owner,” the teacher interjected], the police pig, the president pig, and the National Guard pig.” (Hunter 31)

The article does briefly touch on more interesting, alternative forms of naming and learning. Students take “field trips” to “a block of dilapidated housing to check out the genocide,” manifested in “exposed lead pipes” and other health hazards, and they participate in certain forms of progressive anti-sexist and anti-misogynist education, too. But overall, Hunter concentrates on the many forms of rote learning, chanting, and sloganeering that she witnessed, most of which seem almost farcical and no-doubt dangerous to her largely white readership, especially when these lessons are purposefully redacted and decontextualized. Her article begins with the lesson-of the day: “What is the main thing we want to get rid of?” The collective response is “pigs.” When asked how this should be achieved, one student responds “Kill him,” while another says, “Leave him like he is.” The correct response, however, is “Put the right thinking in him,” to which the young teacher responds, “Right on” (31). No wonder then, that “as a result of the primacy of the BPP doctrine in the curriculum of the liberation schools, classroom instruction [. . .] reflected political indoctrination sessions” (Jones and Gayles 102). Paulo Freire reminds us in that “monologue, slogans, and communiqués” are, in fact, “the instruments of domestication” (47), so the occasional penchant for some instructors and party leaders to sloganize what were in fact intricately theorized political positions may have had a counter-revolutionary and stultifying effect, as Shakur contends in her memoir.

This is hardly a complete picture of Liberation school pedagogy, and it would be fundamentally unfair to accentuate the occasional moments of BPP indoctrination without acknowledging the dire situations that most of these students were attempting to leave. It is also worth remembering that the Party itself was at times quite literally attempting to defend itself and teach students in warzones, and that in many cases these teachers were ill-prepared to serve as teachers. They faced a lack of resources and a skeptical and sometimes hostile public, in

addition to overcoming a lack of prior experience or their own uneven educations. Thus, developing a more nuanced, self-reflexive pedagogy during a state of siege was a luxury that the Panthers could ill-afford, and to demand that they should have done so from our moment in history is woefully inadequate to the material conditions under which they labored. There is something admirable in the attempt to develop the revolution in the streets and in the classroom at the same time. In spite of all the revolutionary theory to which the Party had access, in many ways they found themselves in a condition that demanded constant improvisation, militarily as well as pedagogically.

It would also be amiss to ignore that, even in spite of these dire conditions on the ground, Black Panther pedagogy nevertheless did evolve as teachers became more aware (and self-aware) of their own pedagogical practices. The Liberation school in Oakland would evolve into the Intercommunal Youth Institute (IYI) in 1971, and then morph again in 1975, renamed and rebranded the Oakland Community School (OCS) (Jones and Gayle 100). This renaming followed on the heels of radical shifts in curriculum and approaches; teachers and administrators at the OCS began to group students by their ability, not by their age, for instance (E. Brown 391). Elaine Brown, who worked as a Panther teacher and would later serve as the first female chairperson of the Party, notes that “this has made it possible for us to guarantee that our students will graduate at about the standard ninth-grade level” (392). The pedagogy built upon the successes of the previous institutions—students still took field trips in order to unite “learning [. . .] to action in the world” (Jones and Gayles 106), sometimes even attending political trials of Black Panthers and other revolutionary groups. They also put on overtly political and polemical plays with titles like *Huey Newton’s Life* or “*Buy-centennial*,” a play that “criticized consumerism and the commercialization of the nation’s 200<sup>th</sup> birthday” (106-107). But the IYI

and the OCS roundly rejected the didactic, teacher-centered narration from the Liberation schools. Instead, as Huey Newton urged, these newer institutions sought to “provide the young with the ability and technical training that will make it possible for them to evaluate their heritage for themselves; to translate what is known into their own experiences and thus discover more reality [on] their own” (qtd. in Jones and Gayles 105). And for a time the school was successful: during its most popular and successful incarnation, the waiting list was over four hundred names long (Bloom and Martin, Jr. 193). Perhaps most significantly, the OCS eventually sought for and received full accreditation from the state of California, and it remained fully accredited until the school closed for good in June 1982, an event that for some “marked the end of the Black Panther Party” (Jones and Gayles 100).

This attention to state standards and age-appropriate instruction is part and parcel of what Daniel Perlstein calls the BPP’s “profound shift away from revolutionary aspirations toward reformist electoral politics” (265). The shift away from open revolution to “Survival Programs” (a shortened form of the Party slogan “survival [programs] pending revolution”)—and the shift from critiquing the American political system to actively working within it<sup>70</sup>—was indicative of the Party leadership’s indecision “as to whether the Black community had the capacity to articulate its own demands or whether it had to depend on a vanguard to reveal the truth about its situation” (265). As outlined above, at certain moments throughout its history, it appears that the Party would err on the side of least resistance, or of maximal instruction, in choosing transmissive, didactic instruction over more student-centered pedagogical options. Thus it is unclear how many of the dialectical “truths” that students came to understand as a result of Liberation school instruction were actually arrived at in a truly dialectical manner. Though Black

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<sup>70</sup> As Chairperson of the Party, Brown would be instrumental in using BPP political support to elect local and state officials in the late 1970s, including Governor Jerry Brown and the mayor of Oakland, Lionel Wilson.

Panther pedagogy would quickly and significantly evolve away from simple sloganeering and attempt to more fully embody a self-aware and self-reflexive praxis, this would occur well after George Jackson was killed at San Quentin. Thus the only practical models that he had available to draw upon and implement himself within prison were the kind of transmissive didacticism that the Party would eventually give up completely, as well as the kinds of schooling that he had endured as a child and later as a convict. With this education context now firmly established, let us now turn to a closer examination of Jackson's role as a revolutionary and a pedagogue within prison to see how he drew upon, advanced, or implicitly critiqued Black Panther pedagogies.

### **6.3      CONTOURS OF *SOLEDAD BROTHER***

Nearly one hundred and seventy letters constitute *Soledad Brother*. Structurally, the book is organized almost completely chronologically, stretching from a letter dated June 1964 and ending with a letter from August 9, 1970. The letters included in *Soledad Brother* are undoubtedly incomplete, for in a footnote we are told that letters pre-dating June 1964 “were accidentally destroyed” (37). Moreover, in a foreword to the book published in 1994, Jackson's nephew Jonathan Jackson, Jr. (who was conceived less than a month before his father was killed at the Marin County Courthouse) writes of the existence of many private letters sent to his mother from the elder Jackson brother that are not included in the collection and will “remain unpublished” (Jackson, Jr. xiv). The major exception to the book's chronological order is a section of five letters composed between April and June 1970 that are included at the beginning of the collection. The first, from June 10<sup>th</sup>, 1970, is an autobiographical sketch, and the other four function as sort of a primer for Jackson's political and revolutionary thought. Jackson seems to

have been most active in writing his letters from March through June 1970, as the letters from that period, addressed to his lawyer Fay Stender and to Angela Davis, are by far the longest meditations on his incarceration and his philosophy included in the book. Overall, the length of the letters varies; the shortest letter in the collection is one line, addressed to his mother, and dated June 12<sup>th</sup>, 1969 detailing a recent parole hearing: “Final results: Denied, one year, go back to board next June 1970” (*Soledad* 188). Most, however, are a few handwritten pages long. Of the letters included in the published collection, almost all of the early letters from 1964 to 1969 are addressed to his father and mother, Robert and Georgia. In 1969, Jackson begins to write to Jonathan, and by 1970, when he begins writing in earnest to his lawyer and to Angela Davis, the collection shifts. The only letters included toward the end of the book are to Stender; Davis; a woman named Joan, who we are told is a member of the Soledad Defense Committee (*Soledad* 278); and an interlocutor referred to only as “Z,” whose identity is never revealed. Finally, the only letters included in the collection are penned by Jackson. We never hear directly from his interlocutors except when he addresses issues raised in their letters or quotes from prior correspondences, although Jackson does include lengthy excerpts from his brother’s letters in *Blood in My Eye*, some of which will be examined below.

The politically revolutionary elements and rhetorically powerful nature of the letters served to launch Jackson into American public consciousness upon their publication; their power is derived because of the breadth of issues that Jackson considers in *Soledad Brother*. He sometimes meditates on current events at home and abroad, such as the Vietnam War; revolutions in Africa and the Third World; and the assassination of Martin Luther King, Jr. His letters detail life in prison, too, documenting the mundane, though often violent, routine of bare existence in California prisons during the late 1960s. We read about his extended meditations on

education and see the result of his own intense studies. We also see, towards the end of his collection, his emerging fascination and emotional attachment to his lawyer and then to Angela Davis. This latter relationship seems to have fostered one of the most important intellectual developments that are charted out over *Soledad Brother*: Jackson's perspective on women. He tells his mother in an early letter that in ideal black societies not tainted by Western modernity, "women feel it their obligation to be ever yielding and obedient to their men. Life is purposefully made simple for them because of their nature, and they are happy," and that they should only "do light work, bear children, and lend purpose to the man's existence" (*Soledad* 48). This misogynistic perspective eventually crumbles over the letters as his relationship with Davis deepens. By the late letters of 1970, he meditates more deliberately on the historical conditions that gave rise to the gender inequalities among black men and women in the US, having completely abandoned his earlier misogynistic tendencies.

Although he and his comrades were outnumbered (and seriously outgunned), Jackson and his comrades nevertheless lived according to the revolutionary principles laid out by Che Guevara and Régis Debray, who articulated a form of guerilla warfare called "focoism" in which a small band of specially trained guerillas could, through strategic maneuvers, both successfully engage and defeat larger enemy armies *and* revolutionize the masses at the same time. According to Guevara, the question of sheer numbers was relatively unimportant and was used by "pseudo-revolutionaries" as a "defeatist [. . .] pretext that nothing can be done against a professional army" (Guevara *Guerilla* 7-8). Guevara contrasted these individuals, whom he deemed "coffee-shop" theorists ("Social" 204), with real revolutionaries working and learning in the world. Guevara argued, "Where one really learns is in a revolutionary war; every minute teaches you more than a million volumes of books. You mature in the extraordinary university of experience"

(“Interview” 386). The other appeal of focoism as praxis for its practitioners is that it theorized failure as a useful component to extending the revolution. Only the most foolish revolutionary thought that he or she could beat the odds and survive an extended conflict with the state and win. As such, Debray points to the pedagogical value in defeat and disaster: “For a revolutionary, failure is a springboard. As a source of theory it is richer than victory; it accumulates experience and knowledge” (23). Jackson employed the concept of the *foco* in California state prisons by training other black prisoners in hand-to-hand combat (especially through martial art practices), by fighting consistently with racist prisoners and with prison guards, and by running political education classes and reading groups. And like previous *foco* revolutionaries, he also had no illusions about the success of his own activities. One of the essays in *Blood in My Eye*, entitled “After the Revolution Has Failed,” theorizes on “*how* a new revolutionary consciousness can be mobilized around the new set of class antagonisms that have been created by the authoritarian reign of terror,” a reign of terror that would surely follow any and all anti-capitalist revolutionary activity (original emphasis, *Blood* 117).

Politically, Jackson understands US penal practices through a close reading and application of historical materialism—Jackson says “dialectical materialism is my bag” (*Soledad* 292)—and many of his ideas in his letters are clearly materialist. Jackson spends numerous pages writing about the daily rhythms of the prison, addressing its physical dimensions and administrative, social, economic, and racial articulations, but his materialism (like Antonio Gramsci’s) extends to the interpretation of human behavior and thought as well. This is apparent in a letter from April, 1970 addressed to Fay Stender, in which he responds to her request to “explain why racism exists at the prison with ‘particular prominence’” and to answer his own

rhetical question, “Why do California joints produce more Bunchy Carters and Eldridge Cleavers than those over the rest of the country?” In response, Jackson writes,

I understand your attempt to isolate the set of localized circumstances that give to this particular prison’s problems of race is based on a desire to aid us right now, in the present crisis. There are some changes that could be made right now that would alleviate some of the pressures inside this and other prisons. But to get at the causes, you know, one would be forced to deal with questions at the very center of Amerikan political and economic life, at the core of the Amerikan historical experience. This prison didn’t come to exist where it does just by happenstance. Those who inhabit it and feed off its existence are historical products. (*Soledad* 17-18)

Jackson argues that state and prison administrators manufacture and carefully maintain the California prison system’s racism: in other words, it is *not* something inherent or genetic. He notes that “the great majority of the people who live in this area of the state and seek their employment from this institution have overt racism as a *traditional* aspect of their characters” and are employed because of this quality (20). Moreover, he describes the “great majority of Soledad pigs” as “southern migrants who do not want to work in the fields and farms of the area, who couldn’t sell cars or insurance, and who couldn’t tolerate the discipline of the army” (18). He keenly frames his critique of racism as the formation and practice of a certain segment of the population affected by adverse economic conditions. In prison racism is partly the result of finding and employing a *class* of men who have been inculcated in a traditionally racist culture and are then used as tools to maintain particular forms of economic and social practice alive. He is careful to indicate that this is not a *race* of men, since he insists that pigs “come in all colors” (253). He views his incarceration as a part of the same economic and cultural system that foments wars of imperialism in Vietnam and suppresses anticolonial wars in Africa and Latin America. The men who command soldiers and prison guards “have the same intent: to preserve the economically depressed areas of the world as secondary markets and sources of cheap raw

materials for the Amerikan fascist. [. . .] In our case this cheap raw material is our bodies, giving all of the benefits that property of this kind can render” (253-254). He even astutely affirms that continual depression in the developing world is a necessary part of capitalism’s basic function, given the way that colonies (and neo-colonies) function as deep pools of constant cheap, unskilled labor. And at least in domestic terms, this economic philosophy has created a black “subsidiary subculture” (244), of which the black revolutionary is a constitutive element. Jackson finds very little difference in the machinations of capitalism with regard to domestic or international practice; they are all forms of “neo-slavery,” a common word in his letters.

Jackson is at his most Gramscian when he discusses the ways that a racist and capitalist hegemony are maintained and replicated. Although he never uses the word “hegemony,” this is a concept that clearly relates to his critique. Like Gramsci, Jackson understands that (perhaps unconscious) consent is as important as coercion for hegemonic practices to succeed. We should remember that in his *Prison Notebooks*, Gramsci defines hegemony as the philosophical, cultural, political, and economic work of intellectuals who have the function of “organizing the consent that comes from the prestige attached to the function in the world of production and [producing] the apparatus of coercion for those groups who do not ‘consent’ either actively or passively” (2: 201). In a brief letter addressed to his father Robert (dated May 15, 1968), Jackson criticizes him for having a shallow understanding of free speech and free press. Believing that ownership alone determines what is protected and published, Jackson declares, “‘Freedom of the press’ is for *those who own one*. Even they are kept in line by economic pressure from above. Very little of the repression is done overtly, my friend. You cannot see a tree’s roots all the time, but because one cannot see them does not mean that they do not exist. The tree couldn’t stand without them” (*Soledad* 175). In a similar vein, he accuses the mainstream black press of

complicity promoting white supremacist hegemony, pronouncing, “We must destroy Johnson Publications and the little black tabloids that mimic the fascist press even to their denunciations of black extremists. Burn them or take them over as people’s collectives, and give the colonies a dynamite case of self-determination, anticolonialism, and Mao think!!!!” (255).<sup>71</sup> He characterizes the often voluntary struggle at the bottom of the racial and economic chain as one over symbols invested with semiotic and cultural meaning: “The competition at the bottom of the social spectrum is for symbols, honors, and objects; black against itself, black against lower-class whites and browns, virulent, cutthroat, back-stabbing competition, the Amerikan way of life” (246). In all of these moments we see Jackson engaging dialectically with the notion of hegemony, as he attempts to make visible the invisible operations of power either in commonly held myths (like the myth of freedom of speech) or in popular culture.

It should be evident what kind of revolution Jackson sought to enact by mobilizing his considerable intellectual labor and his writing, but it is worth considering how Jackson conceives of the role of labor in his world and in his post-revolution imaginary. In part, the revolution would function to change the mode of production, to create new social formations in such a way as to advance global communism. This revolution is fundamentally an anticolonial one, too. Jackson understands that economic depression is a structural feature of life in the “Black colony”—it is fundamental to the success of capitalist practices because depression “casts the unskilled colonial subject into economic roles that preclude economic mobility” (*Soledad* 244). Technical education and learning new industrial skills are useless for these subjects because there is a “fixed ceiling on the labor force”; acquiring these skills “would merely put us into a competition with established labor that we could not win” (244). Revolution is thus the

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<sup>71</sup> Johnson Publication is the corporate entity responsible for publishing popular African American magazines like *Ebony* and *Jet*.

mobilization of sentiment, intellect, and action against widespread economic insecurity, and two key goals of this mobilization are to eventually establish a different division of labor and to change the sentiments regarding work and labor.

One of the most important contributions that Jackson makes regarding the question of labor in Marxist revolutionary thought is to resuscitate (perhaps intuitively) 19<sup>th</sup> century critiques against the productivist logic operating at its heart. His experiences as a prison laborer inform this. He complains of getting “lost for hours sometimes” in his compulsory vocational work, calling himself an “old slave trying to deal with his environment” (213). He often wonders why prisoners willingly work, even enjoy working, despite the fact that they are obviously exploited and oppressed, forced to labor for “emoluments that range from nothing to three cents an hour!” (23). As he says in an important letter detailing a number of prison classes devoted to US history and civics that he attended, a class run by a political and economic conservative who lauded the US work ethic, “I certainly don’t *like to work*. No one could honestly enjoy the monotony of the assembly line. [. . .] I’m all for the machines taking over in every sector of the economy where they can be applied. I wouldn’t have the least difficulty in finding something to do with my time” (262). American hegemony is predicated upon inculcating a self-destructive work ethic and work discipline in its laborers; all have “been educated into inanity” (262): “To eat bread ‘in the sweat of thy face’ was intended as a curse. The conservatives (of their privilege) would have us now believe that work is great fun. The capitalist Eden fits my description of hell” (262).

Jackson’s vision of the future is rather obscure, but there are hints and allusions to its overall contour; as one might expect, some facets are idyllic and utopic. He speaks of “love’s labor,” arguing that love, not material acquisition or mere survival, is what motivates revolutionary effort (293). Communism—“communion”—can also never be “selfish” (274). He

imagines his role in the post-revolutionary division of labor to be that of policing: “John, Huey, Angela Davis, etc., on the political front, cats like me behind them, in the crowd, watching the watchers—neutralizing the watchers” (314). We should observe that Jackson never actually conceives of himself as an intellectual laborer: as he says, “I don’t consider myself a writer, an intellectual [. . .], I don’t prefer anything as mild as pen and paper” (306-307). More concretely and tangibly, he imagines a future that includes communistic organizations like “the people’s store,” a collectivist, fully-automated institution that produces no waste and does not rely on “harnesses on production” (319). In it, there will be “no intermediary, no money,” and it “stocks everything that the body or home could possibly use. Why won’t [sic] the people hoard, how is an operation like that possible, how could the storing place keep its stores if its stock (merchandise) is free? (319-320). Jonathan would repeat this vision of a communistic vision, noting that the future political wing of the government would be tasked with a number of jobs, including running the People’s Bazaar, and inculcating a new motivation for work. The Bazaar is a series of shops “where all sorts of food and clothing, utensils and tools are sold,” and the products sold there would be made in “cottage shops” that “employ those who will work for the new medium of exchange—love and loyalty” (qtd. in *Blood* 20). Because Jackson would never be freed from prison in his lifetime, his letters are his only contributions to this post-work future. Nevertheless, we should definitely conceive of the way he organized his classes and *foco* in prison as a concrete attempt to organize one’s labor in a radical manner, against capitalism and exploitation.

## 6.4 GEORGE JACKSON ON EDUCATION

Jackson's clearest discussions of hegemony are embedded in his concern for education, because for him, like the Black Panthers and other revolutionaries in general, educational concerns speak directly to the struggle over culture and the ability to determine one's future. Jackson fully believes that to start a revolution "and relegate fascism to the history books[,] the vanguard must change the basic patterns of thought" (*Soledad* 226). This statement clearly demonstrates an understanding of the need for fundamental changes in the patterns of thought that are then reflected in praxis, for he also intuitively feels that a revolution in thought only addresses part of the problem. He often meditates on the many ways in which African Americans like his father have become suspicious of thought and, in one letter, declares, "I am convinced that black people can never be influenced by ideology alone. The men have been too conditioned against it by violence and they are afraid" (209). In another he writes that blacks in general "have been 'educated' into an acceptance of our positions as national scapegraces" (40). This is why he often emphasizes that revolutionary learning requires unlearning certain kinds of thought. But Jackson's emphasis on a kind of party vanguardism is important, too, because it answers, in a way, the central question of revolutionary pedagogy itself—how does one teach the revolution? For Jackson and other revolutionaries, there is only way one: through a "correct handling" of Party ideology. And the only successful way to do this is through direct teaching, through a didactic teacher-oriented pedagogy, one that sometimes verges on the indoctrination that we saw in Black Panther liberation schools.

Regarding education, the letters of *Soledad Brother* largely cover one of five different facets of education, including

- a consideration of his own parents' relative lack of education and the impact of that education on their lives;
- descriptions of his own education, prior to conviction and during his incarceration, which was both formal, through prison schools and correspondence classes, and informal, through his own intense reading and the sharing of material among prisoners;
- requests for reading material—particularly revolutionary literature, Black history, legal material—and various writing paraphernalia to replace material that was lost, stolen, confiscated, or destroyed as Jackson was moved in and out of solitary confinement and across different California prisons;
- recommendations for his younger brother's education, advice given both to his parents and directly to young Jonathan;
- Jackson's theories about mainstream schooling as a form of racist colonialism, which helped sanction US imperialism and capitalism at home and abroad, and his call for the institution of new radical alternatives, based on non-white and non-Western epistemologies.

Unfortunately, one of the few activities that is most difficult to contextualize and reconstruct from his letters is Jackson's participation in and leading of the kind of *sub rosa* political education classes that Bernstein mentions in his chapter on Jackson (as discussed in the introduction to this chapter). Part of this has to do with Jackson's consistent legal and administrative troubles. Written proof of illicit activities like engaging in these informal revolutionary classes could have meant more time in solitary confinement and further loss of privileges. After all, Jackson had concrete evidence that his mail was routinely read, censored, and sometimes confiscated by prison authorities. But his clear avoidance of these subjects also had to do with an evolving sense of militancy and desperation in Jackson, too. James Carr writes that at some point

George had put together a little army there [at Soledad], teaching them political education and doing karate for two hours a day. Their tactics had changed from the defensive nationalism of our Quentin days to a concerted effort of dealing death blows against the prison structure. This movement had pulled together Mexicans, whites, and blacks, and had organizers in every wing agitating against racism. Even though these were the bare beginnings of anti-racist prison organization, the Soledad administration had already realized that the situation was getting out of control, and had moved to snuff it out. (182)

We can see in Carr's explanation of the conditions within Soledad that Jackson was actually unable to discuss his political education classes except in an elliptical fashion for purely pragmatic, tactical reasons. More alarming than his ability to instruct prisoners in hand-to-hand combat was Jackson's ability to mobilize prisoners of all races against the administration and, by extension, the state itself; his educational activities were thus very much of the covert and clandestine variety as a survival technique. As such, we can only partially reconstruct those secret classes and sites of learning, doing so through requests for reading material, for instance. We may interpret his request to Angela Davis for books by "Lenin, Marx, Mao, Che, Giap, Uncle Ho, Nkrumah, and any Black Marxists" along with "a reference book dealing with pure fact, figures, statistics, graphs for my further education" and "books on the personel [sic] and structure of today's political and economic front" that these books, in fact, may have formed the foundation of a secret, communitarian lending library for his political classes (*Soledad* 301-302). Jackson is careful to request only "pocket editions" (301), which enables easier concealing or circulation of material, although this may also have been due to prison regulations banning hardback books for safety reasons.<sup>72</sup> Jackson never really discusses the day-to-day content of these prison classes in his letters, and thus we are forced to rely on subtextual clues (his reading requests) and secondhand information from texts like James Carr's memoir *Bad*, texts that were produced in the same circumscribed, revolutionary milieu as the letters of *Soledad Brother*.

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<sup>72</sup> Jackson also makes clear in another letter that there is a different practical reason for requesting paperback editions: they are cheaper and more easily replaceable. In a separate request to Davis for reading material, Jackson writes, "But remember we want the pocket editions of everything. These pigs like to steal—if I lose something it's best if it's only something small" (305). In terms of contemporary book handling practices in prison, hardbacks are sometimes banned outright because the harder covers might be weaponized and because they might be used to conceal contraband like drugs or razor blades. Certain magazine titles whose issues have thicker, glossy pages, such as *National Geographic*, have also been banned in some prisons because they, too, have become weaponized (into blunt-force objects or blowguns) by prisoners. There is no standard for what prisoners are allowed; each institution determines its own policy governing allowable books.

In writing about education—his own as well as for others—Jackson stresses a wide variety of activities and content, advancing a comprehensive sense of learning that reflects larger Black Panther pedagogy. He briefly writes about the classes he takes in a prison-based night school, what he calls “bullshit academic and make-work programs,” that he nevertheless dutifully attends because he believes it would help him out with his parole case (*Soledad* 217). He also lists the many classes he is actively disallowed to study or take, including “language (Chinese and Arabic), electronics, and chemicals,” as well as a drafting class, of which he says, “there is no room for folks like me” (94). Because of the institutional and administrative limitations on his education, Jackson was forced to develop an individual system, one stressing a practical approach to learning that was also informed by “accepted” Marxist dialectic (159). He famously claims, “I met Marx, Lenin, Trotsky, Engels, and Mao when I entered prison and they redeemed me” (16). As is evident in Carr’s description of Jackson’s revolutionary “army,” and reminiscent of Black Panther education described earlier in this chapter, Jackson believed that education was as much an embodied act as an intellectual one. To this end his personal education regime included practicing karate and hand-to-hand combat technique, lifting weights and general calisthenics, and training his body to survive on little food and water. Due to the material constraints of solitary confinement, Jackson sometimes found himself needing to adapt his workout. In solitary, he tells his mother, he would neatly pile his books and magazines together “and exercise with them” (104). One can only wonder what Marx, Che, Mao, or Ho Chi Minh would think if they knew that a self-identified Marxist revolutionary regularly lifted using their collected work as weights!<sup>73</sup>

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<sup>73</sup> Ho Chi Minh, who was himself incarcerated in a Chinese prison under Chiang Kai-Shek’s reign in the early 1940s, could probably appreciate Jackson’s regime in solitary confinement. Jackson was fond of the poetry that the Vietnamese leader produced while in prison. He often quotes or paraphrases the following verse from *The Prison*

Jackson's perspective on the interdependency between education and various forms of colonialism and imperialism was specifically informed by his Catholic schooling, which he attended for the first ten years of his education (from kindergarten through ninth grade). In this regard, his perspective is rather unique among many other black revolutionaries, most of whom did not attend traditional Catholic schools.<sup>74</sup> Catholic education had a tremendously negative influence on Jackson's sense of self and his understanding of the world, but it also prepared him with experiences that he would later draw upon to make manifest his theories about colonialism, imperialism, ideology, and revolution. Like the beginning of James Carr's *Bad*, which begins with Carr claiming that he burned down his elementary school to demonstrate just how antisocial and "bad" he was from an early age, the letters of *Soledad Brother* begin with Jackson's critique of Catholicism in general, claiming that as a child "I was certainly just pretending with the nuns and priests. I served mass so that I could be in a position to steal altar wine" (*Soledad* 3). His antagonistic relationship with Catholicism, Catholic schooling, and organized religion in general is fleshed out over the course of the letters. He claims that the teachers "with their silly costumes and barbaric rituals offered the full range of Western propaganda to all ages and all comers. [. . .] You could get away with anything (they were anxious to make saints) but getting caught with your hand up a dress. Holy ghosts, confessions, and racism" (*Soledad* 6). In another particularly angry letter to his mother (the parent he blames for sending both Jackson brothers to Catholic schools), Jackson exclaims, "I've read as much St. Augustine as I could stomach," and then lumps Augustine, Jerome and Leibniz together as part of a "lunatic fringe" (87). He continues, "I

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*Diary of Ho Chi Minh* (1971): "People who come out of prison can build up the country. / Misfortune is a test of people's fidelity. / Those who protest at injustice are people of true merit. / When the prison-doors are opened, the real dragon will fly out" (65).

<sup>74</sup> There has actually been very little critical work done on the impact of Catholic education on African American students. One book that does take up these issues is *Growing Up African American In Catholic Schools* (edited by Jacqueline Jordan Irvine and Michèle Foster), a collection of essays that explores the complicated relationship between Catholic instruction and minority students.

know their awesome capacity for evil, I'm victim of it now. That Pope Pius XII, the guy you let us pray for, gave Mussolini his blessing as he was about to embark upon his misadventure in Ethiopia" (87). He concludes the letter venomously, claiming, "You gave me god and that horrible church. Even god managed to take something away from me. I have nothing left but myself" (88). Jackson also accuses his mother of having "failed me bitterly in matters of the mind and spirit. My education she put in the hands of the arch-foes of my kind. This is a betrayal of the worst kind" (42).

In spite of his own sense of damaged self, Jackson reserves most of his vitriol for the decision by Jackson's parents to enroll his brother Jonathan in a Catholic school. He criticizes Catholic instruction as useless except to teach anything but "a few Latin prayers" (*Soledad* 82), and to "make emotional pansies of the boys" through the priests' "sanctimonious dogma" (113). After learning that Jon is struggling in mathematics, George writes his father, asking about Jon's daily routine in an effort to ascertain if his study methods need changing, and he ends the letter critiquing the Catholic school, opining that "if *any time* is spent on religious matters during the school hours the student is being cheated" (138). When he learns that the school is forcing his brother to learn Latin, Jackson explodes, writing, "People only learn Latin these days so that they can read that thing they call the bible in the Latin and sound mysterious. It's a lot of European ritual, a lot of hocus-pocus from the dark ages of Europe. The time he puts into that totally useless pursuit could be spent on math or science!" (142). He warns his father that Catholic education is doing nothing for Jon except training him to "be a good Negro, an individual, a nonperson, an intellectual dependent" (164). To counteract this process, Jackson urges his father to begin an after-school program for Jon of unlearning, a program informed and supported, in part, by his own epistolary pedagogy. His comments in the letters should be translated and used

as instructional material as part of this plan. The program would involve everything from reading black history and “pro-Eastern writers” to demonstrations of masturbation (with the directive “Show him how to masturbate”) and practical lessons on sex that would not result in pregnancy (114), and it would also stress correct political theory and practical and technical knowledge covering disciplines like mathematics, chemistry, and electronics.

The prominence of practical education for Jackson is an attempt to circumvent and disrupt the racist, pro-capitalist forms of schooling of which he had been a victim, but there is also a practical—or *tactical*—reason for it, too. Technical or scientific education (especially in terms of chemistry or medicine) would prove useful to the revolution, especially in one ostensibly waged by independent cells of *foco* rebels who would need to operate independently and self-sufficiently. In his letters to his brother, which, at least in terms of those included in *Soledad Brother* begin in 1969, Jackson makes this point very plainly, sometimes speaking from the perspective of a revolutionary, vanguardist, and didactic Field Marshal, and not as an older brother. Jackson instructs his brother to “mix your theoretical reading with practical technology. That aspect of chemistry [. . .] will be useful to us. Perhaps electronics as well” (189). He tells his brother to appreciate and understand their father, who is “a good brother on an individual, personal, brother-to-brother basis” but who otherwise believes in “the credo of the slave, the self-destructive, self-perpetuating doctrine of the menial, the woodcutter, the waterboy, the groom, the employee, the flunky’s flunky, the abased” (192). The revolution has no room for individuals like his father; it needs solid, reliable, smart, and independent men, men who fundamentally reject the stultifying effects of schooling, the false consciousness that arises from that schooling, and instead have fashioned a new mentality and approach by changing their “basic patterns of thought” (226).

## 6.5 TOWARD JACKSON'S EPISTOLARY PEDAGOGY

Letters occupy a dominant position in the global and historical “canon” of prison writing: Oscar Wilde, Gramsci, Fidel Castro, Martin Luther King, Jr., Angela Davis, Eldridge Cleaver, Jack Henry Abbott, and Ken Saro-Wiwa are just a handful of writers whose prison letters have been published, many to wide acclaim. Like other intellectual activities, writing and receiving letters are heavily monitored by the institution. Most prison letter-writers discuss the joy generated from receiving letters and the devastation felt when such privileges are revoked. Letters represent a direct link to the outside world, and are often the means by which prison conditions and practices are conveyed to the outside; this is one reason why prison administrators are always quick to limit or prohibit this means of contact and expression. Despite their attempts, numerous volumes of letters have been exchanged and later published because the individual letter is, materially, a rather difficult object to monitor. They are often produced, disseminated, and circulated by means of the “underlife” of the institution, to use Erving Goffman’s term. Letters are relatively easy to hide, transport, and smuggle, and they are often a rather efficient means of testing the soft, sometimes ragged edges of what we usually think of as, indeed, a “total” institution, to use Erving Goffman’s famous designation. They reveal the exploitable gaps in administrative practices—sometimes even revealing the physical gaps that have been overlooked by prison authorities—and it is in this sense that letters become a site of contestation with the institution and with the state. Letters, in essence, often serve the means by which prisoners “can reach [. . .] through all of this, fences, fear, concrete, steel, barbed wire, guns” (Jackson, *Soledad* 269), and, as Nigerian playwright and former political prisoner Wole Soyinka eloquently puts it, “A breach is worth all in confinement” (82-83).

Letters, too, can be the vehicles by which one learns or educates, and the tradition of learning through epistles is a long one. Hellenistic rhetorical education made use of a variety of letter-writing manuals, which initiated “the practically uninterrupted tradition across the centuries of the manuals, formularies, letter-books [. . .], and other how-to publications” (Guillén 3). Pauline epistles from the New Testament still resonate in some communities today as “authoritative texts for the development of norms, doctrine, and teachings about how men and women [. . .] are supposed to act, both socially and sexually” (Byron 102). Margareta Jolly argues that “feminist letter-writing [. . .] possesses a distinctly educational interest, not only in the publicly addressed letter but in familiar or ‘private’ correspondence,” as these letters often have very public after-lives beyond the initial exchange of personal, private communication (253). More directly relevant to *Soledad Brother* is Antonio Gramsci’s letters to his family, many of which are preoccupied with learning and pedagogy. As Frank Rosengarten observes, even though Gramsci was physically cut off from his sons (as they were living in the Soviet Union during much of his incarceration), he nevertheless took “an active interest” in their education, and used his letters as a means of commenting on “the educational ideas and practices that were circulating in Soviet Russia and Fascist Italy” (20). Moreover, the letters to his sons perhaps best exemplify Gramsci’s ability to blend the personal and the political. At times tender, at other times didactic, these letters are rarely filled with “conventional paternal guidance,” but instead are concerned with urging his sons “to think critically and to ask themselves not only what people believe but why they believe it and on what basis” (21). In short, because he tried to teach to them that feelings and ideas have historical and material origins, Gramsci was trying to instill in his sons a kind of nascent understanding of hegemony as part of their educational endeavors. This is because, as Gramsci tells his sister-in-law, “I think that it is appropriate to treat children

as already reasonable beings with whom one speaks seriously also about the most serious things; this makes a very deep impression on them, strengthens their character, but it especially prevents the child's formation from being left to chance impressions from the environment and to the mechanical nature of chance encounters" (*Letters* 1: 370). Although it is well beyond the scope of this chapter to examine Gramsci's rich body of letters more closely, it is nevertheless useful to point out that George Jackson is hardly the first individual to try and teach through composing letters, and he isn't even the first individual to try and extend a revolutionary program through them, either.

The most revealing letter that best demonstrates Jackson's complicated role as a pedagogue, and what I call his epistolary pedagogy, is one dated September 25<sup>th</sup>, 1969, and addressed to his brother. In it he tells Jonathan that in order to "help yourself" he must "serve the cause of black self-determination by picking yourself up and taking Chairman Mao's Great Leap Forward" (*Soledad* 195). The end of the letter, reproduced in its entirety, reads thus:

I hope you are involved in the academic program at your school, but knowing what I know about this country's schooling methods, they are not really directing you to any specialized line of study. They have not tried to ascertain what fits your character and disposition and to direct you accordingly. So you must do this yourself. Decide now what you would like to specialize in, *one thing* that you will drive at. Do you get it? *Decide now*. There are several things that we as a group, a revolutionary group, need badly: chemists, electronic engineers, surgeons, etc. Choose one and give it special attention at a certain time each day. Establish a certain time to give over to your specialty and let Robert know indirectly what you are doing. Then it only remains for you to get your A's on the little simple unnecessary subjects that the school requires. This is no real problem. It can be accomplished with just a little attention and study. But you must now start on your specialty, the thing that you plan to carry through this war of life. You must specialize in something. Just let it be something that will help the war effort. (original emphases, 195)

On the one hand, Jackson encourages his Jonathan to develop a supplementary course of study that caters to his own interests. This is in direct response to the limitations of schooling that

Jackson intimately understands, having been a product of it himself. On the other hand, the forms in which Jackson does this—the exhortatory, didactic language; the imperative mood, the commands, and the emphases—seem at odds with the nature of the revolution itself. For while Jackson provides his younger brother with some choice in what to study, he nevertheless insists his brother choose upon a fairly circumscribed set of pragmatic interests, and in so doing this seems to conflict with the ideal of the society to which the revolution is striving, a society predicated upon the dictum “From each according to his abilities, to each according to his needs,” as he tells his father in an early letter (44). (This is a direction quotation, one later widely sloganized, of Marx’s famous maxim from *Critique of the Gotha Program*.) Despite the fact that Jonathan was only sixteen at the time this letter was written, his older brother leaves him little time to organically develop an interest or interests, because Jonathan must, in some way, prove immediately useful to the revolution. This injunction is remarkably similar to Jackson’s critique of schooling: “They have not tried to ascertain what fits your character and disposition and to direct you accordingly,” though, paradoxically enough, the command is actually in response to the failings of that schooling in the first place. This, then, is largely the shape and tenor of Jackson’s epistolary pedagogy at the level of the individual letter: correct or “accepted” ideology, coupled with a fundamental (revolutionary) utilitarianism, all of which is conveyed in the form of commands and didactic language.

This long passage also makes plain the potential difficulties and inadequacies of being an imprisoned radical pedagogue, and of trying to instruct from the position of a letter-writer. The need to be as direct as possible informs the manner in which Jackson instructs his brother, and this is as largely a material concern as it is a temporal one. As one historian of letter-writing puts it, the letter-writer may not begin with the intention of purposefully delimiting the contents of an

individual letter, “but his choices, sooner or later, will make of the paper used [ . . . ] a sort of enclosure” (Guillén 12). Along these lines, we should keep in mind the exigencies of writing in prison, particularly those faced by Jackson: he had limited access to writing material or time, often because he was in solitary confinement, or was in the process of being transferred from prison to prison, and because his possessions were often confiscated or “lost.” Letter writing itself is a vexed proposition in prison, too. Jackson experienced many lags in communication and in time, as his letters were routinely sent only to be returned, or confiscated, or censored, or, again, accidentally or purposefully “lost.” Finally, and perhaps most importantly, Jackson was facing the very real possibility of his own death, at the hands of racist prison guards, or convicts, or the discriminating “indiscriminate” violence that might occur during a prison riot. That is to say, troublesome, outspoken political prisoners were often targeted and killed under the cover of otherwise chaotic prison uprisings during this period. Indeed, as Jackson’s own history makes clear, this was the official explanation used to justify Jackson’s death: he was supposedly killed in an escape attempt. It is also the reason why James Baldwin would later write, “No Black person will ever believe that George Jackson died the way they tell us he did” (qtd. in Jackson *Soledad* v).

If we widen our scope and move beyond the contents of individual letters, Jackson’s epistolary pedagogy emerges more sharply. His pedagogy can be better elaborated by stitching together recurring motifs about teaching and learning that develop across particular groupings (in certain letters addressed to his father, or to Jonathan, or to Angela Davis). But the picture that emerges reveals certain faults and fissures in his pedagogy; it is, by no means, a comprehensive, totalizing vision of education that he puts forth in his epistolary exchanges. In a lengthy letter to his lawyer Fay Stender, Jackson relates his struggle to convince his father of the value of his

revolutionary activities. He had decided to “force him with my revolutionary dialectic to question some of the mental barricades he’d thrown up to protect his body from what to him was an undefinable and omnipresent enemy” (*Soledad* 241). Jackson’s inability to communicate his ideas with his father through reason forces him to think of alternative means: “I felt that if I could superimpose the explosive doctrine of self-determination through people’s government and revolutionary culture upon what remained of his mind, draw him out into the real world, isolate and identify his real enemies, if I could hurl him through Fanon’s revolutionary catharsis, I would be serving him, the people, the historical obligation” (241). Simply put, Jackson admits to wanting to indoctrinate his own father, since the dialectical process has failed him in this instance. Dialectical exchange requires a fully functioning mind, a fully engaged mind, something he felt his father, who endured a lifetime of misinformation, comprehensively lacked. This passage makes evident that the outward violence of the revolution has an inward component as well: Jackson writes of “hurling” his father, of forcing a catharsis, and, most revealing, of “superimposing” revolutionary ideology. This should give us pause: how different is this form of education than mainstream schooling, which Jackson claims teaches “youth what to think, not how to think” (52), apart from the fact that it is part of a revolutionary party line?

In fact, much of the language that Jackson employs to describe future forms of education look very much like the forms of top-down schooling that he wishes to destroy. Authoritarian, teacher-centered, Eurocentric epistemologies may indeed be a “perverted science” (100), but the non-Western, and especially Asian, forms of instruction that he admires are equally as problematic. He writes to his father of “three ways to enforce and build discipline in a child: through terror, through guilt, and through shame” (128). The first results in a paralyzing sense of insecurity, in which the child “may later on try to prove himself by deliberately doing things

against what he has been taught is right,” while a pedagogy of guilt (which he associates strongly with religious instruction), shatters a child’s confidence so that he or she will become “the ubiquitous temporizer, the listless apathetic” (129). Only shame, which Jackson strongly associates with “Eastern people,” is the most effective way to instruct a child (129). In this system, the child is taught to feel shame or lose face, and that “he has let *himself* down” when he fails to do the proper thing” (129). (Aside from the supposedly Orientalized origin of this pedagogy, it is also remarkably close to that which Foucault describes as “discipline,” too.) In an earlier letter to his mother, he nevertheless vacillates on the effectiveness of Asian models when he shares an anecdote of a revolutionary Chinese school lesson he had read about in a magazine. Communist party cadre members visited an elementary school classroom and one leader, during the course of a “lecture,” told the children to “put their heads on the desk and pray to god for ice cream. After fifteen minutes of serious and sincere effort all the children lost interest and grew restive. He then told them to pray to him and the party for ice cream, whereupon a few minutes later they raised their heads from their desks and found, guess what, ice cream.” (92). Jackson ends the letter by commenting on how “disgusting” it is “to distort the thinking of children like that” (92). Disgusting, maybe, but nevertheless his Maoist plans for a revolutionary society include opening “schools that deal with the close-order combat arts, ostensibly as a community project to keep the children off the streets. The real intent, of course, is to instill the ‘attack as defense’ idea that we lost somewhere along the line” (290). Moreover, this revolutionary style of education should “run on the family plan—children with a role, women in the same roles as men, education standardized” (227-228). Wouldn’t this Maoist school operate under the same revolutionary logic as the school in which children are taught to have faith in the Party (and its leader), and to reject faith in God, and are thus rewarded with ice cream when they evince this

faith? Isn't the impetus behind a revolutionary standardization of education actually, at heart, the same impetus behind "schooling" itself—namely, to prepare future citizens and workers of the nation or, in Jackson's case, for the revolutionary society?

If the extent of Jackson's epistolary pedagogy were simply confined to the individual letter, or to the repetition of certain themes across a handful of letters, we would be hard pressed to reconcile the paradoxical, largely inconsistent, and, regrettably incomplete, picture of Jackson's take on education. But the way that Jackson began to address himself to multiple audiences over the course of the letters eventually compiled as *Soledad Brother* forces us to consider the pedagogical impact of the entire collection as well. Claudio Guillén's meditation on the historical genres of epistolary writing is useful here. According to Guillén, one of the notable features of letter-writing is its "web of linguistic relationships" predicated upon "polysemic" address and an "imaginary impulse connecting the writer with the addressee" (7). The writer, addressing an absent individual, must imagine "the blurred identity of that psychic presence, that second person, to and for whom the letter is written" (7), and this often results in elevated language and fictive content, what Guillén refers to as "the ambiguity of the references to the everyday environment in which the communication takes place" (7). Thus, while there is always a real person imagined as the recipient of a letter, some epistles exhibit a "multi-layered nature" because they simultaneously function as "private communication and public exhibition" (7). In other words, "What pretends to be available for reading by that second person is actually reread, and reread by others, by a third person, by other persons, by a particular class or public, or by another public at another point in historical time" (7).

By some point in 1970, Jackson began writing to compose letters that were intentionally addressing multiple audiences. The first letter included in *Soledad Brother*, dating from June 10,

1970, is ostensibly addressed to the editor of the collection, Gregory Armstrong, but it is clearly written to be an autobiographical introduction to Jackson's life and thought, evident when Jackson recapitulates the "prompt" asked of him in a prior correspondence, writing "I've been asked to explain myself, 'briefly,' before the world is done with me" (*Soledad* 4). Were this letter simply a personal reply to his editor, Jackson could very well have dispensed with this particular rhetorical gesture, but because he is essentially addressing himself to posterity itself, given his legitimate concerns about his mortality, the letter requires more contextualization for future readers. This changing notion of his addressees seems to coincide with his developing relationships with his lawyer Fay Stender and, later, with Angela Davis as well; what begins as shorter, everyday letters eventually evolve into long philosophical missives, the vehicles by which his revolutionary thought will be continually delivered long after his death. The language and perspective change, too. Jackson's rhetoric becomes more metaphorical, more historical, even more literary, despite his protestations that his letters are pragmatic communiqués and therefore artless: "I don't consider myself a writer, an intellectual [. . .], I don't prefer anything as mild as pen and paper" (306-307).<sup>75</sup> Consider the following:

*Dear Fay,*

For very obvious reasons it pains me to dwell on the past. As an individual, and as the male of our order I have only the proud flesh of very recent years to

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<sup>75</sup> Guillén contends that the closer a letter-writer "enters the region of literariness the more he frets and worries about what he is doing. He wonders [. . .] about the appropriateness of the subject matter and of the style that he has chosen" (9). Regarding the genre of the familiar letter, too, he also observes that one of the hallmarks of its "literariness" is, in fact, the writer's protestations that his or her work is actually spontaneous and artless, "however studied it may have been" (17): "'When I sit down to write a letter,' Swift will say, 'I never lean upon my elbow, till I have finished it.' And Sterne will pretend to despise those who send in a letter 'one premeditated word; such an intercourse would be an abomination'" (17). Jackson, too, would worry about his style. In one letter to Angela Davis, he tells her that he plans on writing on both sides of a letter, "and when I make a mistake I'll just scratch over it and continue on. That is my style, completely informal" (*Soledad* 280). In another letter he comments on his father trying to get him to write fiction, to which he responds, "I've tried to explain that I was too busy living—and you know where I've been these years—however, we can connect the two, feeling and writing, just drop the syntax" (306).

hold up as proof that I did not die in the sickbed in which I lay for so long. I've taken my lesson from the past and attempted to close it off.

I've drunk deeply from the cisterns of gall, swam against the current in Blood Alley, Urban Fascist Amerika, experienced the nose rub in shit, armed myself with a monumental hatred and tried to forget and pretend. (*Soledad* 233)

This is the opening of a nineteen-page letter, one of the lengthier, wide-ranging letters composed between April to June 1970. Although we lack the original letter from Stender to which Jackson is responding, this beginning does not seem to be a reply to any one particular issue or question. Instead, it reads like the expansive opening gambit of a philosophical and revolutionary meditation. We only see language like the metaphor of “proud flesh” (the growth that occurs around a healing wound) or the allegorical “Blood Alley” of the second paragraph when Jackson no longer writes only to a single interlocutor, but instead begins to address himself to other revolutionaries in his own day, and perhaps even to the post-revolutionary society to which he felt he was working.

If Guillén's contention about the extended readership of the individual letter is true, and Jackson's letters seem to indicate that they are true, then this has an obvious bearing upon the pedagogical impact of a single letter. In periods of revolutionary activity and reactionary state oppression, there is always a pragmatic quality to the way that single letters must necessarily address themselves to individuals beyond their named addressees and interlocutors. Gramsci sometimes used his letters to his sister-in-law to triangulate, in cryptic language and in code, conversations with other Italian Marxists and Communist Party members who were jailed in other prisons or driven underground or in exile. In Jackson's case, this dual-mode of address is also in keeping with the philosophy of *focoism* itself: a single letter must necessarily do the work to inform and educate the entire *foco*, given the likelihood that the state could intervene (via censorship, confiscation, or overt violence) and disrupt its activities, as it routinely did regarding

his mail. But it is evident that the closer he felt to his own death, the more Jackson was no longer writing even for the wider audience of his particular *foco*. Writing after his brother's death, it is clear that George had nevertheless conceived of Jonathan in the plural as the ideal revolutionary: he imagined the *focoist* rebellion as one comprised of many "terrible Jonathans teathed on the barrel of the political tool" (*Blood* 42). Those tools were the hard reality of life in the Black Colony, the canon of Marxist thought and revolutionary literature, and the collection of letters that would eventually comprise *Soledad Brother*.

Moreover, and just as importantly, the weight we accord an individual letter—its gravitas, its importance—and the way we consume that single epistle does not really compare to the significance of the collection as a whole. The tasks of writing an individual letter versus compiling, editing, and possibly rewriting a collection are radically different, and these two documents require different approaches to the original addressee, the individual readers afterward, or the audience of the entire corpus. As Guillén, writing of Petrarch's collection of letters, puts it:

The single letter is but a fragment, indivisible from a brief segment of time, too close to a familiar existence to be fully comprehensible. Significance is to be found in the entire process, in the sinuous itinerary of a particular moral conscience struggling along a whole lifetime, progressively testing what it knew and shaping itself from day to day. The reader of the whole thus encounters an overall tension between the quest for a unitary model and unitary meaning and the fragmenting difference and experience [. . .] of time and individual change. (13)

Revising, even completely rewriting, letters is often a key part of the compilation process, a process that helps a particular collection achieve that "unitary model." There is ample textual and extratextual evidence to demonstrate that Jackson intuitively understood this and acted accordingly. No letters exist prior to June 1964, for example. A footnote indicates that they were "accidentally destroyed" and that Jackson describes them as "extremely bitter" (note, *Soledad*

37). We might presumably conclude, too, that some of them were written prior to Jackson's ideological conversion and thus do not fit very well into the overall ideological arc of the collection. This is not pure conjecture, for elsewhere in the collection he displays a keen concern for the presentation of his revolutionary thought in the letters. At the other end of the collection, in the first letter composed after Jonathan Jackson's death, George writes, "Go over all the letters I've sent you, [and] any reference to Georgia being less than a perfect revolutionary's mama must be removed. Do it now! I want no possibility of anyone misunderstanding her as I did" (329). Symbolically, Jackson provides two dates for this particular letter, August 1970, and below that "Real Date, 2 days A.D." (329). The latter indicates a new way of counting time, post-Marin County Courthouse, and in *Blood in My Eye*, Jackson will repeatedly refer to this event as the "August 7<sup>th</sup> movement" (*Blood* 75). This also happens to be the final letter in the collection, thus Jackson ends it with a dramatic reordering of time—with the introduction of a revolutionary calendar—and the collection itself ends in an odd tension. In one sense Jackson indicates that the revolution, at long last, has finally arrived with Jonathan's death, but the collection itself now functions as a preserved slice of time, as a historical artifact in which its architect is frozen in time, always looking forward to a revolution perpetually held in abeyance.

Thus, while Jackson did not have the opportunity to evolve his pedagogy to the same extent that the Black Panthers did, it nevertheless does change depending on how he conceived of his audience. The imperative mood of his commands to Jonathan as Black Panther Field Marshal and *foco* leader in individual letters ostensibly take up everyday facets of life under the gun, and we should never lose sight of this register or level of discourse. However, according a single letter too much weight means that we often read only for its seeming idiosyncrasies and ideological inconsistencies. As such, we should regard the letters collectively, because certain

clearer motifs emerge over the course of these communiqués if we view them as a collection. The idiosyncrasies or inconsistencies of the single letter—often composed in solitary confinement, existing as a product of a hostile environment and an intellect under constant duress—might be more easily dismissed as errata when we consider the motif in total. Gramsci here is useful. In a kind of preface to the Fourth Notebook that also serves as an indirect warning to any future readers of his unfinished notebooks, Gramsci insists that the only way to read the unfinished works of Marx is through a highly self-aware, methodological, and programmatic “search for the leitmotiv” and appreciation for “the rhythm of the thought,” which are much more important “than single, isolated quotations.” Gramsci writes,

It is necessary, first of all, to trace the process of the thinker’s intellectual development in order to reconstruct it in accordance with those elements that become stable and permanent—that is, those elements really adopted by the author as his own thought, distinct and superior to the ‘material’ that he had studied earlier and that, at a certain time, he may have found attractive, even to the point of having accepted it provisionally and used it in his critical work or in his work of historical or scientific reconstruction. (2, 137)

The concept of hegemony, in a very literal sense, is a “leitmotiv” in Gramsci’s work, since we can only arrive at an understanding of it by collecting all the mentions of it and then weeding out inconsistencies in his thought to formulate a working definition; in no one place does Gramsci provide a solid working definition of the term. This is the danger of selective reading: the content of unfinished and unpublished work “must be treated with great discretion and caution: it must be regarded as not definitive, at least in that given form; it must be regarded as material still in the process of elaboration, still provisional” (137). Like Gramsci before him, Jackson had little time to revise and substantially rethink his individual letters, so much so that we should treat solitary comments regarding education carefully and look to his ideas as still very much in flux,

as experimental practices in the process of being theorized. This, then, is the second register in which we may read the letters of *Soledad Brother* and view Jackson's epistolary pedagogy.

But there is also a third. The commands to Jonathan, the collection of orders and requests to read certain books and study certain subjects and, above all, to occupy himself in the field of combat take on radically different resonances when we read them as communiqués composed simultaneously for today *and* tomorrow. At some point, Jackson begins writing for the benefit of posterity, for those still living after the *foco* has failed in its mission, as it surely would, and after he will have died pursuing that mission, as he surely would. The collection of letters articulates the contours of a revolutionary philosophy as it was actually practiced; it makes manifest a revolutionary life lived, a totality to be examined and understood by future revolutionaries. Thus, the limited impact of individual letters included in *Soledad Brother* is eclipsed and even transcended when we consider *Soledad Brother* as a different kind of pedagogical tool writ large. Stated differently, Jackson's epistolary pedagogy becomes more effective once the collection is substantially re-envisioned as a *single* letter to posterity, rather than as a loose collection of individual pedagogical instruments (variously addressed to different interlocutors) that are tasked with advancing the revolution.

## **6.6 CONCLUSION: JONATHAN JACKSON AS INTERLOCUTOR, STUDENT, COMRADE, AND "ALTER-EGO"**

Jackson's posthumously published manifesto and essay collection *Blood in My Eye* rarely receives the same critical and cultural attention accorded to *Soledad Brother*. Partly this is a result of the book's unflinching, unrepentant, and at times relentless call for revolutionary

violence. Rather than deny that revolutions are often brutal and vicious events (which so many “radicals” and “liberals,” especially white and middle-class ones do, as he makes clear), Jackson openly embraces revolutionary combat. In one infamous litany, he lists the many ways that a revolutionary may “correct individuals”:

The best way is to send one armed expert. I don’t mean to outshout him with logic, I mean correct him. Slay him, assassinate him with thuggee, by silenced pistol, shotgun, with a high-powered rifle shooting from four hundred yards away and behind a rock. Suffocation, strangulation, crucifixion, burning with flamethrower, dispatch by bomb. Auto accidents happen all day. People drown, get poleaxed, breathe noxious gases, get stabbed, get poisoned with bad water, ratsbane, germicides, hemlock, arsenic, strychnine, L.S.D. 25 concentrate, cyanide, hydrocyanic acid, vitriol. A snake could bite him, nicotine oil is deadly, an overdose of dope; there’s deadly nightshade, belladonna, datura, wolfsbane, foxglove, aconite, ptomaine, botulism, and the death of a thousand cuts. But a curse won’t work. (*Blood* 32-33)

Clearly, this perspective would be unpalatable for most would-be radicals and revolutionaries, and it is far removed from contemporaneous “banal discourses of idealized, hopeful, and (racially) reconciliatory civic ‘peace’ or ‘coexistence’” (Rodríguez 120). But, as Dylan Rodríguez argues, this is exactly the point: Jackson’s general refusal to engage in those discourses is, in *Blood in My Eye*, “amplified by his pedagogical commitment to stating the grounds of that principled refusal” (120): namely, state violence must be met with revolutionary violence. In a prescient rhetorical move, Jackson refers to revolutionary violence as “counter-terrorism,” inverting the way the nation labeled activities by groups like the Black Panthers as domestic terrorism (*Blood* 34), a move that still resonates today. Thus, at least for Rodríguez, there exists a pedagogical impulse even in a fiery and unapologetic manifesto calling for open guerilla warfare in the streets: a leader must be honest, he must lead by example, he must embody and make manifest the principles that he espouses. This is plainly evident when Jackson bluntly declares, “If people are to understand and related to revolutionary violence they must

first be educated into an acceptance of the fact that there is no alternative, or *that the alternative is less inviting than a fight*” (original emphasis, *Blood* 14). In this vein, Jackson is drawing on a long tradition within Marxist revolutionary thought; someone as seemingly removed from revolutionary violence as Jean-Paul Sartre essentially espouses the same idea when, in writing of the intellectual’s opposition to the Vietnam War, he declares that “the true intellectual, as a *radical* thinker, is neither a moralist nor an idealist: he knows that the only peace worth having in Vietnam will cost blood and tears; he knows that peace will only come after the withdrawal of American troops and the end of American bombing—therefore after the defeat of the United States” (254).

*Blood in My Eye* has a complementary—and we might even say dialectical—relationship to *Soledad Brother*. It concretizes Jackson’s thought into calls for direct action, and he does not engage in protective, guarded self-censorship, unlike a majority of the letters, which were written under the constant threat of institutional and state surveillance and suppression. In other words, *Blood in My Eye* affords him the space to speak plainly and openly, indicated by examples such as the enumeration of revolutionary violence cited above. This is something he could never do in letters attempting to circulate outside the institution. The book also provides a voice to the recently deceased Jonathan Jackson, because in the essay “Blood in My Eye,” we finally see a dialogical and dialectical relationship between the elder Jackson and his younger brother, as George extensively quotes from various letters from Jonathan as a way of moving through his own thoughts and revolutionary philosophy. A brief analysis of these fragments (for none are complete letters; all are excerpts) will serve to round out a discussion of Jackson’s epistolary pedagogy. If there is something to epistolary pedagogy, then it is only be fitting to see how those

lessons have taken hold by reading replies penned from the student-interlocutor and comrade-in-arms, a figure who fully emerges as George's free-world "alter-ego" (*Blood* 100).

George Jackson frames his younger brother Jonathan as a fully committed, fully realized revolutionary, at least according to the excerpts embedded in the essay "Blood in My Eye." Partly this is a result of the elder Jackson elevating his brother's letters to theoretically oriented communiqués and field "reports" (*Blood* 17, 35, 72), rather than referring to them solely as personal letters. Thus he treats the letters of his younger brother in the same manner that he treated his own letters; he clearly included Jonathan in the inner circle, as a core member of the *foco*. Jonathan plays his part, too, referring to his brother as "Comrade George" (51). The content of these reports detail life in the militarized ghetto of 1969, and they display the keen intellect of an urban guerilla insurgent well-versed in revolutionary and anticolonial theory. It would not be hyperbolic to say that Jonathan was also a student of repressive state tactics. Writing of police activity in his neighborhood just before influential BPP leaders Fred Hampton and Mark Clark were murdered in Chicago, Jonathan writes, "Repression is here! I've followed them, studied them, holed a few of their cars—you should see how they'll run when they can't tell from exactly what quarter they're drawing fire" (18). George intervenes to tell his readers that "Jonathan was sixteen years old then and he had just that year been allowed to drive a car. He liked to drive, and observe. He had long since learned to like the fight. Guns and weapons in general were his forte" (19).

What is remarkable is the language of education—of learning and studying and scholarship—that permeates these excerpts from his younger brother, a discourse that is inextricably bound up with a zeal for revolutionary violence. Jonathan "studied" police activity. He refers to his "joke of a secondary education" interfering with his real mission in the field of

engaging the police militarily and raising the “consciousness” of the people (*Blood* 21), contending that the potential for dramatically downing a police helicopter in the ghetto “has more to do with consciousness [raising] than anything else I can think of” (22). Like his older brother, he speaks of the effectiveness of white capitalist hegemony, observing—in language reminiscent in the letters of *Soledad Brother*—that “Blacks are conditioned to acquiesce” (23). He agrees with George that “repression [. . .] is, it has to be, a part of the revolutionary process, a necessary stage in the development of revolutionary consciousness” (25). He denounces black reactionaries and counterrevolutionaries of all types, including black nationalist or public intellectuals like Ron Karenga and LeRoi Jones who insisted that socialism or communist-inspired black revolutionary groups were not black enough: “I don’t think it is a personality clash at all for us to teach these black pigs that we will not be altered from our course, that the reward for counterrevolution is death!” (37). He even argues that revolutionary cells should institute their own forms of “testing,” one that “can be developed into a science—written stuff to help reestablish for ourselves the patterns” of cadres’ backgrounds (38):

You know, full commitment generally comes as a result of awareness, and awareness is the product of study and observation. The things a person has gone to the effort of reading and analyzing say a great deal about his character. [. . .]  
You can generally tell what processes a man’s mind has gone through by what he’s studied, observed. So examine, even the Post Office will do that. Written and oral tests—drugs are not to be discounted either, oral tests under truth drugs. Then you have the ultimate tests, the things that no agent of the establishment could do. Like assassinate the local head of the Gestapo. (38)

As George Jackson puts it, both he and his brother agree that the notion that “all workers must be politically educated before the revolution can support a violent thrust verges on the absurd” (*Blood* 45), instead preferring the focoist-oriented direct action approach, to be followed by political education and consciousness-raising. These *focos* are what Jonathan refers as “the new

set of tactics” necessarily to overturn years of ineffective action like “disorganized activity, of riots and rallies, and purely political agitation/education” (11).

As is clear from these excerpts, we encounter some difficulty in disentangling orthodox revolutionary thought as the result of intense study and conviction—those beliefs of the true believers—from the kind of doctrinaire rhetorical zealotry espoused by a young brother full of love and admiration for his brother. We can only partially reconstruct the quality and activities of George Jackson’s political classes in prison from secondary sources, but the task of reconstructing a more complete picture of Jonathan Jackson’s life and thoughts is an even more difficult project. We are left with his failed hostage-taking situation, one that his more famous brother would learn from and retheorize in the manner of the true *focoist*, who sought to use it as “a springboard” for “experience and knowledge” (Debray 23). And we are left with the public presentation of a handful of fragmentary letters, or field reports. Those fragments clearly display a desire to enact the anticapitalist and antiracist revolution in the streets, but they are also entirely interwoven with his older brother’s thoughts and perspectives, so much so that Jonathan is only ever heard as mediated through his older brother’s revolutionary philosophy. Jonathan’s complexity is radically reduced in *Blood in My Eye*. It is clear that George loved him dearly, but Jonathan is nevertheless only presented as a mythic revolutionary figure. His is the death that marks a new way of keeping time; Jonathan is “the real supper-nigger” (*Blood* 74); one of the “two perfectly harmonious fists: the left ‘front ram’ of the Black Panthers’ political thrust and the left [did Jackson mean right here?] ‘back ram’ of the August 7<sup>th</sup> movement” (74). Or, just as problematically, Jonathan is presented as refracted fragments of his older brother’s thought. What ostensibly seems “dialectical”—Jackson’s attempt to engage with the failure of his brother’s activity, to reinvigorate that failure by retheorizing it, by incorporating his brother’s

language in his own—often has the feel of a solitary writer raging at the inadequacies of his own failures in a rather monologic manner. Jonathan’s fragments operate as pieces of a revolutionary collage, as pieces of the most famous Soledad Brother’s oeuvre, rather than as the thought of a separate, though like-minded, individual.

As such, we are again left with the problem of Black Panther revolutionary pedagogy, and with the key problem of teaching through monologic, writely-oriented devices like the letter. The problem with indoctrination is precisely in determining where the indoctrinator ends and the indoctrinated begins. We should be wary of Jackson’s unironic eulogy of his younger brother when he states that “I knew him well, since he was and still is my alter ego. He went to liberate and educate with aggressive and free action. [. . .] He wasn’t a speechmaker and neither am I” (*Blood* 100). Jackson conceived of himself as an actor and agent, and in both his teaching and his militancy in prison he certainly was, but isn’t there also something of the speechmaker embedded in the complicated modes and levels of address in *Soledad Brother* too? And, ultimately, what does it say about Jackson that he conceived of his younger brother as an alter-ego, as his other-I capable of free-world activity?

It is exceptionally difficult to separate the manner of George Jackson’s teaching from the conditions around it. We don’t know what his political education classes in prison looked like, and can only make educated guesses about them based on the testimony in his letters and from peers who participated in them. The exigencies that informed his approach to letter-writing itself were, indeed, life and death, a fact that forced him to use a language and develop an approach that was as efficient, and spare, and lean as possible. And although the exchanging of letters is, by its very nature, dialogic (though not necessarily *dialectical*), the letters of *Soledad Brother* are necessarily monologic, and we only have a few glimpses into the words and thoughts of

Jackson's many interlocutors, such as those in *Blood in My Eye*. But those fragments were produced by a young man that Elaine Brown and other Panthers felt "was too serious most of the time, though he was only seventeen years old" (218). On learning of Jonathan's death, Brown wept: "Another man-child gone. [. . .] It was still too much. Jonathan was only a boy, a boy who had had a crush on Angela Davis, a boy who was a science genius, a boy who loved songs, my songs, and above all, a boy who loved his only brother more than life" (230). It is unsurprising that this is the case; how should he feel, as the younger brother of an incarcerated celebrity? And even if George Jackson wasn't famous, he was still incarcerated for life and battling violent daily irruptions of racism inside prison, cause enough to prematurely age a sensitive younger brother, to turn a bright teenager dour and over-serious. Jonathan firmly believed in the same revolution that his brother extolled, and he attempted to jumpstart it—and free his brother in the process—when he took the Marin County Courthouse hostage, but the question that remains for me is, simply, was this the natural consequence (or, some might say, the unnatural result) of Jackson's specific form of instruction, of his pedagogy? It is hard to tell.

Finally, and perhaps most importantly, Jackson never really had the time to advance his pedagogy beyond the direct, epistolary kind, even though, as I argue above, his intended interlocutor did change, which also affected the way he took to instruction. He died before he had the opportunity to experiment with it, to shape it, and to perhaps evolve it in the ways that Black Panther pedagogies would change over time. It seems likely that even if he had his version of education would not have effected any kind of permanent structural change. The Black Panthers, who were better organized (for a time anyway) eventually gave way to working within the already existing articulations of power rather providing working alternatives to it before collapsing entirely. And the pedagogy of failure at the core of *focoism* seems to have been a

different way of articulating a kind of fatalism and, perhaps, cynicism regarding the future of the revolution. A different way to say this is that the philosophy of the *focoist* revolution is predicated upon a clear-eyed, pragmatic vision of the world—that revolutionaries are going to die—as well as a kind of romanticization of the doomed revolutionary too. It was no doubt an impressive sounding model of revolution when understood hypothetically, as theory, but no doubt that understanding permanently changed for Jackson once his younger brother became the latest in a long line of failed revolutionary friends and family.

While it seems a rather easy, pat response to say, “We can never tell,” this seems to be the only response to Jackson and his epistolary pedagogy. Though many individuals who benefitted from Jackson’s example still live and can attest to the power that he had on them, especially in terms of the impact of *Soledad Brother*, his political vision effectively died with his death and with the brutal suppression of the Attica rebellion. Moreover, his clearest vision of the revolution, *Blood in My Eye*, has been relegated to exist as Jackson’s “other” book, the one that is more difficult and uncomfortable to assess because of its uncompromising support of violence. At the very beginning of *Soledad Brother*, he writes, “I’ve been asked to explain myself, ‘briefly,’ before the world has done with me. It is difficult because I don’t recognize uniqueness, not as it’s applied to individualism, because it is too tightly tied into decadent capitalist culture” (4). He would no doubt find it cruelly ironic, then, that the only lasting impression he had was an emblematic, mythological one.

**7.0 CHAPTER FOUR: REVISING WOMEN IN THE CONCRETE WOMB:  
TESTIMONIAL WRITING AND EMOTIONAL LABOR IN *COULDN'T KEEP IT TO  
MYSELF AND I'LL FLY AWAY***

“You know, I’m not going to let them rehabilitate me.

I’m the only one who can rehabilitate me.”

—quoted in Kathryn Watterson’s *Women in Prison*

**7.1 THE CONCRETE WOMB**

This chapter, which takes up female prison writers and their contributions to two popular anthologies of testimonial writing, *Couldn’t Keep it to Myself* (CKTM, 2003) and *I’ll Fly Away* (IFA, 2007), serves as a radical departure from previous chapters in four key ways. The first, the most obvious, is the gender of the writers themselves. Some are white, some African American, others Latinas; some identify as straight and others as lesbian or queer, but all are women. This difference alone merits some consideration of the ways that the incarceration of women differs historically to the incarceration of men.<sup>76</sup> The second is that the notion of labor that circulates in

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<sup>76</sup> While homosexuality and queerness are important issues regarding penal institutions in general, these issues largely fall outside of the scope of this particular project. This chapter may be rightly critiqued as operating under a fairly conservative man-woman gender dyad. A more comprehensive understanding of queerness, possibly in a

this chapter is a radically different one than the notions of labor that circulate in previous chapters. This, too, is rooted in historically different ideas about gender and labor. But it is also a result of recent attempts on the part of feminist economists, sociologists, and labor theorists to think beyond the young, white, industrial laborer as the normative, ideal worker and to advance alternatives to Fordist-inspired models of productive labor. I consider both of these issues in some detail in this chapter. The third difference is that the scope of this chapter attempts to take a broader approach to its primary texts. Rather than focusing on the written efforts of one writer over the course of his years in prison, and in some case to consider only one key text produced as part of those labors, this chapter examines many different pieces composed by different authors in an effort to think about the various experiences of incarcerated women prison-writers and -workers at the end of the 20<sup>th</sup> century. Finally, and perhaps most importantly, the sentiments that circulate in these writings about the value and utility of prison sentences are not wholly negative. This, as we shall see, is an important departure from the anti-authoritarian and anti-prison stances held by Robert Stroud, Caryl Chessman, and, most notably, George Jackson.

Gender is rapidly emerging as an important if somewhat understudied issue regarding current incarceration concerns, which thus informs my decision to consider these two anthologies. But there are other, more thematic reasons for choosing these two books, as opposed to many of the recent published anthologies of prison writing, such as those published as a result of PEN prison writing efforts.<sup>77</sup> First, there is a certainly timeliness in the publication of these

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future version of this chapter and in the Robert Stroud chapter, would definitely deepen and enrich the gender and sexual politics that circulate in work. For a fuller examination of penal spaces and queerness, see Regina Kunzel's recent monograph *Criminal Intimacy: Prison and the Uneven History of Modern American Sexuality*.

<sup>77</sup> PEN has been instrumental in increasing the visibility of prison-produced writing over the last two decades as well as encouraging new writers. But this work is also somewhat problematic. As Dylan Rodríguez points out, a number of prison anthologies have been published as part of dual process in which prison writing itself has started to "occupy a discrete—if marginal—space within academia and the literary 'market' at precisely the time of the

works. The release of *Couldn't Keep It to Myself* occurred one year before Angela Davis published one of the most important contemporary books on the current prison crisis, *Are Prisons Obsolete?* (2004). In that book, Davis attends to the ways that the prison-industrial complex handles issues of gender, including the prevalence of sexual assault (whether it is committed individually or, in the case of mandatory strip searches, administratively) and the changing political climate that has increasingly sought to treat women exactly the same as men, at least when it comes to prison time and other punitive measures. *Couldn't Keep It to Myself* dramatically represents many of the issues that Davis raises, but it does so for a specifically non-academic readership, a readership informed by in part by the popularity of its novelist-editor, Wally Lamb.<sup>78</sup> Its popular success, coupled with the later success of *I'll Fly Away*, has also anticipated a number of more recent publications about (or by) women in prison, including Victoria Law's *Resistance Behind Bars: The Struggles of Incarcerated Women* (2009); the anthology *Interrupted Life: Experiences of Incarcerated Women in the United States* (2010, edited by Rickie Solinger and others); Maisha T. Winn's *Girl Time: Literacy, Justice, and the School-to-Prison Pipeline* (2011) and another anthology of testimony, *Inside This Place, Not of It: Narratives from Women's Prisons* (2011, edited by Robin Levi and Ayelet Waldman).<sup>79</sup>

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prison's transformation into a primary economic, political, and social institution of American life" (81). He singles out one popular PEN collection, *Doing Time*, edited by Bell Chevigny (1999), because he claims that it serves to "reflect the rehabilitation mandates of prison education and literacy training programs" (81), and thus serves hegemonic and institutional purposes more than the writers published in it.

<sup>78</sup> To be fair, both *Are Prisons Obsolete?*, and, to a lesser extent, its companion volume *Abolition Democracy: Beyond Empire, Prisons, and Torture* (a series of wide-ranging interviews with Davis published in 2005) are also meant to be read and consumed more widely than some of Davis's more scholarly or academic work. Both are published by Seven Stories Press, a relatively new independent press based out of New York City that publishes titles on human rights and social justice issues as well as contemporary world literature. The books themselves are pocket-size—*Are Prisons Obsolete?* checks in at only 115 pages—and their scholarly apparatuses take up relatively the same textual space as information about abolition and anti-prison resources (including mailing and email addresses and URLs of noteworthy organizations like Critical Resistance or Justice NOW (the Justice Network on Women) for those who might be galvanized to action by reading the books.

<sup>79</sup> An earlier anthology on women in prison consulted for this chapter is *No Safe Haven: Stories of Women in Prison*, edited by Lori B. Girshick (2000).

More importantly, my decision to examine these two texts is based on the fact that many of the narratives included in them, as well as attendant contextual devices such as the biographical information about each writer, speak directly to their lives as incarcerated workers. This is not true of a vast majority of the anthologies of prison writing that now circulate, and so these two books are instructive to consider the intersections of prison labor and writing at the beginning of the 21<sup>st</sup> century. As a whole, both *Couldn't Keep It to Myself* and *I'll Fly Away* seem deliberately constructed in such a way as to demonstrate just how much work these women-writers actually assume while imprisoned. The writers in these collections are probably not representative of women prisoners as a whole in terms of the amount of work that they undertake, although their varied responses to it, from disdain for compulsory work details to the joy experienced at working in a prison garden, are probably representative of the spectrum of attitudes that prisoners in general feel towards prison work, which is particularly useful in trying to achieve a fuller sense of sentiments circulating among prisoners of all genders today. Finally, there is also a certain value in considering the working lives of those housed under the same roof, or behind the same bars, as it were. Since all the writers contributing to the anthologies were incarcerated at the same institution (with the notable exception of one prisoner and the contributions of the editor and workshop instructor), we also get a more thorough sense of the entire work-day of a single prison. These writers bear witness to the full range of paid, unpaid, voluntary, coerced, and ad hoc activities that should be considered contemporary “prison labor.”

The controlling metaphor in the title of this chapter, “Revising Women in the Concrete Womb,” partly alludes to Kathryn Watterson’s groundbreaking study, *Women in Prison: Inside the Concrete Womb*, first published in 1973. (A significantly revised and updated edition of the book was published in 1996.) Watterson’s metaphor for prison, the concrete womb, evokes

valences that other popular euphemisms for prison, like “the Big House” or “the Slammer” lack. The biological or anatomical nature of “the concrete womb” is the most obvious and the most compelling: what does it mean to call prison a “womb”? This metaphor feminizes the social body in a direct way, and evokes the important idea that prisons actually deal in and with bodies, an important facet I consider in this chapter. Watterson’s metaphor also obliquely refers to the enforced infantilization experienced by many convicts, a reordering of social relationships and power dynamics wrought by institutional and state policies and articulated even by the minutest tendencies in prison life. This infantilization manifests in a variety of ways, depending on the social and political situation. Prison officials worry about “babying” or “coddling” female prisoners, for instance; this is a sentiment evoked as part of a larger conservative concern with getting tough on crime (77-78). The culture of mistrust that is carefully modulated in prison adds to this infantilization. If prison officials see themselves as parents in charge of unruly children—another common metaphor circulating among administrators—then this allows them to view practices such as strip searching after visits as a mode of familial correction: the women are simply not to be trusted. Modes of address reinforce infantilization: inmates are routinely referred to as “girls” or by their first or last name, whereas prison officials are addressed formally, by rank and title. But as Watterson interviewee Aletha Curtis declares, “I ain’t no girl. I got ten kids. That ain’t no girl there” (147).

However, “the concrete womb” is a much more nuanced and complex metaphor than its obvious anatomical allusions. Watterson usefully points out that penal institutions also paradoxically serve as a welcome, natural space—a kind of hospitable proxy womb—for some women prisoners. The collective abuse, addiction, and sheer arbitrariness inherent in the concrete womb reflects the brokenness of the individuals who live there, yet the thick walls, concertina

wire, and armed guards also keep other threats at bay. Prison provides a real sense of “artificial security” for some inmates “because there is a whole subculture in American that depends on being controlled and imprisoned—with drugs, with alcohol, or in jail” (345). Jail provides a more predictable life than do the streets, and for some the penal institution concretizes and regularizes an escape from fear: “fear of an overwhelming society, fear of powerlessness, fear of the unknown, and fear of the known” (345). She writes, “the ‘normality’ of going to prison and the security of a concrete womb after a lifetime of abuse and oppression lull many people into never asking why. [ . . . ] Jail has become just a part of the bigger world—an extension of ‘the life,’ a reinforcement of natural self-destruction learned during formative childhood years from models who never asked why either” (63-64).

In acknowledging the existence of women who feel some comfort and security in prison—either because it actually does or because those women have been, in one way or another, pathologically and existentially conditioned to feel that way—Watterson helps us to understand that there is, indeed, no monolithic response to prison on the part of prisoners themselves. This point is also clearly demonstrated in the narratives presented by the edited collections that represent the primary texts of this chapter. As mentioned earlier, one benefit of choosing contemporary anthologies of personal narratives is that the collection of these voices are perhaps more indicative of the prevailing sentiments among prisoners as a whole. The singular focus on one prisoner—a George Jackson, for instance—has the tendency to obscure broader structures of feeling circulating within the institution at the time of that individual’s incarceration. Anecdotes abound in prison writing that provide alternative perspectives to the significance often accorded to the more notable or outspoken prison writer. In his memoir *Education of a Felon* (2000), for example, the novelist Edward Bunker, who was incarcerated in

California at the same time as the Soledad Brother controversy, accuses Jackson and his army of carefully cultivating a climate of race-based, reactionary violence and terrorism in California prisons: “George Jackson was pure sociopath and had the sociopath’s characteristic lack of patience. Moreover, he had a worm’s-eye view of the world and somehow believed that revolution was imminent” (265). Jackson had supposedly “expanded the violence to the noninvolved” (266), forcing a revolutionary politics and violence on a body of prisoners who had, as late as the 1950s and early parts of the 1960s, only saw themselves as prisoners. (I have a feeling that the truth of the situation lies somewhat between Bunker’s perspective and Jackson’s carefully composed self-image.)

Another example is the broadly shared sentiment succinctly captured in Merle Haggard’s chorus from his song “Mama Tried”: “And I turned twenty-one in prison doing life without parole, / No one could steer me right but Mama tried, Mama tried. / Mama tried to raise me better, but her pleading I denied, / That leaves only me to blame 'cause Mama tried.” This semi-autobiographical song was released in 1968, during the height of liberal and radical coalition-building and broad-based Civil Rights protests and agitations in and out of prison. The song’s insistence on the narrator’s free will and ultimate culpability regarding his crimes could be considered politically conservative, especially in light of radical Black convicts like Eldridge Cleaver or Jackson who blamed (in part) a racist and capitalist society for theirs. H. Bruce Franklin, who in some capacity attempts to redeem the singer from “the usual liberal caricature of Haggard as a raving reactionary” by insisting upon his working-class, common-man ethos (271), nevertheless contends that the song “dramatically reveals the limiting effects” of Haggard’s insistence upon the lone criminal (270). The song serves a conveniently hegemonic purpose for law-and-order conservative politicians who, in agreement with the song’s chorus,

insist entirely upon individual responsibility when it comes to crime—and then used that pretext to utterly destroy social safety nets. But from a different perspective Haggard could very well be speaking for the general feelings shared by many prisoners—white, black, or otherwise—who never saw themselves as “political” individuals. It is quite possible that the song even speaks to the sentiment held by some political prisoners in light of the regret they feel for having abandoned their mothers and fathers. Beneath the ideological rhetoric, after all, revolutionaries often still have families and loved-ones living outside the prison, and revolutionaries, too, are emotive beings in the world, not just intellectual or militant ones. Perhaps in some capacities, Haggard’s song may be more representative of a silent majority of prisoners in 1968 who were toiling away under their sentences and who wanted nothing more than to remain politically neutral, avoid conflict, and leave prison once and for all. As these admittedly disparate examples thus demonstrate, the benefit of examining many personal testimonies collectively is that we get a more thorough and comprehensive sense of the *communities* that exist in prison, as well as of the individuals who composed their essays. Paradoxically, then, the writers in *CKTM* and *IFA* emerge more fully as individuals in light of the way that they present themselves to the world as part of a collective writing and publishing enterprise.

As we shall see, these two anthologies under examination in this chapter, and the labor that went in to writing and producing them, represent a complex set of conditions, perspectives, and contingencies that had to be navigated successfully before these women could be heard. For many of these writer-prisoner-laborers, the publication of their work represents the first time that they have felt legitimate agency over their own lives precisely because they were allowed to control, to a great extent, the authorship of their own narratives. Prior to achieving this newfound and hard-fought agency, these women have routinely been, at best, the nominal subject of their

familial, spousal, economic, and legal narratives, or, at worst, occluded from, objectified by, or entirely written out of them. Although many writers, critics, therapists, and psychologists have demonstrated that assuming authorship is both powerful and therapeutic, what I hope to do in this chapter is to reframe that discussion, or at least to approach it from a different angle, by contextualizing the process of assuming authorship as a specific set of labor practices. One of the chief goals of this chapter is to examine and contextualize—to make visible and foreground—the largely invisible, silenced, and dismissed, or at least, dismissible, labor that these writers have undertaken in order to produce these narratives and author their own lives, and to set that work in sharp contrast to other forms of labor that are more widely available or preferred by penal institutions. And revision, as I argue, is a key part of this labor. The revision I have in mind is certainly a writerly activity, but for these authors, the revising they undertake has reciprocal embodied, emotive, and affective effects, too. Writing and rewriting impart a set of literacy skills, what one theorist calls “emotional literacy,” that these writers usefully employ to better understand themselves, particularly when they use them to revise perspectives about their bodies, lives, pasts, and current places in the world. But in order to understand how this work happens, we must first consider how we arrived at this particular historical moment regarding women prisoners and then examine what it means to call these highly contingent and nonstandard forms of labor as legitimate forms of work. In essence, we must redefine the traditional—and now largely defunct—parameters of labor to include the much wider variety of activities that these women call “work.”

## **7.2 HISTORICAL CONTEXTS FOR THE INCARCERATION OF WOMEN**

Women represent a distinct minority in the history of incarceration, and indeed in the history of punishment itself. Confinement, particularly in religious institutions like convents and later in asylums, was actually the preferred method of handling some unruly women. The historical record indicates that institutional confinement in “nunneries, monasteries, castles and watch-towers” exist as far back as the late middle ages and thus predates more modern, paradigmatic forms of incarceration-as-punishment (Dobash et al 15). During this same period, male criminals were rarely confined for long stretches of time, if at all. But the development of the modern penal institution takes as its ideal subject the young male (and white) criminal, and historically the law has always treated women much differently than men. In some ways it has allowed for more leniency, flexibility, and judiciousness when judging and sentencing female criminals; the practice of pleading the belly, a gender-specific stay of execution, is one such practice of mercy that was only available to (pregnant) women. In other ways, though, women have been held to a much higher moral standard than men, and female criminals have been routinely punished more harshly and savagely and stigmatized for longer durations than their male counterparts.

Some crimes have always been gender-specific. Women were overwhelmingly the practitioners of medieval crimes for gossiping, scolding, and practicing prostitution and/or witchcraft. Other crimes, though not gender-specific, nevertheless merited radically different responses: in the medieval period women adulterers could be executed, and the murder of a husband would certainly result in death, but male adultery was often treated as a peccadillo and the murder of wives could sometimes be legally excused or forgiven (Dobash et al 17). The prosecution and punishment of witchcraft best indicates the widely disparate punitive responses to crime when the question of gender is involved. Though both men and women were accused of

practicing witchcraft, “80 or 90 per cent of the offenders were women” (17), and most often those women “were older, independent, though relatively powerless, and some were knowledgeable in the ancient art of healing” (17). These women were prosecuted (and persecuted) because they embodied specific threats to the normative, patriarchal, and religious social order of medieval society. The elaborate public spectacles of torture, maiming, and confession that occurred prior to execution of witches thus functioned in a way that singled out and objectified female bodies, making them, as it were, “the instruments for exorcising political and social evils, establishing the power of institutions, and for the symbolic marking of boundaries of appropriate female behaviour” (18). In many ways—until recently, that is—incarceration operated under a similar paradigm of irreducible gender difference.

Widespread incarceration began in earnest during the Victorian era, and it is important to consider this period’s characterization of criminality and its gender expectations to better contextualize our current methods of dealing with women criminals. In many ways, our moment is affected by long-entrenched legal structures and residual moral and ethical sensibilities of this earlier period, what we could certainly consider Victorian structures of feeling, to call upon Raymond Williams’s useful term. Analogous to the medieval witch and all that she represented in the medieval period, the Victorian criminal woman existed as an affront to her society’s version of womanhood. Criminal activities corroded all the social and familial institutions (motherhood, the nuclear family, and the church) that formulated and defined her womanhood; her crimes often violated and undermined the ethics and morals like chastity and sacrifice that she should have embodied. A woman’s closer proximity to the domestic sphere and to children—and in particular to children’s moral education—meant that her fall was greater, more spectacular, and more irredeemable than that of man’s, although this latter sentiment would

change somewhat over the 19<sup>th</sup> century as penology developed into a science, losing some of its more overtly moral and religious trappings. But even the apparent scienticism that accompanied early penological studies of female criminality, such as Cesare Lombroso and Guglielmo Ferrero's groundbreaking *Criminal Woman, the Prostitute, and the Normal Woman* (1893), could not entirely avoid these moralistic associations. Lombroso—who positivistic approach (informed, as it were, by Darwinian and Spencerian theories) sought to prove that criminality was a direct result of inheritable anatomical or physiological differences—argues that “maternity works as a sort of moral vaccine against evil,” that “maternity has an anticriminogenic effect” (204). Well into the 20<sup>th</sup> century, science built upon and in some ways improved the foundation of a well-entrenched moralism concerning the Victorian figure of the female criminal.

The rhetoric that accompanied Victorian perspectives on criminality are revealing for their scope and stunning in their “ferocity” (Dobash et al 45). English investigative journalist Henry Mayhew, who published widely on the conditions of English jails and prisons, wrote of women prisoners, “In them one sees the most hideous picture of all human weakness and depravity—a picture the more striking because exhibiting the coarsest and rudest moral features in connection with a being whom we are apt to regard as the most graceful and gentle form of humanity” (qtd. in Zedner 298). Quaker women who toured English prisons were just as vociferous in their condemnation; one described the prisoners she saw as “the very scum both of the city and the country,” whereas another saw them as “lost [. . .] in every species of depravity” (qtd. in Dodge 16). In the United States, the rhetoric was the same. The proliferation of choice phrases describing female prisoners is so great that L. Mara Dodge calls upon them as titles for a number of chapters in her monograph *“Whores and Thieves of the Worst Kind”: A Study of Women, Crime, and Prisons, 1835-2000*: one chapter (on female convicts at Alton Penitentiary

from 1835-1858) is called “‘One Female Prisoner is of More Trouble than Twenty Males’”; another, on those at Joliet from 1859-1896, is entitled, “‘The Most Degraded of Their Sex, if Not of Humanity.’”

Watterson contends that even those women who were incarcerated for progressive political activity, like “abolitionists, suffragists, [. . .] or pro-union women speaking in public places,” were always conceived of as threats to the nuclear family and were thus “condemned as ‘wild,’ ‘loose,’ ‘immoral,’ or ‘fallen.’ The general public seemed more upset and distracted by a ‘general breakdown of inhibitions’ than by the issues involved” (33). Often, too, female convicts thus became “anti-mothers” (34). This rhetoric itself operates under a particular kind of patriarchal, capitalist ethic: “loose” profligate women and criminal mothers are doubly castigated for breaking social taboos. They are selfish because they seek their own pleasure (in alcohol or drugs, pre- or extramarital sex, other vices located outside of the home) rather than rearing children “correctly.” These Victorian taboos found a new currency during the Fordist industrial period. In his *Notebooks*, Gramsci examines the reasons Henry Ford was adamant that his workers preserve and consecrate the nuclear family, abstain from drink, and comport themselves in a moral manner as part of a “puritanical” struggle against excess that was also instrumental in supporting increased industrial productivity (2, 216). But why does this Victorian sentiment still exist, and in what new forms does it now circulate?

In his lectures on biopolitics, Foucault argues that under neoliberalism the family serves as a primary locus for the institution, development, and maintenance of “educational investment” in the service of “human capital.” Humans begin to voluntarily function as “abilities-machines” in the service of producing capital, as well as market (and marketable) subjectivities, and because life itself has become subsumed as a field of economics, even those activities that do not merit

wages function as a means of future “investment” (*Birth* 229). The time a mother spends with her children thus functions as one kind of “investment” in the development of human capital: “time spent, care given, as well as the parents’ education [. . .] in short, the set of cultural stimuli received by the child, will all contribute to the formation of those elements that can make up a human capital” (230). In other words, “everything comprising what could be called [. . .] the formative or educational relationship, in the widest sense of the term, between mother and child, can be analyzed in terms of investment, capital costs, and profit—both economic and psychological profit—on the capital invested” (244). The enduring Victorian sensibilities about bad motherhood have been modified and recast as a purely economic issue, as a kind of debit, so that the contemporary anti-mother (the drug addict, the alcoholic, the “welfare queen,” the convict) does not actually participate in one of the dominant modes of the neoliberal preparation of workers. If she is incarcerated, her immobility, too, decreases her capacity to participate (or, rather, “invest”) in her own life as well as those of her children; mobility is an important factor of one’s capacity to generate human capital (230). Thus, if a mother is locked up today, she is not properly attending to her children as sources of human capital, and this has a cumulatively negative effect, as a parent’s capacities for investment are carried down generationally. We should consider then, the widening gap of inequality under neoliberalism not as coincidental to, but in fact as directly impacted by the increase in incarceration rates. This is why Loïc Wacquant’s objection to the term “mass incarceration,” in favor of the more historically and socially contingent “hyper-incarceration,” is an important qualification: those most affected by deindustrialization and globalization and urban decay under neoliberalism have also lost the ability to generate any kind of human capital—they no longer even function as “surplus” labor anymore (“Response”). This devolves generationally, so that the inner-city black ghetto, or the

Native American reservation, is situated almost entirely outside current economic considerations, and has been for the better part of four decades.

Then, as now, the female criminal is worse than the male criminal, is “considered more morally depraved and corrupt” than her male counterpart, and is thus “in need of special, closer forms of control and confinement” (Dobash et al 1). One facet of these special controls was eventually reflected in the actual architecture of the European and North American penal institutes of the late 19<sup>th</sup> and 20<sup>th</sup> century that housed women, and in the name those institutions would bear. Initially, women sent to prison cohabitated with men or, at best, lived among other women in a single wing of prisons otherwise dominated by male prisoners, although certain penologically progressive nations, such as Holland, experimented with separate institutions for the sexes as early as the sixteenth century (see the comments regarding the *spinhuis* in the introduction). Part of the reason cohabitation was eventually overturned is because certain prison-wings devoted to female inmates began to double as convenient brothels, and sex work thus emerged as a serious threat to undermine the social missions of workhouses and early jails.<sup>80</sup> Another reason is because when separate institutions or wings were not feasible plans, women were often incarcerated alongside “supposedly vulnerable male prisoners, such as lunatics or men who had given evidence against friends,” with obviously deleterious effects on mental health and rehabilitative endeavors (Zedner 297). When Victorian moralists and prison administrators decided that cohabitation was ethically, socially, and administratively untenable, designs were made to develop a new penal institution for women. These institutions were *reformatories*, not prisons, or penitentiaries, or the “Big House”; the first in the United States,

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<sup>80</sup> As Lucia Zedner puts it, incarcerated women, such as those at the London Bridewell, were persuaded monetarily or by physical threats of violence to engage in sexual activity, what she rightly considers an “unorthodox form of prison employment” (295).

Mount Pleasant Female Prison, was constructed in 1835 in New York, but it remained the only one in existence until the 1870s (Zedner 302). Structurally, these reformatories were not “Big Houses,” either, as they lacked the imposing Gothic architecture of late 19<sup>th</sup> century penitentiaries for men. Instead, reformatories were domestic in name and in layout. From the late 19<sup>th</sup> century through at least the first five decades of the 20<sup>th</sup> century, the women who were sentenced to reformatories arrived at facilities designed to look like cottages, usually with minimal security (Dobash et al 88). Some look like the proverbial “Club Fed” that conservative critics now routinely evoke in their calls for tougher laws and sentencing. Cornton Vale, a women’s prison in Scotland modeled on the American cottage style and opened in 1975, appears more “like a housing estate or holiday camp, or university campus,” consisting of “low white clusters of buildings set among neat gardens” (131). The more overtly punitive elements of the facility—bars and fences—are integrated architecturally so that the facility does not look like a prison. Although this entire paradigm is for the most part now historical, it is nevertheless instructive to think about how we arrived at these two different institutions and the penal philosophies that supported them.

In name, reformatories tie women closer to a rehabilitative model tinged with Christian moralism, and they operated with the understanding that women convicted of crimes were indeed fallen, like Eve and every other Biblical women of tarnished repute. They were created in order to literally reform their inmates, to regenerate them, to rehabilitate them to a state of personal, familial, and social grace. Men were overwhelmingly sent to *penitentiaries*.<sup>81</sup> In the earliest era of the penitentiary, when the institution was tied to an overtly religious understanding of sin,

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<sup>81</sup> To complicate this slightly, inmates of both sexes—and all ages—were sent to reformatories and penitentiaries in the 19<sup>th</sup> and 20<sup>th</sup> centuries. However, a majority of women as well as young offenders were sent to reformatories, whereas penitentiaries were dominated by male convicts and older, more hardened prisoners.

men were forced to think about their crimes, to ponder their existence, to seek redemption and do penance like monks living in individual cells—the monastic system is actually the antecedent for the word “cell,” too. Both systems seem to have been predicated upon an idealized, Platonic sense of the human, wherein the body, the corporeal, the unclean part of the human lands us into trouble and must therefore be punished and retrained so that we can move closer to the ideal version of ourselves: the cleaner, the abstract, the pure.

But the idealized version of the good woman to be recovered or refashioned in the reformatory did not allow for racial or class difference. She was the stay-at-home wife and the good mother, most definitely white, and did not necessarily earn a wage in the real world. And so well into the twentieth century reformatories “reformed” criminal women by coercing them into domestic work. Mending and sewing clothes, gardening, cooking, cleaning, and providing other services to the prison and its staff—most often in remote rural locales way from amenities like restaurants and laundromats—were the means by which fallen women could be reformed. As Angela Davis observes, this model “was supposed to infuse domesticity into prison life” (*Obsolete?* 70). This domestic work had obvious deleterious effects on women of color and those who rebuked or refused heteronormative lifestyles and the strictures of patriarchal economies. Davis continues, “training that was, on the surface, designed to produce good wives and mothers in effect steered poor women (and especially black women) into ‘free world’ jobs in domestic service. Instead of stay-at-home skilled wives and mothers, many women prisoners, upon release, would become maids, cooks, and washerwomen for more affluent women” (70). The cottage layout’s allusion to home—a small home with white picket fences just beyond prison wires—reflected the internal mechanisms of coercive domesticity: the reformatory was a kind of Home Economics behind bars. Everything about the cottage system—especially the labor—was

a reminder of the ideal woman, and how far those living there had fallen short of that social ideal.

These cottage-style reformatories still exist, but they have slowly been phased out in favor of more technologically oriented, punitive, warehousing techniques, much like the counterparts that house male inmates. The furor over Martha Stewart's 2004 five-month incarceration for obstructing justice at "Camp Cupcake," or Alderson Federal Prison Camp in West Virginia (now a minimum security facility), indicates just how far the gender gap has closed when it comes to penal practices in the United States (Crawford). Politicians and media personalities alike repeatedly lampooned Alderson, supposedly "America's cushiest prison," because, among other things, the prison offers inmates yoga, stress relief, and cosmetology classes and because inmates can still walk the grounds largely unimpeded (Tzatzev). The overwhelming response to Stewart's time at Alderson, and the critique of the institution itself, is obviously gendered and misogynistic: the more overtly punitive and oppressive qualities of the prison are obscured by the innocuous euphemism of "camp," and its inmates are equated to the harmless, empty-calorie products of kitchen labor. Just as problematic is that the public rhetoric and media portrayal of Alderson as a coddling, "soft" prison fits hand-in-glove to the conservative drive to get tougher on crime. The prevailing sentiments that Stewart "got off easy" at a "Club Fed" facility work to galvanize public sentiment against resocialization or rehabilitative projects in favor of more punitive measures, such as Arizona Sheriff Joe Arpaio's extensive penal experiments in Arizona, discussed in the first inter-chapter. After all, the common refrain goes, why should convicts have the opportunity to practice yoga and stress relaxation on the federal government's dime when normal, law-abiding citizens don't? This newer structure of feeling, this new socially conservative common-sense, is the public consensus

that underlies penal and governmental policy to treat all convicts the same. Gender now takes a back seat to one's status as convict; gender and sexual differences are elided in order that all criminals be treated the same. And this is reflected in recent incarceration rates: "women remain today the fastest-growing sector of the US prison population" (Davis *Obsolete?* 65). Statistically the most current incarceration rate for women is at 67 per 100,000 in 2010, the same year that saw the total number of women in some form of state supervision (jail, prison, parole, or probation) rise above one million ("Incarcerated").

Finally, it is worth considering the literary or writing history of women prison writers as well. Although there is a small and powerful body of prison writing produced by women throughout US history—one that continues to increase alongside the expansion in the population of women prisoners—it has never garnered the same critical or political attention that male convict writing has merited.<sup>82</sup> Throughout her study *Resistance Behind Bars: The Struggles of Incarcerated Women*, Victoria Law takes up the many historical omissions and discursive silences surrounding women in prison. As she observes, throughout the twentieth century "women prisoners' voices and concerns were overlooked not only by outsider activists but also the politicized male inmates who benefited from the developing prisoner rights movement" (3). She elaborates this point further: "Women prisoners also lack a commonly known history of resistance. While male prisoners can draw on the examples of George Jackson, the Attica uprising, and other well-known publicized cases of prisoner activism, incarcerated women remain unaware of precedents relevant to them" (6). As such, she considers many iterations of less obvious resistance strategies and practices—from illegally pooling and sharing resources

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<sup>82</sup> Apart from those already cited in this project (including Angela Davis, Elaine Brown, and Assata Shakur), other notable US women prisoners who wrote about or from their incarceration include Emma Goldman, Agnes Smedley, Kate Richards O'Hare, Elizabeth Gurley Flynn, Afeni Shakur (mother of the late rapper Tupac Shakur), Susan Rosenberg, Laura Jane Whitehorn, and Kathy Boudin.

(books, hygiene products, food, and money) to agitating for more contact between parents and children—against the backdrop of more well-known masculinist means of resistance like strikes, work stoppages, and prison riots to contextualize women-prisoner struggles.

But for Law, writing and literacy programs, especially convict-organized peer-to-peer programs, contain the most extensive capacities for active resistance for women convicts. She illuminates many different versions of such discursive resistance:

- women filing grievances through official institutional channels, and the various means that convicts make sure those grievances are actually delivered and read by the appropriate audiences. Law notes that grievances are routinely lost or destroyed before they reach their destinations, and grievance writers are routinely abused and unfairly punished for using what ostensibly exists as a legally protected means of protest, so women will often stash documents with other prisoners until the grievances can be safely delivered. (111-115)
- convicts organizing literacy groups revolving around a number of issues: literacy tied to health concerns like HIV/AIDS awareness (86-87) or more generalized medical literacies (reading and interpreting lab reports, maintaining health journals, and so forth), in order to better advocate for their own health (31-36); legal literacy groups; critical political literacy groups; and more general reading and writing groups.
- writing workshops
- education-as-resistance.
- engaging in, composing, and publishing convict-driven media outlets, including writing to outside newspapers, alternative presses and zines, as well as institutional newsletters and newspapers.
- exploring new(er) media forms like email and blogs in order to expand the scope of news venues about women in prison (137-141).

Many of these acts of discursive struggle are in response to local problems, problems existing either at the level of the individual institution or the state. The need for increased medical literacy, for example, is a direct result of institutions and states demanding that convicts express in writing the nature of their medical problems. Ellen Richardson, a California prisoner at Valley State Prison for Women, claims, “the medical staff triage [is] based on how the patient states her symptoms on paper. [. . .] A woman may have extreme stomach pain and cramping, but only have the literacy level to write, ‘I have a tummy ache.’ That is not enough for medical staff to let

her see a doctor” (qtd. in Law 32). On a more general level, increased literacy functions as a means of insulating one’s self from “capricious prison policy”: as another writer, Jerrye Broomhall, explains, “You are less likely to become a target if you appear able to defend yourself intellectually” (qtd. in Law 93). In an institution where guards threaten and sometimes enact physical and sexual abuse because women convicts are seen as inferior and unlikely to resist or complain, increased literacy sometimes functions as a safeguard against further victimization. (And to be sure, this latter point is generally true of all convicts regardless of gender.) At the same time, however, these more everyday, mundane acts of writing and composition exist only as gendered documents and are treated inconsequential precisely because they are aimed at specific achievable purposes that remediate local conditions. The modes of production themselves might impact their lack of reception. Often these local acts of literacy are produced ephemerally, circulating as badly scrawled, sometimes semi-literate, handwritten notes on scrap pieces of paper or prison stationary. Informed either by a sophisticated and nuanced understanding of the rhetorical situation or by naiveté or ignorance, some of these documents may implicitly or even explicitly be written outside of any overt ideological structure. A complaint deemed shrill or ideologically informed (produced by an activist jailhouse lawyer, or an outspoken Nation of Islam prisoner, for instance) is probably just as likely to be treated casually, dismissed, or “lost” as one that is barely intelligible, and thus the document has a better chance of success if it lacks an obvious politics.

Regardless of the reason, these local documents do not have the same sustained compositional or rhetorical power that we have historically associated with a handful of male prison writers, writers like Huey Newton, George Jackson, Eldridge Cleaver, Martin Luther King, Jr., and the like. Consider, too, that only a few outspoken women writers like Angela

Davis and Assata Shakur have secure places within the exceptionally masculinist “canon” of US prison writing, largely because of their militant political engagement governing the question of incarceration. This is not to say that the documents Law examines lack any rhetorical significance or capacity at all, for if anything, these documents are, indeed, classically rhetorical: they are composed in an effort to persuade another—a guard, a prison doctor, a warden, a parole board, the courts, the state itself—to act. But because of the instrumental nature of this writing, it is largely ignored critically and left to circulate locally, as individual pieces of writing largely disconnected from wider social, intellectual, and political movements. This is true generally of prison writing by women, and also of certain genres or modes of nonliterary (and often non-polemical) writing produced in prison.

In labor terms, Hannah Arendt’s meditation on the distinction between “work” and “labor,” as cited in the introduction, might be useful to revisit here. These local documents exist largely as products of an individual’s labor, since they often attend to the daily lives of a single prisoner. The sustained rhetorical power of a George Jackson, the literary achievements of a Caryl Chessman or a Chester Himes or an Edward Bunker, circulate inside—and even more importantly, *outside*—the institution as “work.” When we take into account “the worldly character of the produced thing—its location, function, and length of stay in the world,” as Arendt declares, the hazy distinction between labor and work emerges more sharply (94). She cites the “the distinction between a bread, whose ‘life expectancy’ in the world is hardly more than a day, and a table, which may easily survive generations of men” as one example (94), but the modes of prison writing under examination here may be conceived of in a similar way. George Jackson’s letters survive and circulate widely in the world as the product of “work” because they help to “guarantee the permanence and durability without which a world would not

be possible” (94), whereas the solitary complaint about prison food, or mistreatment at the hands of a doctor, has in its origins, its concerns, and its mode of production that “labor” which is necessary for mere survival. In a metaphorical sense, these documents “appear and disappear in an environment of things that are not consumed, but used” to achieve that survival (94).

But as I shall indicate below, the overwhelming public and even state responses to *CKTM* and *IFA* seem to indicate that this historical and critical precedence regarding women prison writing is slowly changing, that we are indeed finally starting to listen to female prison writers more closely. Produced in an environment where writing itself is usually regarded (at best) as instrumental, and at worse as irrelevant, the testimonies under examination here have emerged in the world as the products of work (not labor), even while they often take up what Arendt (and the Greek and Roman philosophers to whom she is responding) might consider to be the *vita activa*, the active, “unquiet” life of the body and its problems (15).

### **7.3      *COULDN'T KEEP IT TO MYSELF AND I'LL FLY AWAY***

The testimonials and personal essays that are the primary texts of this chapter were, for the most part, written as part of a creative writing workshop held in at the York Correctional Institution in Niantic, Connecticut. *Couldn't Keep It to Myself: Testimonies From Our Imprisoned Sisters* was published to near-universal acclaim in 2003. It is a collection of twelve essays—eleven by incarcerated women, one by a creative writing workshop leader—of varying length; the shortest is four pages, while the longest extends for sixty-four pages.<sup>83</sup> The topics of these essays all take

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<sup>83</sup> One of the contributors, Nancy Birkla, was a prisoner in the Kentucky State Penitentiary for Women. Additionally, she is a first cousin and was a private writing student of Wally Lamb.

up in some regard not only how each woman experiences prison but also how they got there; most of the writers attempt to contextualize time in prison as a consequence of decisions and events that, in some cases, stretch back as far as childhood. Notable in this regard are Nancy Birkla's "Three Steps Past the Monkeys," a harrowing testimonial of drug addiction, her work towards sobriety, and her struggles against obesity while in prison, structured in part around prison-journal entries; Brendalis Medina's "Hell, and How I Got Here," a detailed examination of the tensions between Puerto Rican-immigrant home life and the allure of gang life; and Barbara Parsons Lane's award-winning personal essay, "Puzzle Pieces," which oscillates between meditations on the daily grind of prison life with a narrative depicting the routine spousal abuse that eventually led to the death of her husband.<sup>84</sup> While I consider these essays (and others) briefly in this chapter, I take up in fuller detail Tabatha Rowley's "Hair Chronicles," a narrative that charts the writer's personal evolution alongside her evolving hair styles, and Bonnie Foreshaw's "Faith, Power, and Pants," the most politicized essay in the *CKTM*, one that depicts the conflict over her Rastafarian belief system and the institution's desire to have all prisoners conform to its ever-evolving set of rules. Compositionally, in *CKTM* the individual essays are preceded by a two-page spread consisting of a full-page photograph of the writer as an adult. They are usually smiling, and in no image do we see any indication of their status as convicts: all references to the prison, such as required uniforms or identification badges, are removed. A smaller photograph of the writer as a child follows on the facing page, and below

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<sup>84</sup> Lane, incarcerated for manslaughter "due to emotional duress," won the 2004 PEN/Newman's Own First Amendment Award, a \$20,000 prize "presented each spring to a U.S. resident who had fought courageously, despite adversity, to safeguard the First Amendment right to freedom of expression as it applies to the written word." The prize money was donated by Paul Newman's company, Newman's Own, and the contest lasted from 1993-2006. Past judges include a who's who of writers, thinkers, activists, and public intellectuals, including K. Anthony Appiah, Bill Maher, Patricia Williams, Kurt Vonnegut, E. L. Doctorow, Cornelius Eady, Edward Albee, Julia Alvarez, Henry Louis Gates, Jr., Tony Kushner, Rita Dove, and Barney Frank. The judges who awarded Lane the prize were Stanley Crouch, Lucy Dalglish, Eve Ensler, David Horowitz, and Grace Paley ("PEN/Newman's").

this image is the writer's name, followed by a snapshot of demographic and institutional information: year of birth; type of the conviction; length of sentence; year of prison entry; and current corrections status.

Although not as successful as *Couldn't Keep It to Myself* (and not as important for this chapter, too), the follow-up anthology, *I'll Fly Away: Further Testimonies from the Women of York Prison* merits some contextualization. It was published in 2007 and is comprised of thirty-four thematically arranged shorter narrative pieces, ranging from one paragraph to ten or eleven pages in length. The themes are, from beginning to end, "When I Was a Child...", "Gifts My Family Gave Me," "Broken Dolls and Marionettes," "Crime and Punishment," and "I'll Fly Away." Because there are twice as many contributors in *IFA*, there is a separate contributors section at the end of the book, and no photographs of the writers are included. Some writers, particularly long-term or lifer convicts like Foreshaw and Medina, have multiple pieces published in both books, though there is not much overlap otherwise. This is because many of the convicts published in the books were released prior to publication, and one writer published in *CKTM*, Diane Bartholomew, died of cancer soon after regaining her freedom: her cancer returned during her incarceration and she was the victim, in part, of a prison misdiagnosis that allowed the disease to grow unchecked. The novelist Wally Lamb served as a workshop leader and editor of both collections, and due to his popularity and name recognition, both books prominently feature his name. In fact, on the cover of the first anthology, his name is privileged in a font size that is nearly the same size as the words "and the women of York Correctional Institution." This is no doubt in part a publishing decision rather than Lamb's decision—it is meant to generate interest in the book because of Lamb's popularity, especially with women

readers—because he is rather self-effacing and modest in the introductions he writes for both collections.

Lamb explains in the introduction to *CKTM* that the workshop in which these testimonies were written was created in an effort to counteract a rash of suicides, violence, and institutional crises in the prison. Lamb was contacted by the prison librarian to visit the prison to read from one of his novels, and the workshop grew out of this initial contact. Both Lamb and Dale Griffith, a writing instructor at York and the workshop co-facilitator, note that his presence at the prison was in an effort to address “an epidemic of despair at the prison” and that the prison “school staff, groping to find help, was canvassing the community” (Lamb “Couldn’t” 2). Griffith and other school staff members “broadened” the school’s curriculum “to include year-round workshops on women’s health and healing, and volunteers stepped forward: poets and journalists, dancers and musicians, humorists and businesswomen and Buddhist monks” (Griffith 347). While neither directly speaks about the institution’s role in actively supporting this program, it is safe to assume that it was, in some capacity, officially sanctioned, and the institution did seem to take a particular interest in the subject matter produced by certain writers as well as the life of the material after the publication process was initiated. The most notable example, Lamb tells us, is former gang member Brendalis Medina, who sought out and eventually acquired special permission from the prison administration to write about her past life. She was afraid that writing about this material without permission might result in having her work “taken out of context, [. . .] misconstrued as gang-friendly,” and confiscated, possibly resulting in punitive measures like time in administrative segregation (“Couldn’t” 6). As such, Medina used Griffith as an intermediary to plead her cause and secure permission to move forward with her writing.

The narratives in both anthologies represent the collective workshopped effort of a number of women composed under heavy duress. While these compositions bear the names of each individual author, they nevertheless are a result, in part, of a collective process of writing, critiquing, and revising. Each piece started as two-page drafts, comprised of “whatever they needed to write,” and Lamb says the only rule was “No bullshitting themselves, or one another, or me” (“Revisions” 4). In addition to reading assigned texts on craft, the women also workshopped each other’s work, “reluctantly at first, then willingly, then generously” (5). Griffith argues that the women quickly became “committed to revision” (348). This collectivity is important for these works, as is the fact that these women writers acknowledge writing as a specific kind of labor. In their writing they expose the inner mechanisms of this labor when they acknowledge writing’s rhythm and jargon and, most importantly, the attendant dynamism that results as a process of intense reflection and then communal revision. They note in their short biographical notes that writing—learning to write, going to workshop, developing the critical, intellectual, and interpersonal skills necessary to both give and receive criticism, and so on—is a lifeline, a means of survival, a bulwark against more self-destructive habits and patterns of behavior. In short, the writing process was a means of healing.

The writers of *CKTM* and *IFA* often frame their writing lives against their occupations as incarcerated workers, and the books seem deliberately constructed in such a way as to demonstrate just how much labor these women-writers actually perform while incarcerated. It should be noted that they are probably not representative of women prisoners as a whole in terms of the amount of work that they undertake. Among a host of reasons, prisoner productivity is highly contingent on state laws regarding prison industries, and so some prisoners may have no work opportunities or obligations whatsoever, whereas others spend most of their days in

compulsory prison labor programs or jobs that allow little time for anything else. In some regards the women of these anthologies could easily be considered “model prisoners” because they take on more work than is necessary or absolutely required by the institution. This could very well be because many “extracurricular” activities like educational programs and workshops require that prisoners demonstrate “good behavior” in order to participate, and that behavior is often exemplified through maintaining a high level of productivity in institutional occupations. (It is not clear, however, if this is the case for the state of Connecticut in general or for York Correctional Institute in particular.) The work they do covers a wide range of individual and administrative activities, ranging from the purely ad hoc (Bonnie Foreshaw notes that she informally serves as a mentor or mother-figure for younger prisoners) to educational labor (some assume the coursework necessary to complete a high school equivalency certificate or to earn a post-secondary degree, while others serve as tutors or teachers’ aides) to institutional maintenance and upkeep (including kitchen, secretarial, clerical, or grounds-keeping work). The biographical information following each personal essay in *CKTM* indicates this range. Robin Cullen, for instance,

served as a teacher’s aide, a literacy volunteer, and a backup puppy trainer for the National Education of Assistance Dogs project. Additionally, she worked in data entry, coding accident reports for the Department of Transportation, served as lector for Catholic Mass, earned college credits, and painted walls throughout the prison school, including one classroom’s four-sided mural of an enchanted garden. Upon release, Cullen became certified through the Amherst Writers and Artists Institute to teach therapeutic writing. Presently, she volunteers in weekly sessions at a halfway house, working with women just exiting prison. Now thirty-nine, Cullen is sole proprietor of her own painting company, Color Outside the Lines; she labors full-time throughout Connecticut, customizing homes inside and out. (183)

Barbara Lane’s entire biographical entry is devoted to her work-life in prison:

In the fall of 2000, Barbara Lane earned an associate of science degree in general studies from Three Rivers Community-Technical College, graduating with

honors. A certified tutor for Literacy Volunteers of America, Lane also assists math students preparing for their high school equivalency diplomas. As she has pursued her education, Barbara Lane has also maintained active membership in such support groups as Survivors of Abuse and Struggles, a writing- and reading-based group for victims of battering. Currently, she is studying microcomputers, journalism, meditations, and yoga. Additionally, she is deeply involved in York C.I.'s Prison PUP Partnership, a program through which inmates train Labrador retrievers to assist adults and children with special needs. Lane is "mom" to two retrievers, Webster and Durham, who accompany her wherever she goes. (242)

In each case, the writer's public identity is purposefully articulated to demonstrate the fact she has maintained a high degree of productivity and performed work of all kinds, in an effort to serve her time. The biographies rhetorically function to confront and undermine some of the common, prevailing myths of the lazy, unproductive prisoner living on the state's three-hots-and-a-cot program—replete with luxuries like cable television, free opportunities for higher education, and yoga. All of the work denoted in these biographies exists on top of the efforts it took for them to write and get published: these biographies attest to the fact that most of the women published in *Couldn't Keep It to Myself* were not simply "sitting around and writing stories," to bluntly paraphrase common criticisms often aimed at prison-writing programs. That much of this work, too, is entirely voluntary is significant. Committing one's self to unremunerated service for others may indeed have a self-serving dimension, insofar as it may help a prisoner accrue good time and reduce time in prison, but it also demonstrates a kind of selflessness and charity that is rarely expected out of prisoners these days, especially given the ease with which mass media and policy makers have consistently painted all those in prison as self-centered, incorrigible, violent, and irredeemable people. That these work-biographies occur after narratives full of self-loathing, self-destruction, and abuse of all varieties is important, too: the sheer variety of this work exhibits a profound sense of personal agency that overturns years of victimhood, and, just as importantly, undermines the sensibility that these women cannot or

do not take any kind of responsibility for their crimes because of that victimhood. In short, these vignettes of work-life serve to rehumanize the criminal: they demonstrate the kinds of choices that these writers have made after the committing of their crimes and successfully prove that, through work, these women have “paid their debts to society” and can reintegrate themselves, both as workers and citizens, into mainstream society.

Their narratives reveal that sometimes the work they accomplish is in fact coerced and involuntary or that it operates on the outermost edges of legality. Roberta Schwartz discusses one of the quasi-legal means by which extra work is often assigned to prisoners when she complains that informal disciplinary tickets are routinely issued when the institution was “preparing for some kind of visit or inspection and needed to get the girls to paint, wax the floors, or spruce up the place in some other way” (134). The sheer informality of the disciplinary ticket means that prisoners’ legal recourses for appealing the tickets are completely sidestepped and thus neutralized, because “informals” do not result in an appearance before the disciplinary committee (134). Thus, though the institution claims that a particular offense has been committed and should be punished, no real way exists to challenge the institution’s authority, as there is no real paper trail to follow; in effect, the institution silences the women because they have no option to argue on their own behalf. These offenses also result in a stable “workforce” that is employed to address the institution’s informal “maintenance” jobs: in addition to bypassing potential legal conflicts, the institution also circumvents the question of wages but nevertheless manages to generate the labor necessary to maintain or improve the facilities. Barbara Parsons Lane speaks to a related kind of institutional irregularity regarding the prison’s own rules on convict labor versus its actual conduct. Prior to her sentencing and not too long after the traumatic murder of her abusive ex-husband and the subsequent trial, she is called into

her counselor's office, who informs her that she has been assigned a job in the prison kitchen. She confesses that she doesn't feel mentally capable of working yet, as she's experiencing flashbacks from her recent ordeal. She's also given some paperwork stating that prisoners awaiting sentence do not have to work. Nevertheless, her counselor flatly informs her, "Well, you *have* to. If you refuse a direct order, you'll go to seg" (214). Rather than point out the contradiction in the administration's ad hoc labor order versus its official rules regarding work, she acquiesces, afraid that if she makes "trouble" that she'll land in segregation anyway. In both cases these women describe an institution that is quick to disregard its own written statutes in order to more efficiently exploit the labor of its inmates. The cheapest means of maintaining the institution's orderly functionality supersede any legal language that may ostensibly govern prison labor.

Nevertheless, not all of these women describe moments of labor exploitation or feelings of alienation regarding the work to which they are committed or obliged. In a brief narrative of almost lyrical reverie entitled "Flight of the Bumblebee," Kathleen Wyatt describes moments of sheer euphoria that she experiences while working in the prison garden. Densely tactile and sensorial, her piece attempts to describe the effects of working in the garden, from the rich variety of floral fragrances to the experience of catching a small toad and feeling "its heart beating against my palm" (214). All of these sensations help her to block out the prison: "While working in the gracious surroundings of the prison garden, I am blind to other inmates, sometimes even to the guards. [. . .] Like those intoxicated worker bees that have escaped the drones, the queen, and the keepers of the hive, I too am at large, if only in the chambers of my mind" (214). Her simile is somewhat paradoxical, as the worker bees are ultimately compelled to return to the hive and their keepers just as she will soon awaken again to the mundane realities of

prison life. But in another regard the parallel between herself and the worker bee is a compelling one. The comparison is a gendered one rooted in a gardener's intimate knowledge of bee hierarchy. In any given hive, the queen bee is confined by her social role and her reproductive capacities, and the drones (the male bees) mate with the queen. The workers are all female bees, in one way completely subordinated to the queen's reproductive capacity, but in another way they are the most free, because they are the only members of the colony that may leave the hive, and are thus the ones upon whom the entire colony depends for its material existence (Page, Jr. and Robinson 124-128). We might also consider the way Wyatt's labor could be read through gendered—in this case, a largely masculinist and misogynistic—public rhetoric clamoring for more punishment: it is significant that she is working in a rose garden in a women's prison. What could be further removed from “paying one's debts back to society” than the careful cultivation of flowers that allows a woman time to think, and even daydream?

I do not bring up this last point facetiously, for the labor that prompts Wyatt's almost lyricism is largely unproductive, at least in a materialist, capitalistic sense. There are specific individual and even institutional benefits to garden work. Working in the prison garden produces, at best, fleeting moments of aesthetic and sensory pleasure for its attendants and the garden's consumers (for lack of a better term). And in an institution that uses segregation, isolation, and various other forms of sensory and social deprivations as part of its (often unstated) standard operating procedures, we should not underestimate the importance of an organic space that provides new aromas, colors, and sounds for inmates. Wyatt herself recognizes this when writing about the return to her cell, “Deliberately, gradually, I exhale, steady my gaze on the drab ugliness of concrete, steel, and double-pane glass” (214). Nevertheless she has managed to “look past the razor wire-crowned fencing and the heartache it

surrounds” by working in the garden (214). These moments no doubt have a role in pacifying convicts from day to day, and there might even be some calculated longer-term effects of using green spaces in prison as safer, cost-cutting forms of mental health interventions—better certainly than over-prescribing mind- and body-altering (and potentially) addictive drugs like tranquilizers to pacify prisoners. But overall, this small-scale garden work does not usually produce durable goods or capital for the institution in a way that most prison industries do. (This is obviously not true of Southern prison farms like Parchman in Mississippi or Angola in Louisiana that operate at almost an industrial scale.) The secondary benefits of garden labor are usually more intangible, unquantifiable, and not necessarily fungible.

Wyatt’s brief example of labor—both the garden work she describes but also the eventual composition of a short meditation on it—sum up, I think, the complex feelings and attitudes that many of these writers have towards their incarceration and towards their labor. At the end of her day, she meditatively “draw[s] a deep, inward breath, giving thanks for the favors bestowed upon me” (214). The use of passive voice here obscures the identity or identities of the bestowers; there is certainly a spiritualist or religious element to this statement, but in an odd sense (for most prison writing, anyway) she might also be grateful for the opportunity to work in a relatively secure, peaceful environment, even if that green-space is surrounded by barbed wire and guards. She is certainly grateful for the chance to devote some time to hard work that is unproductive, resulting only in contemplation, greater awareness of her place in the world, and emotive self-knowledge. But as we shall see in the next section, we should not take this emotive labor lightly. For as recent scholars have attempted to argue, achieving a more comprehensive sense of one’s self is a legitimate form of work that needs to be understood and contextualized in light of, and in contradiction to, more normative forms of labor.

## **7.4 FEMINIST NOTIONS OF LABOR: REVISING SELF-IMAGES AS EMOTIONAL LITERACIES**

### **7.4.1 Social Provisioning and the “Total Social Organisation of Labour”**

Feminist economists and labor theorists have routinely challenged normative notions of political economy and the values associated with wage-based labor since the late 1970s. Economist Julie A. Nelson explains in some detail the philosophical, methodological, and ideological limitations of neoclassical economic theory, which privileges wage-based labor, when she observes that its twin emphases on choice and material provisioning preclude a broader understanding of work that does not necessarily result in wages and material gain. The idea in Classical economic theory that “autonomous rational actors” work only out of self-interest reflects a gendered Cartesian split between the mind and body that “makes the detached cogito, not the material world or real persons in the material world,” the central object of economic inquiry (26). It also implies that all choices are voluntarily made and motivated only by “the mechanics of utility and self-interest” (26). This limited model circulates even in Marxist definitions of labor, reflected in Marx’s distinction between productive and unproductive labor discussed in the introduction: if we restrict the definition of productive labor to the actual production and subsequent circulation of material objects, we cannot consider “nontangibles” like health care, volunteer-based community work, domestic work, or education as legitimate subjects of economic analysis (32).

One alternative economic theory, that of social provisioning, attempts to move beyond “the material progress vision,” defined as the notion that “economic growth is a primary goal of economic life” (Figart and Mutari 287), by reintegrating questions of the social into economic considerations. Deborah M. Figart and Ellen Mutari define social provisioning as a means to

understand “how society organizes economic activities, mediated by culture, ideology, and institutions. The processes involved in social provisioning, according to William Dugger, ‘produce goods and services, but they also produce people’” (288). Instead of presupposing that market mechanisms drive all decisions about human economic activity including labor, social economists contend that “economic behavior, even within a market economy, has multiple motivations (including morality, altruism, and collective intentions) and modes (including cooperation and commitment)” (289).

Beginning in the early 1990s, British labor sociologist Miriam A. Glucksmann began proposing a similarly oriented analytical framework for her field called the “total social organisation of labour” (TSOL). TSOL “refuses a distinction between work and employment, arguing for an inclusive concept that acknowledges as work many forms of labour that are not remunerated or that may not be differentiated out or recognised as activities separate from the relationships (social, cultural, kin, etc.) within which they are conducted” (“Shifting” 19). TSOL is an exceptionally broad apparatus—Glucksmann is adamant that it is “not ‘a theory’ or ‘an idea’ to be ‘proved’ or ‘supported’ by examples” (*Cottons* 20)—because it is concerned with exploring the relationships between boundaries, including the shifts “between the commodity and non-commodity sphere, or between production and distribution” (“Shifting” 21), or between production and consumption, among many others. It is also concerned with “transformations over time between different organisations of labour” (21). Like social provisioning in economics, Glucksmann defines the total social organization of labor in such a way so that “the distribution of labour across spheres and boundaries cannot be internal to any one sphere, but must refer to the higher level of how labour is organized across and between them” (21).

Economists theorizing social provisioning routinely understand their work to possess an overtly ethical dimension, especially concerning the role of human dignity in work and how labor and economic activity promotes or denies this dignity (Figart and Mutari 289), a factor not considered in neoclassical models that abstract human desire and emotion from economic decisions. Glucksmann's conception of the TSOL likewise operates with a strong sense of how multiple forms of work interact with, contribute to, or detract from the realm of individual and collective social justice. Job quality and living wages are two of the main considerations that arise when regarding this sense of dignity, but each approach also seeks to address characteristics of labor that might not be so easy to describe or quantify—decisions that are not necessarily reflected in statistical analyses of labor. Of particular importance for my work in this chapter is that identity construction, one's self-awareness, and the work to assert one's dignity are all intimately tied to non-material forms of social provisioning. Figart and Mutari argue that “dignity requires personal integrity and internal coherence,” qualities that humiliating institutions—those that “undermine individuals' personal integrity or their sense of identity”—lack (qtd. in Figart and Mutari 296). Prison is perhaps the most obvious type of humiliating institution; oppressive work conditions are another. But as the women of *Couldn't Keep it to Myself* and *I'll Fly Away* demonstrate, abusive marriages, unfulfilling maternal obligations, personal addictions, and the illusion of ideal body types are other kinds of humiliating institutions, too, ones that must be actively resisted or undermined in order to achieve a better sense of self-worth. And this, ultimately, is a labor question as much as it is an individual issue: a more coherent sense of self—or at least the attempt to find, create, or maintain that sense of self—often proves to be an important element in why workers choose certain jobs, change

careers, or pursue voluntary or unpaid labor opportunities. In other words, material acquisition, though important, is not the only reason for working.

### **7.4.2 Emotional Literacy**

As a labor practice, writing is a key component in this search for personal dignity and identity construction, as it sometimes helps writers achieve what Eva Illouz identifies as “emotional literacy” and “communicative rationality” (142). The ties between acts of literacy and emotional health are various and well-established, and the relationship between the two is widely acknowledged in popular and professional therapeutic discourses, from Freud’s talking cure to more contemporary forms like creative writing therapy sessions or drama-based groups operating in prison and in mental health institutions. The written word is viewed as a useful medium for individuals who feel the need for therapy because, at least for the functionally literate, writing helps to externalize and objectify emotions “in the sense that they become separate from the subjectivity of the speaker, with the aim of taking control of and transforming them” (Illouz 140). Inscribing emotions also allows for the writer to operate at some distance from them because it separates “the experience of the emotions” from “the person’s awareness of that emotion” (141), making legible the language that one otherwise only feels and perhaps verbalizes. Illouz contends that inscription “enables one to ‘see’ language (rather than to hear it) and to decontextualize it from the act of speaking” and “invite[s] a decontextualization of emotions” because writing provides the opportunity for “men and women to reflect on and discuss emotions even after they are disconnected from their original context. The reflexive act of giving names to emotions in order to manage them gives them an ontology that fixes their volatile, transient, and context-based nature” (141). The ability to recognize, reflect upon,

manipulate, and understand the encoded artifacts of one's emotions make up an individual's "emotional literacy." This literacy is part of what Illouz calls "communicative rationality," which she defines as a "broader process of rationalization of intimate relations" rooted in "the control of emotions, the clarification of one's values and goals, and the objectification of emotions" (142).

Illouz evokes Walter Ong's famous meditation on the impact of print culture on human thought in her description of emotional literacy. For her, there are two important distinctions between orality and literacy that Ong describes in his work. The first is orality's "agonistic" quality. Ong contends that "writing fosters abstractions that disengage knowledge from the arena where human beings struggle with one another," while "orality situates knowledge within a context of struggle" precisely because it is "embedded in the human lifeworld" (Ong 43-44). The other distinction, as we see above, is that writing enables a distance between a writer and his text which allows for "objectivity" (46), whereas "in oral culture learning or knowing means achieving close, empathetic, communal identification with the known" (45). Both of these qualities contribute to the process by which inscription—writing—concretizes and "finalizes" thought, or, in Illouz's case, emotion.

In Illouz's description of emotional literacy, there is no mention of erasure, scribbling out, or tearing up—in a word, of *revision*, though the emotive work of revision is certainly implied. It is embedded, for instance, in her characterization of a writer's ability to "transform emotions into cold cognitions, detached from the concrete circumstances of their appearance" (142). She uses verbs that also suggest revision: writing helps one "organize" and "transform emotional life by 'locking' emotions into the medium of writing" (141). Those locked-in words, as pieces of texts, are to be "observed and manipulated" (142). But Illouz seems to concentrate

on the value attributed to the initial act of inscription, on the emotive and therapeutic value of the first draft, so to speak, rather than on the extended, revisable facets of written emotions. Although she, through Ong, tacitly acknowledges the trap of inscription—that the “ideology” of writing “encourages a *sense* of closure, a sense that what is found in a text has been finalized, has reached a state of completion” which is different than actually achieving a state of closure, finalization, or completion (emphasis added, 142)—she has little to say about the work that goes on after that first act of emotional literacy. And it is precisely this question that is most important, I think, in attempting to understand the work done by prison-based creative writing workshops that produce personal testimonies.

It may also be useful to supplement Illouz’s ideas about “emotional literacy” by considering the key distinctions between “emoting” and what Laura R. Micciche deems the “rhetorics of emotion.” Seeking to contribute to the emerging interdisciplinary study of emotions, especially as it pertains to the disciplines of composition and pedagogy, Micciche usefully delineates the differences between these two terms, as they are often conflated together by those who dismiss the importance of emotion. “The distinction to press here,” she writes, “is between the study of *emoting*, or the expression of feeling, and that of *rhetorics of emotion*, or emotion as a performative that produces effects. To speak of emotion as performative is to foreground the idea that emotions are enacted and embodied in the social world” (1). The historical problem regarding the value of emotion is that it has always been contrasted with reason or logic, and thus degraded as feminine and irrational; this goes as far back as the study of rhetoric itself.<sup>85</sup> Only recently have scholars, particularly feminist scholars, begun to reassess the

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<sup>85</sup> This is, I think, the inherent trap of Illouz’s notion about “communicative rationality,” although she is entirely aware of it. It might be better stated that her ideas about “communicative rationality” and “emotional literacy” are diagnostic and descriptive: she names the tendencies that circulate in the wholesale popular adaptation of

intellectual, social, economic, and personal presumptions about emotion: “In conjunction with its feminized status, emotion has been cast as ‘soft’ and counter-factual, at odds with objective, systematic resources for doing critical analysis. Only feminist scholarship has consistently capitalized on emotion as a resource for coalition-building as well as for theorizing experience” (16). Some theorists have sought “to de-privatize emotion, making its presence in women’s lives consequential and, in some cases, a problem to be addressed through political change movements” (16). This act of de-privatization is only ever implicit in Illouz’s description of “emotional literacy,” since she does not really attend to the after-life of inscription, to the circulation of the text. Micciche’s rhetorics of emotion thus calls attention both to the inward, personal knowledge generated by the study of emotions as well as the outward, toward the social, political, and intellectual life of emotions.

By considering emotion as “rhetorical,” Micciche and others also demonstrate that emotions have a history, are indeed socially constructed like gender itself. The implications of this are far-ranging. It means, as psychologist Lisa Barrett argues, that “*experiencing an emotion* [. . .] *may be a skill* (original emphasis, 274). In other words, how one relates to his or her emotions is as much learned as innate. Moreover, there are people who “know” emotions more thoroughly than others, and one’s relationship to emotions can also be *re-learned* and reshaped as well. The rhetoricity of emotions also means that, as Michelle Payne declares in *Bodily Discourses*, emotions do not exist “outside culture, untouched by ideology,” and that they are very much worthy of “critical reflection” (11). It also means that emotions play an active role in

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Freudianism in the US in the 1940s and 1950s, or in the rhetoric of self-help guides and magazines, or in the recent adaptation of emotional knowledge to improve the morale and productivity of the work-place, as evidence that psychology has become a constitutive part of the way that we read ourselves and our identities. The problem with “communicative rationality” is precisely the confused binarism or paradoxical quality operating at its core. Communicative rationality seeks to render the emotive in purely rational terms, perhaps denuding it of its affective or performative or embodied rhetoricity, to make it more palatable and intelligible.

shaping knowledge—especially that which exists beyond “self-knowledge”—itself. As Sara Ahmed contends, “Focusing on emotions as mediated rather than immediate reminds us that knowledge cannot be separated from the bodily world of feeling and sensation” (171).

The testimonies under examination here represent the culmination of many sets of intertwined labor practices that deal directly with identity formation—or, more specifically, identity *revision*—and with healing. Much of the writing in *CKTM* and *IFA* deals directly with revising one’s sense of self-worth, of rehabilitating one’s self-respect and repairing one’s self-image, through the composition of personal narratives. The dynamics of writing workshops and the writing process itself—drafting, undergoing community critiques, and revising—are key facets in their labor. The skills that allow for the composition of a better sentence are intimately tied up with a different notion of how to perform an emotion, which is a crucial element in producing new knowledge about one’s self and her place in the world. For many women, these testimonies represent the first attempts in confronting difficult memories or episodes in their lives prior to incarceration, and the physical act of writing provided the distance necessary to begin processing traumatic events, space that was not available through speech alone. What follows, I hope, is a demonstration of the ways that the writing published in *CKTM* and *IFA* move beyond the basic acts of emoting by engaging in a wider range of compositional and rhetorical processes that perform emotion in personally and politically viable ways; what I take up in the rest of this chapter are the complex ways that these women literally labor towards developing a more coherent sense of self through writing, of achieving some sense of emotional literacy and communicative rationality by engaging (in part) in the rhetoricity of their emotions. To do so will challenge us to rethink and reframe the forms of labor that we would normally associate with penal institutions.

Like Wyatt (discussed earlier), the writers in these anthologies operate with a much larger definition of work or labor in mind, which helps us understand their various and sometimes contradictory notions of what it means to be an incarcerated worker. Much of this involves deliberately framing their personal reformations—especially in terms of overcoming emotional issues, histories of sexual and physical abuse, and addiction—in the language of labor: it is the hard work of setting new boundaries; of developing emotional literacy; of learning new coping skills to deal with hardship and difficulties; in essence, of becoming a better, and sometimes, different person. Sometimes this project of self-revision is immense, almost impossible. Lynda Gardner writes, “I entered York CI three years ago. This has been the first time in forty years that I haven’t been high on drugs, alcohol, or gambling. And I’m scared shitless, because I *feel*” (original emphasis 88). Diane Bartholomew uses her narrative to acknowledge and embody the fundamental value of a lesson taught by her mother, namely, that she should “work as hard as we could at forgiving people because it’s always the right thing to do” (278). Although her narrative goes on to demonstrate the inherent difficulties in adopting this philosophy, she nevertheless uses her writing to achieve a state close to this. In a postscript to her testimonial, Nancy Birkla contextualizes her struggle to remain drug-free as labor: “The only promise my twelve-step fellowship makes is that if I apply the principles of recovery to my life, I will continue experiencing freedom from active addiction. Anything beyond that freedom must be earned. For the past thirteen years, I have worked hard to create a better life for myself and the gifts resulting from those efforts have been plentiful” (139-140).

These new or revised notions of self-worth and the labor that is required to achieve and maintain them have always ostensibly been a part of the mission of rehabilitation, and thus a declared goal of penal institutions; this is evident in prior chapters on Robert Stroud and Caryl

Chessman. Nevertheless we must understand that this work is often made more difficult precisely because the institution does not actively support it, whether as a result of sheer negligence or as a matter of institutional or state policy. York CI's own evolving relationship to Lamb's presence as a workshop leader is itself indicative of this: although he was specifically invited to work there in an effort to combat suicides and suicide attempts, his role was nevertheless officially investigated by Connecticut's Department of Corrections as a result of the lawsuit brought against the writers when their work was about to be published (Lamb, "Revisions" 6).

But sometimes when penal institutions do require rehabilitative programs, the consequences are just as dire as not having them at all. The unequal power dynamics involved in mandatory therapy sessions routinely result in feelings of shame, anger, and boredom in those who are compelled into attending. The sometimes coercive nature of therapy sessions mandated by the institution or the state also hampers these rehabilitative efforts. Kathryn Watterson observes that "effective psychiatric treatment or therapy can exist only where the patient makes a voluntary contract with her therapist that includes the patient's willingness and desire to change" (280). Obviously, people in prison are involuntarily committed to the institution and its regimes, including individual and group therapy. Thus, "There is no voluntary contract, so a relationship between a prison doctor and a prisoner is by definition already administrative. And when a prisoner is remanded to psychiatric treatment, she is being handled by administrative psychiatrists—a situation that is contradictory to effective psychiatric treatment" (280). Megan Sweeney, whose recent monograph deals with the reading habits of a number of North Carolina female convicts, also observes other problems associated with coercive mental health therapy. Many women she interviewed fear being prescribed powerful, docilizing drugs, while others

“feel reluctant to speak with prison counselors due to concerns about confidentiality” because “counselors ‘work for the state’ and will ‘use what you say against you when it comes to parole’” (Sweeney 86). Finally, rapid staff turnover and huge caseloads often interfere with counseling’s overall effectiveness, in a manner much like that of overworked and underfunded public defenders. Brendalis Medina makes manifest these feelings when she describes her assignment to group therapy. Resentful of being misread by the prison administration, she attended them but simply “went through the motions, faking my way through the groups” by “telling them what I knew they wanted to hear but burying my real feelings” (41). She also dismisses the therapy leader, who “wore the outfit she’d probably worn at Woodstock” (41). The well-meaning counselor’s hippie dress is a metaphor for the ways in which she is out-of-touch with the incarcerated women in her group, but it also indicates, more obliquely, that she seems to be operating with an outmoded, ineffective, and therefore easily dismissible understanding of therapy. Medina thus reads a different kind of emotional illiteracy or naïveté on the part of the counselor, who is completely deceived by Medina’s emotional con game.

## **7.5 REVISING BODIES IN PRISON: A CLOSE READING OF “HAIR CHRONICLES” AND “FAITH, POWER, AND PANTS”**

Many of the writers in *Couldn’t Keep it To Myself* and *I’ll Fly Away* deal explicitly with the body, writing about issues like prison diets, obesity, hair, sexuality, addiction, reproduction, pregnancy, child-rearing, and various forms of physical and sexual abuse. In short, they contemplate and address the ways that the human organism is affected by prison regimes and their institutions. In doing so, they often address the imprisoned body in ways that seem more

conscious of it than their male counterparts. Male prisoners who write about incarcerated bodies tend to focus on issues of repressed sexuality and masturbation, latent and overt homosexuality, prison diets and the quality of food, drug addiction, and rape, and in much rarer cases with bodybuilding and exercise,<sup>86</sup> but otherwise they appear much less concerned with the more mundane facets of the imprisoned body. This is due, in no small part, to the fact that the institution as a whole takes the young male as its normalized, standard subject. Johanna Hoffman, like many other prison critics, asserts that because the prison is “modeled after a military structure that assumes its subjects are healthy young men,” it is “fundamentally ill equipped to meet the needs of women” (227). Women are in the unique—and often unfortunate—position of embodying various kinds of “abnormal” physicalities when it comes to penal healthcare. This is especially true of the many women prisoners who are pregnant when arrested, sentenced, and/or incarcerated.<sup>87</sup> As such, women in general—and the writers of these collections in particular—are highly sensitive to inferior and dangerous treatment and the general callousness on the part of medical staff and prison administration. They are keen observers of the paradoxes that arise as a result of being a female in a male-oriented institution, and they seem to be more willing to write about these issues as well.

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<sup>86</sup> Apart from George Jackson’s regime, as briefly noted in Chapter 3, other notable male writers who take up this issue include Stanley “Tookie” Williams, who took his near-legendary body-building regime with him to Death Row at San Quentin, and the controversial (and prolific) British prison writer Charles Bronson, who has actually published a book on prison diet and workouts entitled *Solitary Fitness* (2007).

<sup>87</sup> As many feminists have noted, the law itself is patriarchal and phallogocentric, and they would agree in principle with Diane Polan’s contention that “the whole structure of law—its hierarchical organization; its combative, adversarial format; and its undeviating bias in favor of rationality over all other values—defines it as a fundamentally patriarchal institution” (qtd. in Eisenstein 51). Moreover, the prison’s sheer inability to address female health concerns like pregnancy wind up embodying and reinforcing the paradigms that exist outside the prison too. In her book *The Female Body and the Law*, which examines phallogocentrism in legal discourses, Zillah Eisenstein “reintroduces the pregnant body in order to decenter the privileged position of the male body,” which “contrasts markedly with the dominant discourses” that “use pregnancy to differentiate women and subordinate them to men” (1). The problem, Eisenstein argues, is that “man is never viewed as ‘not pregnant,’ so pregnancy must be constructed as woman’s ‘difference’ and not man’s lacking” (79). This view has then been extended to all kinds of nefarious social and legal ends, up to and including the state-supported sterilization of women in prison and the forced adoption of children born to imprisoned women.

This attention to the body raises an inherent difficulty in commenting on women in prison or women and crime. Historically, female criminality has always been linked to biology and anatomy, even when penology moved away from Lombrosian positivism regarding male convicts in the early 20<sup>th</sup> century. Hysteria was thought to have an anatomical origin, and other “abnormal” anatomical differences were routinely posited as the cause of female criminality—this was particularly true (for Lombroso and his ilk) when women criminals had phenotypically “masculine” characteristics. Although some women commentators on female criminality sought to revise these notions throughout the 19<sup>th</sup> and 20<sup>th</sup> centuries, male criminologists would dominate the scholarly and policy debates governing female criminality. As late as the 1950s, criminologists like Otto Pollak (who published a well-respected study entitled *The Criminality of Women* in 1951) would continue to associate female criminality with anatomy; in his book Pollak “offered the absurd hypothesis that women were more skilled at covering their crimes because they had long experience concealing their monthly periods and hiding their orgasms” (Dodge 17). Moreover, both the real and the supposed differences between the genders were evoked as reasons for radically different penal regimes for men and women, although this is no longer the case. Historically women could have legally “pleaded the belly” to beg for mercy or to at least delay punishment until after pregnancy. The mother of Moll Flanders in Daniel Defoe’s 1722 novel pleads the belly to stay her execution, and instead is transported to a plantation in the American colonies; later pregnant criminals would be transported to colonies like New South Wales rather than face the gallows. Pleading the belly was established in English common law in 1349 and lasted until the 20<sup>th</sup> century in some places, including England, where it was finally recast as part of the Sentence of Death (Expectant Mothers) Act of 1931 (Means 337). During a greater portion of the 20<sup>th</sup> century, women could have relied on the individual discretion of

judges to be lenient (or not) in sentencing. But the most recent trend in the latter half of the 20<sup>th</sup> century and the beginning of the 21<sup>st</sup> is to subject both men and women to the same conservative, pro-punishment interpretation of the “equal protection” doctrine provided by the Fourteenth Amendment to the Constitution, which allows that “individuals deserve equal (similar) protection if they are similarly situated” (Eisenstein 57). Women today are routinely denied any consideration due to sexual differences under the guise of complete legal neutrality; “equal protection” means (in a negative capacity) that a crime is a crime is a crime, whether the perpetrator is a healthy young man or a pregnant woman, and therefore all lawbreakers should be—and usually are—treated the same under the color of the law.

Feminist performance theory may help us to overcome these profoundly negative historical and criminological tendencies by presenting us with a more useful way to think about the rhetorics of embodied, emotive writing practices. Micciche rightfully contends, for instance, that “our physicality affects how we think and how we write, and the page is a stage upon which those physical meanings are put into emotion” (52). Attempting to repair the historical and philosophical divide between “reason” and “emotion,” Mark Johnson claims that “What we can experience and how we make sense of what we experience depend on the kinds of bodies we have and on the ways we interact with the various environments we inhabit. It is through our embodied interactions that we inhabit a world, and it is through our bodies that we are able to understand and act within this world with varying degrees of success” (81). In short, “we can only reason by means of our embodied, imaginative rationality” (81). When these women prison writers describe their own evolving understanding of and relationships with their bodies, their narratives serve, in part, to reassert the anatomical and sexual differences that make them female, and thus undermine the regimes of power that attempt to erase these differences or treat them as

incidental to the application of the law. In this way, laboring on one's emotional literacy accrues specifically political repercussions. The emergence of a writer's communicative rationality allows a writer to engage the institution and the state on personal and emotive registers, but also on political and legalistic ones as well. Let us take a closer look at how this politics emerge, by examining two personal essays from *Couldn't Keep it To Myself*: Tabatha Rowley's "Hair Chronicles" and Bonnie Jean Foreshaw's "Faith, Power, and Pants."

### **7.5.1 Runaway Dreads**

Tabatha Rowley foregrounds physicality in her personal narrative by using her changing hair styles as a barometer of her development and maturation. The importance of the body as a whole to her narrative is evident from the first paragraph. Her childhood is marred by memories of bruised and broken and addicted bodies: when mother "pounded me, she did it out of love. Grandma drank to help her blood flow, and Auntie smoked weed so she could sleep. Uncle stuck needles in his arms to make his muscles big" (96). Sexual abuse and the confused, conflicting emotions it evoked also figures in the introduction to her narrative: "Did my brothers know what Uncle Wesley was doing when he'd drape that big tan blanket over his back and pull me down onto the floor and under? Did they look away from their cartoons and see their confused four-year-old sister lying there, letting it happen? Until now, I never told anyone the scariest part: what Uncle Wesley did made me feel loved" (96). Like Precious Jones, the fictional narrator of Sapphire's novel *Push* (1996), Rowley uses her narrative as a means of both admitting and confronting a difficult truth about the incestuous abuse in her past: her uncle's sexual attention was not entirely unwanted or undesired, especially in light of the other forms of emotional abuse and neglect she faced at home. Rowley would eventually be sentenced to seven years in prison

for first degree assault after she shot an abusive ex-boyfriend in self-defense. She admits that while in prison she “detoxed from a ten-year binge” (98), and through “art” “rediscovered” herself “in memoir, in songwriting and performance, and in drawing” (98). Her narrative includes a self-drawn graphic representation of her “life recalled in hairstyles.”

Rowley frames her evolution in prison through the slow deterioration of her hair, a result of the inaccessibility of certain hair products in prison and prison bans on certain grooming practices. She entered prison with “long bronze dreadlocks with honey blond highlights,” acknowledging that her dreads were not a political or religious “statement against oppression” but instead were a compliment to her “wild, thuggish look: baggy jeans, hoodie, combat boots” (98), a look that many other people from her neighborhood apparently sported. The prison assault on her hair and her body begins with the initial ritual of institutionalization—what Erving Goffman calls the “disculturation” or “mortification” of the pre-institutional self (13, 14)—in which she is forced to scour her hair with “bug shampoo” (Rowley 97). The shower is dehumanizing, an assault on her self-perception (as it is meant to be), because she believed that the only people who had “cooties” or lice were “mangy-looking and sleep-deprived” people, and mostly Caucasian (97). The chemicals in the delousing shampoo turned her hair “dry and brittle,” and because the prison commissary did not carry the right hair product and because she was not allowed to have scissors, she took to cutting off her hair with a nail clipper, a process that took “an eon” (100). She saved the hair in attempt to send the dreads home to be destroyed, obeying in the process a certain set of beliefs with which she was raised: she explains that she whenever she combed or cut her hair she would burn it “for protection against evil—to send it back from whence it had come” (100). However, the dreads were discovered and confiscated during a routine cell search. She would receive a disciplinary ticket for it, one she quotes in her narrative:

*“contraband braids found in Inmate Rowley’s (#245187) bunk drawer, concealed in a paper bag. Potential escape item. Attempt to alter appearance”* (original emphasis 101).

In this section of her testimony, Rowley uses her narrative to dispute the prison administration’s irrational logic—and its official narrative—in the citation she received for possessing her own hair. Although she admits that her belief in destroying the hair is not part of any particular systematic set of religious beliefs or practices, and thus may appear to be superstitious to others, she nevertheless views the citation and the subsequent disciplinary hearing as an almost Kafkaesque absurdity. She writes,

Escape item? Was I going to tie my dreads together and climb less than a foot down from the window ledge to the ground, then leap like Wonder Woman over the electric fence? Alter my appearance with *what*? The locks I’d just cut off my head? Did they think I had smuggled them in the way some women sneak contraband into prison—tucked firmly (or, in some cases, not so firmly) in their vaginas? (101)

Rather than dismiss the administration’s assertion entirely out of hand, she instead evokes the discourse of the institution itself—in describing the “contraband” hair as a potential security threat that *could have been* smuggled in—in order to more firmly reject the irrationality of the institution and the state’s position. She does this, obviously, through a series of effective rhetorical questions, some given to rhetorical excess (the Wonder Woman reference) perhaps, but effective nonetheless. As Rowley understands it, the citation seems to suggest that the true offense resides in the fact that her dreads no longer participate in a kind of rationalist order insisted upon and demanded by the institution itself. No longer attached to the human organism, the hair is errant, delinquent in its own right, because it is full of potential (if largely inconceivable) mischief. The hair is disorderly because Rowley “concealed” it but also because it is *concealable*, and thus hypothetically an item that could disrupt the orderly operations of the institution. Once it is severed from the body, the braid becomes a symbol of all that is latent and

covert within the institution, imbued with disorderly possibilities. The subsequent disciplinary hearing, though fundamentally unfair, proved to be a blessing in disguise, however. Unaware that she has the “right to challenge a disciplinary ticket [. . .] and have the infraction removed” from her official record (102), Rowley decided to plead guilty, because the hearing officer promised to give her a break. The punishment was a month-long commissary ban. As a result, she “stopped eating the overpriced Honeybuns, Slim Jims, and cookies I would regularly buy. I became more health-conscious—as health-conscious as you can be in a place where you’re deprived of proper nutrition” (102). The rhetorical moves she makes in her narrative—from the first moments of emotional outrage to her legalistic counter-discourse to the expression of her gratitude for being able to give up junk food cold turkey—comprehensively demonstrate Rowley’s new emotional literacy and communicative rationality.

Tabatha Rowley’s problem with her dreadlocks eventually leads her to a nascent political and personal awareness, encouraged by Bonnie Foreshaw, a Rastafarian prisoner; this political cognizance is apparent in the rest of her narrative. Although Rowley does not comment on—and does not seem to share—Foreshaw’s more spiritual observations about hair, she nevertheless seems to agree with Foreshaw on the difficulties that dreadlocks in particular may present to their wearers. She directly quotes Foreshaw’s assertion, “having dreadlocks can bring you trials and tribulations, persecutions and prosecutions by the system. Locks can cause you to know the full understanding of black rage” (103). Immediately after that statement, Rowley describes a childhood Afro that looks like one worn by Angela Davis in the 1970s. This Afro becomes emblematic for Rowley because it represents a kind of inner peace that she has achieved in spite of her troubled childhood, a period marked by constantly shifting styles. As Rowley writes, “In an effort to figure out who I am, I have sported some pretty big styles and some pretty wild cuts.

By the age of thirteen, the wildness was *in* me, tangled up in my hair, my clothes, and my need to rebel against my mother's harsh rule" (105). The natural she decides to sport in prison is pragmatic—because she can no longer acquire or afford the products necessary to style the hair differently—but it is also an embrace of the person beneath the style: "I'd come to like my Afro and was learning to like myself" (109). Maintaining an Afro requires patience and dedication, a skill she admits she lacked prior to landing in prison, and though she has since forsaken that style as well, she nevertheless is grateful for letting go of the chemicals she previously used to process and color her hair: "It's a lot healthier without all those chemicals, and so am I. I had never realized how beautiful black looks on me" (110).

The reference to Angela Davis, and the overt references to "black rage" and the "Black is Beautiful" sentiment in her narrative all stand as subtle markers of her increasing political cognizance and to the historical past of racism and incarceration of which she is now a part. In her final paragraph, Rowley attests to the power of this self-knowledge, enabled in part by a greater awareness of her own hair:

Those "whys" of my journey have become clearer as I've discovered and dug up the roots of my low self-esteem and the self-destructive habits that contributed to my rage and my incarceration. Today, I am a woman with better decision-making skills and control over my actions. Physically, mentally, and spiritually, I am strong. My hair charts the history of how I got this way. As my friend Bonnie pointed out to me, hair is a faith, a testament for all the world to see. (110)

What is most significant here is the movement in her essay from an intense focus on herself and her past to the strong notions of emotional and political solidarity, kinship, and community that ends her narrative. Rowley indicates that the workshop environment and the revising that goes into it is thus clearly not always about improving one's writing. Revising is as much an emotional act as it is a writerly one, because revising often entails making sense of a difficult

learning experience intimately tied to one's self-image and self-worth. The workshop environment for these women was not simply an opportunity to make a story or personal essay more convincing or believable or "better"—it was a chance to dialogue and learn, an opportunity to cultivate ways to respect others while critiquing them, a consistent space to labor together. The workshop is thus an emotional as well as a writerly commitment to each member of it, a space of mutual, community healing.

### **7.5.2 A Question of Pants**

At the time of *CKTM*'s publication, Bonnie Jean Foreshaw was the longest tenured convict at York, having been sentenced in 1986 to forty-five years in prison for the murder of a pregnant woman. Foreshaw contends that the killing was accidental, and that the pregnant woman was a bystander in a confrontation between Foreshaw and a man named Hector Freeman, who tried to pick up Foreshaw at a bar and then turned verbally abusive and confrontational after she spurned his advances. According to Foreshaw's testimony, Joyce Amos, the victim, tried to intercede and was subsequently used as a human shield when Foreshaw pulled out a weapon in self-defense; Foreshaw began carrying a firearm for protection because she had been continually threatened by an abusive ex-husband. During the confrontation, Foreshaw fired a warning shot that wound up killing Amos and her unborn fetus. Her trial became noteworthy because anti-abortionists tried to have her prosecuted for double homicide, but a Connecticut judge ruled that the "shooting death of the fetus did not constitute homicide under state law" (note, Foreshaw 192). She was found guilty of first degree murder, though not without controversy: as the bibliographic note following Foreshaw's piece explains, "legal experts familiar with the Foreshaw case maintain that her public defender failed to meet the minimum standard of competency provided by the

Constitution and that, given the circumstances surrounding the shooting, Foreshaw should have been charged with manslaughter, not first-degree murder” (209). She is also the subject of an independently produced documentary, *The Nature of the Beast: The Life of Bonnie Jean Foreshaw* (1993), directed by Ondi Timoner. She would finally be released on November 15<sup>th</sup>, 2013 after a parole board, reviewing evidence from 1989 suggesting that she did not have an adequate defense, recommended that the Governor grant her clemency (Wilson).

Foreshaw’s piece, entitled “Faith, Power, and Pants,” is, like other narratives in *CKTM*, partially about growing up in an unhappy home full of physical and sexual abuse that would later be replicated when Foreshaw left home and married. She gave birth for the first time at twelve, the pregnancy a result of rape, and all three of her husbands proved to be physically and sometimes sexually abusive. However, some key differences mark Foreshaw’s narrative from other pieces in the collection. Perhaps most importantly, Foreshaw’s narrative is also in part about immigration and race; she was born in Jamaica in 1946 but raised in a black neighborhood in Dade County, Florida. As a Jamaican, Foreshaw was not accepted in white or black communities in the United States, despite her parents’ almost pathological—and certainly at least economically and personally destructive—desire to be accepted and assimilate. As Foreshaw observes,

This instinct to fit in at all costs was, I suppose, a legacy from my parents, who had emigrated from Jamaica when I was a young child. Black islanders, you see, experience two kinds of bigotry when they move to the U.S. Besides the racism of whites, they also bear the prejudice of African Americans, who fear their Caribbean brothers and sisters will steal their jobs and hamper their own struggle to get ahead. So, the more quickly Jamaicans can assimilate—pass as *non*-islanders—the more quickly they’ll be tolerated by other blacks. Born Jamaican, I had become what islanders call, with a smile, “Jamerican.” (191)

As is evident from this passage, Foreshaw sees herself as part of a much broader social dynamic—as a child she had to confront the usual forms of racism but also unexpectedly faced

the added pressure of being marked different, and inferior, to African Americans as well. Although her narrative is largely about her past and her family and troubles in York, she nevertheless does not cut herself from these broader notions of community. Instead, they are an integral part of who she is and where she comes from.

Related to this part of her narrative is her attention to the difficulties of being a devout, committed Rastafarian in a community and institution that refuses to recognize her faith and either delegitimizes or, in some regards, criminalizes certain practices associated with it. The strength of the narrative, in fact, lies in the conflict over the final word in her title: the personal and institutional conflict over her pants. In discussing her fight for civil rights recognition regarding her faith, Foreshaw proves to be the only writer in *CKTM* that attempts to politicize her struggles at York within the context of greater social and political movements. While many other writers implicitly discuss and critique misogyny, life in a patriarchal society and institution, and the like, Foreshaw is the only one to make explicit her struggles with greater domestic and international struggles against racism and imperialism. Even Tabatha Rowley's references to Angela Davis and Black Power are more about appearance than politics, and they fall into the "humiliating" trap that Davis describes as the reduction of "a politics of liberation to a politics of fashion" ("Afro" 23).<sup>88</sup> Foreshaw's description of Rastafarianism is highly politicized. She describes Rastafarianism as a pro-black, anti-imperial faith with roots in Ethiopianism and Garveyism and best expressed in the music of Bob Marley, "who set his inspirational lyrics to a reggae beat and spread the Rasta messages of non-violence, love of nature, and racial equality

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<sup>88</sup> Although Davis finds this recognition humiliating, she also considers it "humbling," since "such encounters with the younger generation demonstrate the fragility and mutability of historical images, particularly those associated with African American history" (23). She goes on to lament the "recycling" of the "'Afro' as fashion—revolutionary fashion" (24), and the uneasy direct association of all Afros and naturals with Davis and her person. Both serve to empty "the particular history of my legal case [. . .] of all content" so that her image now functions "as a commodified backdrop for advertising," feeding into a manufactured "seventies fashion nostalgia" (29).

throughout the world” (191). Rastafarianism also helped her realize the limits of and ultimately reject North American materialism and the adoption of its value system: “The teachings of Jah Rastafari made me realize that buying, wearing, and driving the symbols of success didn’t make me successful. By assimilating, I had taken one step forward and two steps back” (191). It is this unwillingness to assimilate which results in Foreshaw’s conflict with prison authorities and their revision to the institution’s dress code, one of which mandates that all prisoners wear pants.

As the longest tenured prisoner at Niantic, Foreshaw writes from the perspective of an individual who witnessed first-hand how changes in the free world’s economy and national politics dramatically impacted the lives of incarcerated women. Her perspective is informed by her own political activism—she “was in line with Bobby Seale’s and Angela Davis’s demands for equality for all Americans” and would later work in voter registration and as a union steward before her incarceration (194)—but also by her capacity as an ordinary prisoner. Foreshaw observes that the incarcerated are acutely subject to fluctuations in local and state politics, since prison administrations and penal philosophies changed dramatically based on the changing governorship of Connecticut, and she frames the overemphasis on punishment, rather than rehabilitation, in the language of overt militarization: “movement within the prison became more restricted and COs [corrections officers] became more militarylike” (194). Increased disciplinarity operated according to more rigid methods of regimented identification, stratification, and spacialization, wherein inmates that offended institutional policies were dealt with more formally by clearly articulated processes of bureaucratic registration: “Before, an inmate found breaking a rule might be given a verbal reprimand. Now, she received a disciplinary ticket, A, B, or C, depending on the seriousness of the charge. A ticket could result in loss of mail or commissary privileges, or confinement to ‘seg’—the segregation unit” (194-

95). During the “old days” under the rehabilitative model, inmates were allowed many liberties during the holidays and during family visits, and in general the institution tolerated individuality, although Foreshaw is quick to note that “these weren’t ‘country club’ conditions, the way some people have criticized. This was recognition that the women of Niantic are human beings first, prisoners second” (194). But reacting to the tide of tough-on-crime legislation and more conservative regimes, the institution began to restrict any display of individuality, including instituting a dress code, which was approved ostensibly as an institutional security measure.

Foreshaw’s position regarding the dress code is a complicated one. She readily admits to supporting it on the grounds that it would reduce tension and jealousy between inmates who might otherwise fight over and steal each other’s clothes, and that a strictly enforced dress code might further discourage fraternization and sexual misconduct between prisoners and prison staff, which often led to “favoritism, personal relationships, transfers, and terminations” (195). Like Rowley, Foreshaw attempts to understand the underlying institutional or administrative logic that motivates their decisions. At the same time, however, she had been repeatedly harassed prior to the institution of the dress code over her hair net, among other issues, and when the dress code was finally approved, she realized she would be forced either to defy the institution or to break with her religious convictions. Drawing on what few resources she had in an attempt to explain her position and the tenets of her faith, Foreshaw wrote letters and worked with the prison school librarian to find, photocopy, and mail “articles on the history and traditions of the Rastafarian faith” to the warden and the prison’s “religious liaison” (196), which was met with complete institutional silence. This personal struggle began to interfere with her work as a teacher’s aide in the prison school, a position she earned, she states, “because I ‘knew the ropes’ and had proven trustworthy and reliable” (196). She claims that her intense anxiety about the

impending confrontation over refusing to wear pants kept her awake at night, and the “sense of abandonment” that was a result of pleading with an uncaring, silent prison administration brought back a number of repressed memories—her “buried history” (201)—of abandonment and sexual abuse as a child, which only increased her despondency. The structure of the essay then turns from her struggles with the institution to a meditation on her broken childhood and dysfunctional marriages, all of which taught her how to “disappear in plain sight while [. . .] being screamed at” (200), a theme reiterated by many of the other women in *CKTM*.

Her attempts to rationalize her position with the warden, which found her both likening the sartorial violence of compelling her to wear pants with forcing “a Muslim or a Jew to eat pork” (202) and drawing on a textualist approach to religious civil and constitutional rights backed up by legal precedent and institutional practices, were unsuccessful. Foreshaw’s attempts to comply with her religious convictions eventually landed her in segregation despite a long history of complete compliance with the institution in every other capacity. Her “good days”—days accumulated for good behavior that would reduce her total sentence served—were also threatened. The Deputy Warden ultimately resolved the situation by proposing that he put the pants on Foreshaw, so that “come Judgment Day, it would be me who’d have to account for the disavowal” (207). Although Foreshaw does not frame this as a kind of sexual violence, her reaction to being forcibly dressed by a member of the administration—even with her consent—indicates that the breaking of her vow is, indeed, a kind of sexual violation:

When Deputy Warden returned with the green scrub pants, he knelt at my feet and gently slipped them on. “Could you stand, please, Bonnie?” he asked. When I did, he tied the drawstring around my waist. I fell back on the bed and began to wail. “Bonnie, you did nothing wrong,” he said. “Thank you for letting me help you. Please take care of yourself.” After he left, I cried a river. I cried until there were no tears left. For the rest of that long day, I couldn’t get off the bed. When I left seg the following day wearing pants, it was hard to walk back into the general population. Clutching my Bible, I kept my eyes cast down to avoid people’s

stares, sympathetic or otherwise. [. . .] Now I was a broken, bitter woman in prison blue jeans. (207)

I quote this passage at length because it demonstrates a number of qualities. First, although Foreshaw tries hard to describe this as an event that takes place with a minimum amount of force or coercion on the part of the prison administration—the warden is gentle, polite, conciliatory, and ultimately grateful for her cooperation, or at least her lack of overt resistance—the language of this section nevertheless indicates that this was no real choice. Her “consent,” in fact, is a negative one: when the warden asks, “If I put the pants on you, would you resist?” she meekly replies, “I won’t resist you” (207). In this case, “no” means “yes.” Her physical reactions—immobility on the bed afterward, furtive glances, her unwillingness to join the rest of the prisoners—indicates shock, and her description is similar to the language other women in *CKTM* use to describe their reaction to extreme physical and sexual abuse and rape. For a different reason, being coerced into wearing pants leaves her in the same state in which she found herself after one of her ex-husbands pinned her against a bed and assaulted her with a metal bat. In both situations a man had “beat[en] the dignity out of me” (206).

In her narrative, Foreshaw quotes the Bible twice as part of a strict textualist approach to her faith and as a justification for why she wears dreadlocks and why Rastafari women in general wear skirts and dresses but not pants. She is quick to note, however, that her Bible is “the Michael B. Scofield translation, which purges the Old Testament of the Europeans’ revisions and restores the truth” (193). Chapter 6, verse 5 of Numbers provides the textual rationale against cutting one’s hair: “All the days of the vow of his separation there shall no razor come upon his head: until his days of dedication to the Lord are over, he shall be holy, and shall let the locks of the hair of his grow” (qtd. in Foreshaw 191). Chapter 22, verse 5 of Deuteronomy prohibits men and women from cross-dressing: “The woman shall not wear that which pertaineth

unto a man, neither shall a man put on a woman's garment: for all that do so are an abomination unto the Lord thy God" (qtd. in Foreshaw 196). Her choice to take a textualist approach is significant; it is a patently recognizable legal maneuver, part of a long legal tradition. Textualism is an approach to textual interpretation that depends entirely upon what a document actually says in print; in the interpretation of wills, for example, judges and courts routinely pursue a strict textual interpretation and have "traditionally ignored such information (called *extrinsic evidence*) regarding the speaker's or writer's intentions" (Tiersma 72). This approach is also referred to as the plain meaning rule or the four corners rule, because meaning should either be derived "from the plain meaning of the text" or from "the language contained within the four corners of the document" (72). As legal scholar Peter Tiersma observes, current US Supreme Court Justice Antonin Scalia is the most notable current textualist, and his approach is always in play in the opinions he drafts. He believes that written statutes constitute the actual law, instead of serving as records of legislative intent, and as such routinely dismisses any extrinsic evidence and arguments about what a statute or law was intended to do.

Intentionalism is often contrasted to textualism. It is an approach that seeks to understand the intentions behind a particular law or statute, which is usually inferred from the documents under examination. In 1917, Benjamin Cardozo, famous for his sharp legal intellect and eloquence, opined that "the law has outgrown its primitive stage of formalism when the precise word was the sovereign talisman, and every slip was fatal. It takes a broader view today" (*Wood v. Duff-Gordon*). Another famous judge, Billings Learned Hand, was an articulate defender of intentionalism, observing in one decision that "Words are not pebbles in alien juxtaposition; they have only a communal existence; and not only does the meaning of each interpenetrate the other, but all in their aggregate take their purport from the setting in which they are used" (*National*

*Labor Relations Board v. Federbush Co.*). He writes in another that the courts should “not make a fortress out of the dictionary; but [ . . . ] remember that statutes always have some purpose or object to accomplish, whose sympathetic and imaginative discovery is the surest guide to their meaning” (*Cabell v. Markham*). Stanley Fish has also weighed in as an intentionalist, claiming that there can be no textualist position, since because “lexical items and grammatical structures by themselves will yield no meaning—will not even be seen as lexical items and grammatical structures—until they are seen as having been produced by some intentional agent” (635).

In his discussion of textualism and intentionalism, Tiersma draws attention to the fact that religious and legal textualists operate with similar aims and have comparable approaches to their respective texts. He argues that the Calvinist

approach to the sacred text of Christianity is remarkably similar to how the common law regards its own sacred texts. Just as God is deemed the author of the Bible, though the actual writing was done by mere mortals, a legislature is viewed as the author of statutes, even though most of the actual drafting is done by lawyers and bureaucrats. Legislators are held to speak through the texts they enact, just as God speaks through the Bible. Moreover, statutes are viewed not merely as containing the law, nor are they merely evidence of what the law is. They are the law. In the same way, many Christians reject the view that the Bible is just evidence or a record of God’s word. Rather, it is the word of God. (44)

I have deliberately invoked the legal debate between (legal) textualism and intentionalism to situate Foreshaw’s conflict with prison administrators as an essentially discursive debate, a conflict between two institutions that often rely on textualism to operate. In “Faith, Power, and Pants,” Foreshaw uses both modes to state her case: after all, she spends some time meditating upon the intentions of the new rule change, and agrees in principle with those intentions. But this seemingly minor debate over pants, like Rowley’s write-up over hair, is in reality a debate that arises between two parties claiming that their own text as the only true version of the law. For Foreshaw, the prison’s law—a secular, legislated, institutional law that refuses to honor

difference among prisoners—clashes with the word of God. Furthermore, by also evoking the legal form of textualism, Foreshaw uses her personal narrative to point to apparent legal inconsistencies between the prison's dress code and the fundamental laws of the land, as established by the Constitution, when she claims that the rule is unconstitutional. Although Foreshaw was the only Rastafari in York Correctional Institution at the time, she wasn't the only member of a religion with strict dietary and behavioral restrictions. Thus she felt she

practiced my faith under a double standard. A fellow inmate who was an Orthodox Jew obtained permission to have kosher food brought in by an outside service. This woman's rabbi was granted the privilege of counseling her in the privacy of her room. My request for an untainted Ital diet was denied, and my religious counselor was restricted to the main visitors' room, where he was monitored by security. (193)

By pointing to these moments of institutional capriciousness, Foreshaw uses her narrative as a site of redress, in which she plainly states her case before the court of public opinion, having lost the legal battles with the warden. She also uses it as a means to speak back to power by calling upon a higher power to recontextualize earthly institutions like the prison and the state. As such, her narrative becomes a powerful tool to critique the institution and its arbitrary exercises of power committed in the name of institutional security and safety.

But her political commitment and her attempts to rationalize her position only have a limited power in prison. On the first night she spends in segregation she felt galvanized by remembering all those throughout history who had also been persecuted for their convictions: Jesus, Martin Luther King, Nelson Mandela, Mahatma Gandhi, and Steven Biko (203). These names don't help her recover from the traumatic moments when she is forced to break her vows. It is only through the slow process of forgiveness, through prayer and faith and community, as well as through processing the event and others related to it, that she gets over the shame, bitterness, and animosity she feels for having been the victim, yet again, of an abusive situation.

This emerges most clearly through the way she describes her relationships afterward: “When I arrived in Niantic back in 1986, confused and scared, I was cradled in the arms of the elders who comforted me and helped me survive. Today I serve as a mentor and substitute mom to other frightened women, and as “Grandma” to several youthful offenders, those tough, scared babies whose innocence I can see beneath their masks of defiance” (208). Thus, Foreshaw only achieves emotional literacy and communicative rationality when she moves beyond the technical and legalistic registers of her testimony to take up, again, the emotional impact of breaking her religious vows, which in turn remind her of three abusive marriages, and sexual abuse as a child, part of what she calls her “buried history” (201). Only when she engages both registers—the political and the emotive—through the acts of writing and revising is she able to begin moving forward past the most recent trauma she had to endure.

What these close readings of Rowley and Foreshaw’s testimonies have demonstrated is that the even the writing of personal narratives, stories about deep pain and abuse and addiction, have a particular political praxis both in their modes of production—as the products of individual and collective, maybe even communitarian, intellectual labor—but also in the way that a writer approaches her emotional life and revises it. Although this chapter is constructed in such a way that seemingly privileges essays or writers with direct or overt political engagement over those who don’t, it is important to remember Alison Jaggar’s assertion that “critical reflection on emotion is not a self-indulgent substitute for political analysis and political action. It is itself a kind of political theory and political practice, indispensable for an adequate social theory and social transformation” (184). Thus, the political qualities of meditating on one’s emotions is a question of degree, or of character, rather than an all-or-nothing affair. Foreshaw’s politics is only more overt, tied more directly to larger social movements and global history, but they are no

more or less legitimate than other writers' seemingly solipsistic or individualistic meditations on addiction or obesity, which also have a history worthy of contemplation and critique.

## **7.6 CONCLUSION: NAVIGATING ANTI-WORK PERSPECTIVES ON WORKING WOMEN**

In *The Problem with Work: Feminism, Marxism, Antiwork Politics, and Postwork Imaginaries* (2011), Kathi Weeks presents a number of challenges to the direction I initially proposed in this chapter, and in early drafts of other chapters as well. In calling for an expanded notion of work, to include forms that have usually fallen outside the rubric of productive labor, I was falling into the trap of still valorizing work for its own sake, for valorizing the work ethic, instead of calling into question why prison writers should work at all. As Weeks observes, “Challenging the present organization of work requires not only that we confront its reification and depoliticization but also its normativity and moralization. Work is not just defended on grounds of economic necessity and social duty; it is widely understood as an individual moral practice and collective ethical obligation” (11). This is clearly at work in the work-oriented biographies of the writers I examined in this chapter: the litany of their labors is specifically directed at those readers who would paint all convicts as lazy, selfish, and immoral. The individual biographies attest to the sheer range of activities that each writer undertook while incarcerated; in total, all of the biographies point to a different way of reading these women as highly moral members of society who firmly believe in the ethical dimensions of hard work.

As discussed earlier, the writers discussed in this chapter reveal the many different levels of prison labor that exist in prison, often implicitly demonstrating how coercive and unnatural

the work ethic really is, as it is imposed from above upon prisoners. For breaking one part of the social contract, prisoners are forced to work in degrading low-skill labor, and the logic of this arrangement is rarely questioned. This is why I chose prison and prison writing as subjects for a dissertation on notions of work: work in prison is often, though not exclusively coercive, and convicts call into question the logic of work through striking and other forms of direct action. Prisoners who choose not to work are routinely disciplined for disobedience. Because of this, the prison is an institution in which that which we conceive of as entirely natural—the need to work—is routinely made unnatural, because the sometimes invisible lines of hierarchy and power that inform the coercive qualities of labor outside the institution are made obvious inside them. Weeks notes that, “in general, it is not the police or the threat of violence that force us to work, but rather a social system that ensures that working is the only way that most of us can meet our basic needs. In this way [. . .], the specific mechanism by which goods and services are distributed in capitalist societies appears to be grounded not in social convention and political power but in human need” (7). This is true of the world that created the penal institution and demanded that convicts work: the Protestant work ethic that Max Weber traces throughout Western modernity is present in Benjamin Rush’s plan for the first penitentiary, when Rush argues that hard work and silent, solitary meditation would make prisoners penitent and worthy of social and religious redemption. It is still present in the calls for prisoners “to pay back their debts to society.” But it is not true inside prisons: examining the material conditions of work in prison and the imposition of labor relationships there reveal the functionalist and productivist logic of the work ethic as hegemonic, as a value encouraged or imposed as a social norm that directly benefits the current economic system in which we live. I invoke Gramsci here, because his notion of the way that hegemony is a system that depends on consensus as well as (if not

more than) coercion helps us to think about the work ethic as mutually shared idea that we think of as entirely normal. The abnormal, those who do not accept the ethic, are often institutionalized and “rehabilitated” in “work ready” programs, but through their resistance they are also the ones who call attention to the fact that the work ethic is a value over which we constantly struggle. Their resistance illuminates the basic fact that labor and work are in fact not normal but *normalized*, and are thus potentially subject to reform or radical revision, however entrenched the moralization and valorization of work really is in our society. Convicts, especially those who refuse to work, directly call into question the logic behind the productivist and rehabilitative rhetoric behind penal practices, especially the well-worn cliché that prison time is meant to make convicts “productive members of society.”

Weeks meditates at length on the ways that many strands of Marxist thought implicitly or explicitly betray a productivist logic, but for the purposes of this chapter on women prison writers, it is important to consider her description of the way feminists (especially second-wave feminists) who called for better work or to valorize unpaid forms of labor like domestic work or care work highlights the productivist logic embedded even in challenges to normative labor formations. She writes,

A second feminist strategy concentrates on efforts to revalue unwaged forms of household-based labor, from housework to caring work. Certainly making this socially necessary labor visible, valued, and equitably distributed remains a vital feminist project as well. The problem with both of these strategies—one focused on gaining women’s entry into all forms of waged work and the other committed to gaining social recognition of, and men’s equal responsibility for, unwaged domestic work—is their failure to challenge the dominant legitimating discourse of work. (13)

From this point of view, Miriam Glucksmann’s concept of the total social organization of labor, while seeking to extend the boundaries of labor to include domestic work, precarious forms of labor in the care and service sectors, and volunteerism, nevertheless fails to consider why anyone

should work—or work hard—in the first place. It also calls into question the way I have approached these writers. Aren't their own efforts at healing through writing simply in the service of the state, to make them functional again, which will ultimately make them better workers and members of society? If the point of incarceration itself is to repair one's relationship to the society that has been offended and then to be released—a process usually entailing the repairing of one's self (or having it repaired by the institution)—then the writing lives of these women were simply rather odd ways of paying back that debt. With Weeks's argument in mind—and with Gramsci and Foucault in mind as well—we must seriously consider whether or not this writing was executed in a way that simply did the work of the institution and the state, but without all the naked coercion and repression. After all, the writing itself served to “humanize” the writers; the emotive and literary (and even literacy) labor necessary to be published and to be released “proved” their renewed commitment to be productive, disciplined, and moral members of society.

And yet, I think it must be stated that there *is* something valuable to the work these women voluntarily assumed. There is, if nothing else, epistemological and ontological value to the composition of these narratives, and these should not be discounted simply because they demonstrate a false consciousness about being productive, because they indicate a renewed commitment (one might cynically say “submission”) to individual and social discipline, or because they ratify commonly held (hegemonic) ideas about the value of hard work and sociability. In light of Bonnie Foreshaw's sophisticated textualist approach, Rowley's meditation on her hair might seem rather superficial, but through the writing and revising of her essay she achieved not only a different perspective on herself and her emotions, but she also began the process of achieving a greater awareness of her place in society and in history. I don't think it is

a stretch to call hers a heightened ontological awareness. It might seem patently clichéd to say, “she has to start somewhere,” but why not begin with her own body as the center of renewing one’s interest in society and history? It isn’t so pat when we realize that this focus on the body is embedded in the logic of extreme solitary confinement, as well as in the monastic trappings and residues of bare life—the lack of personal objects, the insistence on uniformity, the crude diets, and so forth—that still circulate in the cellular architecture of the prison. The body is still being locked away, deprived of food, interaction, sex, pleasure; in some cases the body is still being punished and tortured. By writing about these issues, Rowley, Foreshaw, and others begin to counteract the various forms of repression they routinely experience in part by teaching themselves and each other how this repression takes place.

It must be said, too, that there is pedagogical and communitarian value for us in reading these works as a collective. Yes, the books were published by a mainstream press for profit (that was ultimately donated to charities), and yes, there are many problems that arise in them. In a reading group that she ran in a North Carolina prison, for instance, Megan Sweeney assigned *Couldn’t Keep It to Myself*, and a number of women complained that the essays were “a clichéd form of mis[ery] lit”; “two women adopted a mocking tone in offering the following caricature of the authors’ narratives: ‘Oh, I’ve been molested. My father left me. Oh, my husband beat me. I’m in prison because we had to struggle to pay bills’” (103). But I think the weaknesses and superficiality of the individual testimony are transcended when we think about how these two books function as a collective critique of the current system of incarceration. They demonstrate enough difference of opinion to remind us that prisoners themselves do not have static, uniform, and monolithic opinions about their incarceration, their perspectives on administrative decisions, the value of labor, their political and intellectual commitments and engagements. If they were

uniform, we would probably criticize and dismiss them for their obvious political agenda. But these differences seem to have been worked out and through—not resolved, but suspended, perhaps, or at least diminished—for the good of the writing and the health of the group. This, I think, is the ontological value for us as readers. In spite of their flaws—or, rather, precisely because of them, even—the anthologies demonstrate the power of working communalism (one might even say communism), a functionality predicated upon mutual respect, understanding, and solidarity. It is only through this collective enterprise that conditions inside and outside of prison will be changed, in any capacity, in the future.

## **8.0 CONCLUSION: *AGAINST REHABILITATION* (THE FUTURE PROJECT)**

### **8.1 RETROSPECTION ON THE DISSERTATION**

This has been, all told, both a rewarding project to write, and, at times, an excruciating one to compose, too. The writing of the Robert Stroud chapter (the last to be composed, apart from the introduction and conclusion) was almost effortless, and was the most fun I have had writing in a long time. Originally I had intended to devote about ten pages to Stroud as a kind of brief “case study” to begin the introduction and establish the kind of questions that I would pose over the dissertation. But ten pages became fifteen, and not too long after that, as the subject matter kept becoming more strange and weird and kinky, I realized I had a chapter on my hands, one that I’m personally rather proud of. My difficulties with the Chessman chapter are probably indicative of the worst times I had over the course of the project. I have spent years working on it (it was the first chapter I began writing—in a seminar in 2010), and every time I returned to it I again and again there was so new problem I needed to tackle. Over the course of writing it I had to teach myself how to research the law, read it, and write about it, too (including more than a few frustrating hours figuring out just how to cite case law). There were other problems, too, that were addressed along the way. Nevertheless I feel that the chapter is incomplete, that there is still something missing in it.

Another difficulty I've had has been trying to keep up with the field as it has constantly changed while I wrote the project. This is true both in terms of the political and penal climates, but also in terms of the scholarly debate that is continually churning out new books on prison. I didn't know until April 28<sup>th</sup>, 2014 (two days before this manuscript was due to my committee) that Bonnie Foreshaw had been released in November 2013 after over thirty years of legal struggle. I found out in early March that the first of five installments of Robert Stroud's prison history had been released via ebook in February. As of late 2013, the federal government has started its own decarceration process; many other changes (such as those balancing out the sentencing for possession of cocaine versus that of crack cocaine) have occurred while I worked on this project. Certainly I feel that this project has been and still is timely work—both in terms of the economic climate under which it was composed, but also in terms of the ever-evolving question of penal issues that are being taken up across the country and around the world—but it is also a daunting task to try and keep up with it all as well. Finally, there were many times where the subject matter itself made it difficult to work on the dissertation. It certainly isn't a hopeful or cheery subject; on the worst days, working on this dissertation simply confirmed my misanthropic tendencies. In some ways the writing of this project paralleled a number of storylines that have served as subtexts or undercurrents that made the writing difficult. The most notable is the ongoing saga about the Florida School for Boys, a long time reformatory that warehoused all kinds of physical and sexual abuse over its history. Information began coming forward about the abuses in 2009, and in 2012 University of South Florida researches discovered one mass grave and possibly another, with as many as fifty-five different bodies located in them, twenty-four more than official records have indicated (Cook). At times it has been a hard project to work on, simply because this is the kind of information that circulates about prisons. Even

redemptive stories—about Death Row inmates exonerated—are tainted, given the experiences those people no doubt had while in prison, and I’ve found myself growing more skeptical of the way those stories get picked up and circulated as proof that the judicial system and the penal system aren’t as bad as others make them out to be.

However, the main difficulty I had with this project is a practical one: I believe it was too ambitious. In attempting to write about penal labor; recent labor/legal/prison history; the categories of nonliterary forms of writing; and the writing itself (as well as attending to the period that stretched from 1920-2009), I felt at times that I lost one or more of the various threads I was attempting to weave together. Often it felt as though I were simply overreaching. Although, for instance, I feel that the Jackson chapter does a lot of good and useful work in addressing an interesting and important critical oversight regarding his revolutionary activities, I also feel as though I shoe-horned the “labor” facet into the chapter at the last minute. I also feel as though I could’ve attended a bit more closely to the compositional and rhetorical aspects in the Stroud and Chessman chapters as well. I think I “cheated” a bit in the introduction, that I cherry-picked convenient Marxist and Foucauldian quotations to simply restate what, in essence, I have been saying all along: that there are many different kinds of writing that are produced in and about prisons, that we should examine them more closely with a different set of analytic tools, and that we should value this writing and the effort that went into it as a form of productive intellectual labor. I’m afraid that I found those useful quotations, plugged them in in the introduction, but then didn’t really follow through enough in applying a critical veneer over the body chapters as part of the revision process. And, I think what I produced is more comfortably an American Studies dissertation, rather than a rhetoric and composition one. Essentially, these

are the reasons I feel as though the dissertation just does not hang together all that well as a future book project.

But, in spite of these frustrations, I feel as though this was a worthwhile and important project. It is timely, and for better or worse it will remain so. It has allowed me to engage with what I feel are important questions along different axes (social questions, intellectual questions, labor-oriented questions). It has pushed my thinking forward and tested my capacity to speak to a number of different audiences and crowds outside of my home department and discipline; I had to learn to speak to those dealing with the law, for instance, as well as those who work in the fields of criminology and criminal studies, too. And it has provided a rich foundation for future work, in labor studies, in composition and rhetoric, and in literature.

## **8.2     ALTHUSSER’S ANTIHUMANISM AND THE PROBLEMS OF REHABILITATION**

Of the many questions that arose over the course of researching and writing this project—and there were many—the most notable and pressing one is the issue of rehabilitation. As we saw in the Stroud and Chessman chapters, rehabilitation arose already as a doomed project. Those tasked with implementing it were invested in cultivating a collective professional identity carved out in opposition to the punitive penal regimes that they sought to alter; prison psychologists and case workers who did not seek to punish but to “cure” were met with hostility and skepticism by guards, wardens, and politicians alike. And the resistance of prisoners to “chickenshit routines” was just as powerful, and more notable (qtd. in Cummins 19), for if guards had to play along with the procedures of rehabilitation in order to maintain their jobs, prisoners had to play along

in order to acquire their freedom. There is a paradox embedded in the act of sentencing someone to prison already, because incarceration is a model “expected to ‘rehabilitate’ a prisoner by ‘debilitating’ him through imprisonment” (Foucault “To Punish” 463). That paradox is, simply, that “a sentence is always a wager, a challenge addressed by judicial authority to the penitentiary institution: can you, in a given time, and with the means you possess, make it possible for the delinquent to reenter collective life without again resorting to illegality?” (463). If that wager includes the principle of indefinite sentencing, then a prisoner may never be able to fully demonstrate his or her “rehabilitation” adequately enough to convince a parole board, or parole officers, or the myriad of post-prison functionaries tasked with reintegrating the convict back into life. Thus, those prisoners who resisted the rehabilitative project, like Stroud, Chessman, and Jackson, did so in full knowledge that they would never be paroled or released; their resistance is, for lack of a better term, an existential one, insofar as that resistance bars them from any possibility of ever leaving prison.

The final chapter of this dissertation on women prison writing is different in many regards from the first three chapters—because of the gender of the writers, because of its scope—but perhaps the most important difference is the notion maintained by some of the writers that there is some validity to the process and philosophy of rehabilitation. We should not forget that the material conditions of the writing group that produced *Couldn’t Keep it to Myself* and *I’ll Fly Away* were also fundamentally different than other state-mandated rehabilitative programs: membership in the writing group was voluntary, rather than coerced, and “rehabilitation,” if that is what we should call it, is also directly tied to processes of resocialization. I tried to avoid entirely simply rebranding the workshop as “group therapy,” insisting instead that the group dynamic had demonstrable therapeutic capacities that were

nevertheless secondary and subordinate to the act of writing itself. That is to say, the stated purpose of the workshop is not therapy or rehabilitation, but writing, and any and all therapeutic value arising out the writing is an added benefit to the intellectual work that they voluntarily assumed for themselves. The women published in the anthologies *chose* to write about themselves and their pasts in ways that helped them achieve a new sense of emotional literacy; were these subjects mandated and coerced by the institution and the state, it is doubtful that the same results would be achieved. As one female prisoner quoted by Kathryn Watterson succinctly put it, “You know, I’m not going to let them rehabilitate me. I’m the only one who can rehabilitate me” (118).

Writing now at the end of this long project—a project that has taken me across a vast terrain of texts and issues associated with labor, prison, race, class, gender, and so forth—and looking back over all that I have read and researched and written, I have come to the conclusion that rehabilitation is a futile and hopeless project. It may very well work if penal conditions were to be fundamentally and irrevocably altered, but I think this is also highly unlikely, though changing the system, abolishing the system, is a noble and worthwhile goal to which we should all strive. This permanent structural change is unlikely, I fear, because the sensibility that prisoners “had their chance and blew it” is still common currency right now, given the bleak economic conditions that affect the lot of us. The common-sensical and deeply held belief in less eligibility—that no prisoner should have more than the basest free person—is a hegemonic belief easily called upon by the powers that be in times of crises to divert energy and attention away from coalition building across classes and the free and unfree divide. In the 19<sup>th</sup> century, we see a racialized version of this between black chattel slaves and poor whites, what David Roediger

famously calls the “wages of whiteness.”<sup>89</sup> It happened during the Great Depression and most recently in the conservative backlash in the 1970s and 1980s, too, when the specter of criminality (especially by non-whites) was evoked in an effort to have working-class and middle-class whites vote against their own historical class interests to achieve more “security” in their homes and communities. Truthfully, however, today’s version of less eligibility would be better started this way: no prisoner should suffer *less* than any free person who is also suffering because of economic uncertainty and employment precarity. I do not share Angela Davis’s firmly held convictions (articulated in *Are Prisons Obsolete?*) that the lessons of slavery or lynching—both practices that were eventually and successfully abolished—have something to teach us about today; I do not think most common Americans feel strongly enough to go to war to abolish the prison-industrial complex. After all, doing so might negatively impact their 401(k) retirement package.

Beyond the economic question, however, lurks a series of practical and philosophical concerns about the implementation and mission of rehabilitation that I find troubling and worthy of more investigation. Its implementation was obviously a failed project, emerging at a time when trying to “solve” or “cure” the crime problem became a contest of wills and a disciplinary war between scientists (psychologists, psychiatrists, eugenicists, penologists) and those actually tasked with overturning years of the punitive model and executing a new approach (guards, wardens, and politicians). Prisoners, too, had little faith in rehabilitation. At different times over the rehabilitative period, they were quite leery of serving as curios, freaks, and pet science projects for naïve do-gooders or social evangelists; they evinced a healthy skepticism of fellow

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<sup>89</sup> Roediger usefully adopts and adapts the idea from W.E.B. DuBois that lower- and working-class whites were compensated for being exploited for their labor by receiving “a [. . .] public and psychological wage,” that of being white (qtd. in Roediger 12). In other words, “status and privileges conferred by race could be used to make up for alienating and exploitative class relationships, [in the] North and South” (Roediger 13).

prisoners who *wanted* to be rehabilitated (a desire that often divided prisoners into the stand-up con camp and the camp of sycophants and stool pigeons); and, later still, many prisoners were quite willing to game the system for their own benefit. But beyond questions of implementation, I find that there is an unresolvable paradox at the heart of rehabilitation that renders its entire mission suspect—namely, the notion that human beings can be coercively reset to some undamaged past state or forcibly repaired to some notion of socially acceptable (and state-defined) functionality. I want to spend the rest of the conclusion further explaining why I think this is the case and to develop a provisional plan for the next book project, which takes the early history of rehabilitation as its central subject. To lay out this project requires first revisiting, by way of a slight detour, some ideas articulated by Louis Althusser that may help to explain my philosophical reservation about rehabilitation. Afterward, I will explain how this dissertation has informed that next project both positively and negatively.

One of Althusser's most notable contributions to the history of Marxist thought is the distinction he draws between the career of Young Marx and the more "mature" science articulated by Marx in *Capital*, a difference that he terms "the epistemological break." In pointing to this break, Althusser was writing against a form of liberal and idealistic Marxist humanism touted by members of the Frankfurt School, as well as others like Jean-Paul Sartre and Herbert Marcuse. These writers were basing their interpretations of Marxist thought on the earlier works without realizing how Marx's ideas profoundly shifted over his career. In *For Marx*, Althusser insists that the older Marx, the Marx that produced *Capital*, was theoretically and profoundly *antihuman*: the critical underpinnings of *Capital* did not rely on an idealistic understanding of man corrupted by modern capitalistic forms of production. Rather, man was a product of material decisions, his own as well as others: Marx contributed "a theory of history

and politics based on radically new concepts: the concepts of social formation, productive forces, relations of production, superstructure, ideologies, determination in the last instance by the economy, specific determination of the other levels, etc.” (Althusser, *Marx* 227).

This antihumanist view of historical and material man conflicts with earlier notions posited by the younger Marx, particularly the young Hegelian Marx who produced *Economic and Philosophic Manuscripts of 1844*. Most significantly, the early concept of “alienation” depends upon an idea of the “essence of man,” that part of man which is alienated by oppressive labor conditions and corrupted by capitalistic practices but could be recovered and redeemed through the communist revolution. This view of an eternal part of man, this humanism, is clearly at odds with Marx’s later notion of man as the sole (re)producer of himself, of man as a purely historical creation. The later Marx would discover that this humanism is in fact an ideology. It is a vision of the world (like the idea that “all men are created equal,” for instance, or that they have certainly “unalienable” rights) touted by bourgeois thinkers that allowed them to make certain political and economic decisions to consolidate influence and power under the guise of working for a universal “mankind.”

But what does this have to do with rehabilitation? I argue that the same humanistic principle that props up the notion of alienation also forms the core of the rehabilitative project, and that Althusser’s reservations regarding “human essence” as a specific kind of ideology also apply to the problem of rehabilitation. Here it must be stated that what I term “rehabilitation” is not the kind of overt medical, psychiatric, and/or psychological (and even pharmaceutical) procedures used to treat substance abuse and diagnosed mental health issues. While these issues are certainly present in prisons, and have been for a long time, I am not making an argument that the medicalized forms of rehabilitation, such as drug rehab, are impossible, though they are

difficult if coerced and considered part of the punitive aspect of incarceration. If anything, I think more money and more support for these alternative forms of custodial care and supervision would help further reduce prison populations.

Rather, by “rehabilitation” I mean those other forms of behavioral modifications meant to “cure” the delinquent of his delinquency, the criminal of his antisocial tendencies; the methods by which criminal individuals are reprocessed and resocialized to be “normal, law-abiding citizens” or “productive members of society.” At its most spiritualistic and idealistic moment, the rehabilitative project sought to repair a supposedly broken human being back to some former state of completion, or to cure a kind of mental and social madness into some cleaner, saner form of purity. This is in keeping with an older, religious understanding of the term: “Restoration to an original state of purity; (more generally) improvement of the moral state of a person, the soul, etc” (“Restoration,” def. 2c).<sup>90</sup> When it became obvious that this was impossible, rehabilitation instead became about doing just enough work to have a criminal “reintegrate” back into society, to restore a person to a basic form of social utility or functionality. But very little thought has been given to repairing the social situation (the labor situation, the home community, and the like) to which these individuals would, in effect, be repatriated. And, moreover, very little thought has been given to the ways that prison regimes fundamentally reinscribe the very same

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<sup>90</sup> However, even the religiosity embedded in more contemporary uses of the term “rehabilitation” is not apparent in the earliest usages of it. For even though rehabilitation has always been related to religious practice, the oldest deployment of the term “rehabilitation” referred not to some kind of human essence, but instead to an altogether more earthy status: a man’s social and political place in the world. That definition, “The restoration of a person to former privileges, status, or possessions by official decree, declaration, etc. [...]; (occas.) *spec.* formal restoration to communion with the Roman Catholic Church” (“Restoration” def. 1a), as well as others related to it, such as “the re-establishment of the reputation or merit of a person or thing; vindication of a person’s character or legacy, esp. through a literary or historical reappraisal” (def. 1d), take up the ways that the fallen may rise again in one’s political life through politics, through the intercession of political decree, rather than through the work of any kind of physical or mental or penal regime. In fact, the idea of repairing one’s self to a former condition follows on the heels of two telling 19<sup>th</sup> century uses of the term, one dealing with architecture (the renovation of a building), the other with warfare (“the political and economic revival of a country or area after war”)(def 2b; def 2d).

antisocial and criminological tendencies that landed people in jail in the first place, and then have them cycle in and out of the institution many times over (Watterson 313). Those deemed worthy to reenter civil life are also never fully “rehabilitated” in the older variable senses of the term, either: I’m thinking of definitions like “the re-establishment of the reputation or merit of a person or thing” (such as the rehabilitation of one’s honor), or “the restoration of a thing to a previous condition or status” (such as the rehabilitation of one’s freedom)(“Rehabilitation” def. 1d, def. 2a). This is partly due to the proliferation of surveillance and registration techniques that intrudes into a former convict’s post-prison life, such as the sometimes combative and certainly intrusive presence of parole officers in an individual’s life, or the compulsory registration of sex offenders in a community, or the requirement on job applications that former convicts explain in detail their past crimes.<sup>91</sup> But it also has to do with the social stigma that one carries around with him or herself after prison too. That stigma is almost a permanent one today.

A general example will hopefully suffice in explaining how the essentialist logic of the rehabilitative project is problematic. Many of the women published in *Couldn’t Keep it to Myself* describe years of emotional, physical, and sexual abuse, going as far back as childhood. To what former state in their own past should these women be rehabilitated? How far does the rehabilitative project extend until that uncorrupted state is reached? Or, if that is not the true project of rehabilitation currently, then to what kind of mental and emotional state must they repair themselves so that they can tolerate those past abuses and “functional normally” like everyone else? There are philosophical and pragmatic traps on both sides. The first method supposes that people have some kind of tabula rasa moment to which they can be repaired and ultimately reset. The second demands that the past remain firmly in the past, that people “get

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<sup>91</sup> Loïc Wacquant takes up what he deems “moralism and punitive panopticism” regarding the intensification of post-prison surveillance techniques and technology, especially of former sex offenders, in *Punishing the Poor*.

over” those past abuses and stop “making excuses” for their criminal behavior (stop making excuses for the addictions they used to insulate themselves from abuse, or for killing the abusive spouse or partner). The common refrain then usually insists that there have been many victims of abuse throughout history who grew up completely adjusted and capable of functioning normally; this abuse should thus not be considered an extenuating circumstance. This line of thinking does not leave much room for recognizing how those traumatic events still intrude on someone’s life in unexpected and often destructive ways. Both understandings of rehabilitation are backwards-looking, too; they are so focused on the past that there is little thought to how one might proceed through the present and in to the future. This focus on the past is a function of the purely punitive intruding upon and conflicting with the rehabilitative: after all, punishment is always an act occurring in the present to condemn those delinquent and criminal acts of the past.

In spite of the reservations against rehabilitation that were lodged as early as the mid-1930s (as discussed in Chapter 1), it was nevertheless adopted as the dominant penological mode in the US and this lasted until the law-and-order backlash that began in earnest in the late 1970s. My next book project, *Against Rehabilitation*, will take up why I think this is the case, by addressing questions like the following: How was rehabilitation implemented across the country—what did it look like in California and in the Northeast, and how was it finally implemented in more conservative regions like the South and Southwest? How did official institutional language accommodate the conversion to the rehabilitative model—what were the standard operating procedures before and after that conversion? How did writing in and about prisons inform this particular decision? Did the critiques of rehabilitation evolve over the years, as viewed by prisoners, and by administrators (both wardens and psychologists and case workers), and by the public itself? What was it that finally resulted in states and the federal

government abandoning the project once and for all—but what also accounts for its rhetorical persistence into our contemporary moment?

The time period and the geographic constraints of the future project will be more condensed and constrained than my dissertation. One of the greatest limitations of the dissertation is its ambition in terms of historical scope: its eighty-year scope forced me to attend to a number of necessary historical, labor, legal, and penal changes. This is also true of considering prisoners incarcerated in different areas, as well as the difference between federal prisoners and state prisoners. In order to treat the writing historically and materially, local differences (like those between someone currently incarcerated in Connecticut at a women's prison, versus a federal prisoner incarcerated in Kansas at the turn of the century, or a state prisoner in California before the Civil Rights era) necessarily merited some consideration. Attempting to take this much historical, penal, and labor history into account sometimes overwhelmed and interfered with the readings of the prison writing itself. Thus, *Against Rehabilitation* will center on the first four decades of the rehabilitative project, from 1930 to the early 1960s, right before the Civil Rights movement began in earnest; I chose this cut-off date because the Civil Rights movement and the political backlash caused by it fundamentally changed US prisons and led to the total abandonment of the rehabilitative model by the late 1970s. And it will (largely) center on California, the leading experimenter of penology at the time. The introduction and the conclusion will take up the philosophical questions about rehabilitation and the persistence of it in today's society, but the bulk of the textual analysis will be limited to the decades during which rehabilitation operated largely uncontested.

The dissertation will provide the first two chapters of the next project. I will update and revise my work on Robert Stroud and Caryl Chessman to focus more squarely on the question of

rehabilitation, even though their labor examples are will still be integral to demonstrate just how nakedly “rhetorical” the project of rehabilitation was considered by prisoners and the public alike. The Stroud chapter will benefit greatly from the publication of his history of US incarceration, the first part of which was published in February. Four other parts will be published in the near future; the history takes into account the transition from a more punitive period to a rehabilitative one that Stroud lived through. It might also benefit from the publication of his memoir *Bobby*, though it remains unclear if this will be published at some future date. If this is not the case, then I may try to contact the manuscript’s owner in order to view it and write about it anyway. In terms of the Chessman chapter, the Bancroft Library at the University of California at Berkeley contains an archive—the Edmund G. Brown Collection—consisting of (among other things) more than four thousand letters written by members of the public to Governors Knight and Brown that would help to flesh out the public reception of Chessman’s work. The letters articulate a range of responses, from those arguing for his release by claiming that he was fully rehabilitated, to those calling for his execution and decrying his ability to be cured or rehabilitated as a sham and a mockery of justice (like those cited in the dissertation chapter). Writing about the public response would provide a more complete understanding of how the public drew on and sustained or utterly rejected the rehabilitative project in the 1950s.

### **8.3 NEW CHAPTERS AT A GLANCE**

This is where the link between the dissertation and the book project ends. The next chapters in that project will take up the question of rehabilitation as it circulated in a number of figures who overlapped in time and space, and who all contributed to the rehabilitative model. In what

follows I will lay out (in admittedly a very unevenly developed fashion) a provisional plan and rationale for those new chapters.

The first figure I want to consider is that of Herman Spector, San Quentin's librarian for nearly twenty years. Spector believed in bibliotherapy, the idea that reading and writing had therapeutic qualities, and he worked hard to install programs that made manifest this faith in the power of words. Inmates were strongly encouraged to read widely (particularly the "Great Books" of literature), to take classes where they discussed their readings, and to write essays, observations, and reviews. Spector believed that cultivating the life of the mind among convicts had a rehabilitative capacity, and that it would serve as an economical means of both reducing recidivism (and in some ways he was right) but also keeping peace and order in the prison. Spector saw himself as something of a moral crusader, and to this end he marshalled forth literature and writing as tools to combat crime on one hand and to pacify prisoners on the other. Spector built what was, at the time, the most impressive prison library in the US (rumored to be over three million titles during its heyday) and he also developed an archive of prison writing by convicts—whose reading lists, essays, and reflections were carefully stored away as part of their criminal profile, their "jacket"—and an equally impressive collection of raw data about reading habits, book requests, and the like, only some of which was published during his lifetime. He was also the lead censor of any and all writing that prisoners sent out of the prison (excluding personal mail); regarding the work of aspiring writers, he weeded out the more realistic, crime-, sex- and pulp-oriented work that he felt was immoral and reflected poorly on the institution and its inmates.

Almost everyone involved, from politicians to guards and the convicts themselves, were dubious of Spector's project, although Warden Clinton Duffy publicly supported it and sought to

increase donations and funds to keep it running. And in some ways, these concerns were entirely legitimate. As Eric Cummins observes, “the California prisoners deemed truly salvageable were being sent to the new California Institution for Men at Chino,” while “the incorrigible worst remained at Folsom and San Quentin” (22). Moreover, Spector’s failed work at San Quentin overshadows the otherwise tremendous influence promoting bibliotherapeutic endeavors across the country, because in addition to serving as San Quentin’s head librarian, he also

served as the assistant managing editor of *Prison World*, the official organ of the American Correctional Association, and as editor in chief for the *Correctional Library Manual* of the American Correctional Association and *Correctional Recreation*. He compiled bibliographies on penology, criminology, and juvenile delinquency and wrote on prison libraries for the *Encyclopedia of Penology* and for numerous journals. [. . .] The titles of some of his publications are suggestive of Spector’s faith in bibliotherapy: “The Prison Library as an Educational Agency”; “What Men Write in Prison”; “Triumphant Confidence.” (Cummins 21n)

As such, this indicates in some manner that he essentially cornered the market, in a manner of speaking, on one facet of the rehabilitative project—the intersection of literacy/literary activities and therapy—for the better part of a decade. After Spector retired, his position was filled by another prison guard rather than another librarian; unfortunately, the archives and data he collected were completely destroyed by the state of California.

I want the chapter devoted to Spector to reconstruct, in some ways, the project of bibliotherapy, since it was conceived of as a rehabilitative endeavor. Perhaps some unpublished material from his archive is still around; there are mentions and allusions to it among a wide variety of people who went through it, too, that will help to flesh it out. But another goal of this chapter is to consider how the aims of his labors have transcended his immediate concerns and still circulate today. Even though San Quentin’s bibliotherapeutic experiments were officially over the minute Spector’s archives were destroyed, the philosophies supporting it nevertheless

still circulate today in many different discourses and registers, from the support of increased educational opportunities, to the arguments against *Beard v. Banks*, to calls for more programs like the creative writing workshops that eventually produced *Couldn't Keep it to Myself* and *I'll Fly Away*. I feel as though I did not adequately confront and deconstruct the well-intentioned but somewhat naïve narratives that “books heal” or that “writing is therapeutic” in my dissertation, so this future chapter will allow me to take up this issue more fully.

#### **8.4 GUARD LIT: “A PRISON TERM IN EIGHT-HOUR SHIFTS”**

Another chapter will take up the popular genre of prison writing produced by prison wardens. Towards the end of the nineteenth century and through the first half of the twentieth, warden memoirs were an important source of information about prisons for the public, who otherwise had varying levels of access to the institution and its daily regimes. We should consider the different reading audience of this genre (those more predisposed to a conservative political position, and more dubious of prisoners) and its relationship to current categories of prison writing as well; academic and scholarly work on prison writing since the 1970s has treated the thoughts and experiences of guards, wardens, and administrators as unimportant, reactionary, self-evident, of little value, and the like, in lieu of privileging (and sometimes exalting) the written work of prisoners. My dissertation was guilty of this. In attempting to describe the intellectual work happening inside prisons, I neglected entirely whole categories of lived experience, whole work-lives on the other side of the bars: those of the guards and wardens. This occurred to me only after I read Ted Conover’s masterful *Newjack: Guarding Sing Sing* (2000), which documents the year he spent working as a prison guard in New York.

Admittedly, I hesitated for a long time to read *Newjack*. Though I had purchased my paperback copy very early on in my attempts to amass a working archive on prison writing, the *look* of Conover's book repelled me: a monochrome blue photograph of a New York corrections officer (CO) in full uniform, standing in front of chain-linked fence; the title superimposed in red, a dramatic contrast with the blue of the photograph; the round golden circle reading "Winner National Book Critics Circle Award for Nonfiction," the back cover further credentialing the book as a "Pulitzer Prize Finalist," "*Entertainment Weekly*'s Best Nonfiction Book of the Year," and "One of *USA Today*'s Ten Best Books of the Year," among others. Admittedly, it was hard for me to look past the cover, the paratext as Gérard Genette has termed it, because what I had heard of the book itself struck me as a kind of literary slumming, where an individual wanting to write about prisons would infiltrate the institution in some way and then write a scathing, denunciatory, and, most of all, popular exposé of it. The *Entertainment Weekly* endorsement definitely rubbed me the wrong way.

This hesitancy was also ideological and political in nature. Throughout my dissertation I have approached prison writing in general as a means of understanding the penal situation from those few voices that assume the critical work of representing a much larger silent and silenced population of convicted peoples. Prison writing largely, though not exclusively, is a means of speaking back to power. And for all the stresses of the job that prison guards, COs, and administrators face as part of their chosen profession, they do wield a tremendous amount of power, both at the "micro" level (over the daily lives of the people they guard or correct), as well as the "macro," in the form of state and even federal power, represented through the collective political clout of powerful prison guard unions and new legislation that makes sure there will always be a need for more guards. Their side of the bars has benefitted from the prison

explosion, and in some ways, then, their side of the story is always being told, tacitly, as part of the great network of power that results in the election of law-and-order state senators and congressmen or in new prison construction.

But just as important—and arguably even more important—than the recent political power of prison guard unions is the long shadow cast by the figure of the opportunistic, under-educated, racist, and/or sadistic Prison Guard,<sup>92</sup> who populates prison writing historically and globally and who facelessly resides as a special character in our collective political imaginary. For every Cool Hand Luke there lurks an impassive, unreadable antagonist Boss Godfrey, the man wearing mirrored sunglasses who coolly, almost casually shoots the underdog hero; for every Jean Valjean there's a Javert in hot pursuit. The guard Mr. Nett in Miguel Piñero's play *Short Eyes* threatens to sodomize the pedophile Clark Davis with his nightstick and allows the other prisoners to murder Clark later in the play; other stories—both true and anecdotal—circulate about similar sexual abuse and physical violence at the hands of guards happening in real life. In 2008 the film *Felon* depicted both sides of the prison door. The film begins with one man being sentenced to prison after he chases a would-be burglar out of his home and accidentally kills him; his arrival coincides with a military veteran joining the ranks of the prison guards. We see the close knit community of guards and their families playing softball, grocery shopping, discussing retirement and pension packages; at work, these same guards run a brutal “gladiator school,” exploiting racial and gang tensions by pitting prisoners to fight against one

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<sup>92</sup> Just like convicts have historically rejected the terms “prisoner” or “inmate” in favor of “convict” (since the latter describes the act that put them behind bars: they were convicted by a court to do time, and thus are victims), Conover points to the difference between “prison guard” and the preferred, palatable title “corrections officer.” Conover recounts one of his academy instructors explaining the difference: “notice I said ‘correction officers,’ not prison guards. It doesn’t take much to become a prison guard. There is no academy for prison guards. You are here to become professionals” (15). Guards refer to the purely custodial act of keeping men behind bars. Corrections officer implies something else entirely—a more humane approach, an emphasis on corrections and rehabilitation, less violence and surveillance—even if the job remains the same.

another, betting on the fights like other people bet on horse and dog races.<sup>93</sup> We're meant to understand these relationships dialectically: the retirement package, even the conviviality of the softball team, rests upon on the prison job and its brutality. Finally, the figure of the Prison Guard is also informed by the shocking results of the Milgram experiments, the controversial psychological experiment where individuals were paid to administer shocks on an unseen individual, and Philip Zimbardo's infamous Stanford prison experiment, which indicated, at some level, that the power allotted to guards was easily and eagerly adopted by participants. These studies indicated that absolute power corrupts absolutely.

All this I brought to Conover's book. Rather, that knowledge kept me from his book. *Newjack*, however, proved to be a valuable and instructive testimonial to read, because it, too, is prison-writing that takes up, in great detail, what it means to work and labor in prison. Conover's political sympathies were probably not shared by a vast majority of his CO coworkers; when receiving instructions on how to handle active gas grenades which grow hot as they combust, Conover acknowledges, for instance, that it "gave me new respect for the 1960s student activists I remembered from TV, who would run up and hurl smoking gas grenades back at the cops" [39]. Nevertheless his immersion in the life and work of the guard illuminates the labor conditions that thousands of Americans have elected to endure to make ends meet in our current economic and political climate. One fellow coworker named Kingsley, "succumbing to economic inevitability" by giving up dairy farming in lieu of a career in corrections, admitted that the stigma of working as a CO forced him, and "probably 90 of the officers he knew," to lie about their chosen profession to strangers (21). Moreover, even though he could go home at night, the time spent working in prison exacted a psychic toll on him as well: "mainly, he said,

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<sup>93</sup> The film was inspired by a series of events that occurred at California State Prison, Corcoran in the mid-1990s. See Mark Arax's "Tales of Brutality Behind Bars" for more information about those events.

prison work was about waiting. The inmates waited for their sentences to run out, and the officers waited for retirement. To Kingsley, it was ‘a life sentence in eight-hour shifts’” (21). Guards function as “society’s proxies” (18), performing a valuable service in managing a system that continually expands at an almost unchecked rate, but that work is also universally degraded by public perceptions about that work. In spite of a fairly long and rich tradition of published memoirs by guards and wardens, and in spite of the way that guards collectively impact American political life, they have been effectively rendered silent by certainly scholarly, critical, and public predispositions.

I bring this up because in order to truly write about prison labor, and prison writing, I must contend with the other voices that participate in the dialogue. My dissertation has almost totally dealt with writing issued from behind the bars, and in some cases outside the law; I have rarely considered the labor conditions experienced by or the writing of people on the other side of the bars, but nevertheless still very much behind prison walls for at least part of their lives. These people do *work* in prison, after all, and sometimes write and even publish work like *Newjack*. I think that my larger arguments set forth in this manuscript about the category of prison(er) writing—that it is a form of intellectual labor, often situated against administration or official narratives and discourse—are also mostly true of the “other” workers in prison, too. The penal institution itself is predicated upon discourse, it produces and reproduces writing, and engages in many different rhetorical situations on any given day—even sometimes unleashes language in a violent, oppressive way—but in many ways we have yet to discover the extent to which this is the case. Examining the rich body of writing produced by prison guards and administrators would contribute greatly to understanding the ways that the institution is completely predicated upon the circulation of texts.

The texts they produce—such as behavioral write-ups, incident reports, lists of contraband material and codes governing inmate behavior, officer testimonies, medical documents, psychological evaluations, and the like—float in a liminal, contested, and complex space. They are not exactly Law, but nevertheless they set into motion standard operating procedures and guide, in principle if not in fact, the daily lives of millions of incarcerated people. They might not necessarily reflect the “truth” of a particular situation—Conover, for his sake, notes just how many times an official report is doctored to cover up for some kind of CO blunder—but nevertheless these narratives and documents often serve as concrete legal evidence against prisoners. This gives me pause: what is the half-life of the stories included in a prisoner’s official file, even after he or she is no longer actually in prison? If former San Quentin librarian Herman Spector had had his way, then the excavation of a prisoner’s “jacket” (his file), would have uncovered archaeological information like the essays a convict wrote regarding the Great Books of Western Civilization, or the list of books he had checked out from the library. This rich body of administratively authored texts is perhaps even more understudied and misunderstood as a collection of genres and writing than even the specifically non-literary forms of prison writing that I examined throughout my dissertation.

As this short meditation on Conover’s work has hopefully demonstrated, there is much to learn from broadening the current definition of “prison writing.” As such, I think it is worthwhile in *Against Rehabilitation* to consider the memoirs of prison administrators and wardens specifically tasked with implementing rehabilitation. My chapter will focus primarily on Clinton Duffy, one of Chessman’s wardens at San Quentin, who produced four books, including his anti-death penalty memoir *88 Men and 2 Women* (1962), from 1950 to 1977, as well as any other similarly situated work. Because the warden is the face of an institution, because he (wardens are

invariably male) is an administrator of bodies and, for better or worse, both a bureaucrat and a politician, the writings that he produces no doubt have particular kinds of rhetorical and explanatory power that differ from prison(er) writing. I have not read his memoirs or any writing that he produced while serving as a warden, but I hypothesize that they speak to the ways that he sought to encourage rehabilitation among his wards, as well as the political and administrative difficulty in making that penal paradigm shift. I wonder, too, about how he addresses these questions to a dubious, more conservative and law-and-order readership, the prime consumers of those works. Particularly given his personal misgivings about the death penalty and his seemingly liberal sympathies, Duffy occupies an interesting place regarding the adoption of rehabilitation in California prisons in the 1940s and 1950s. As retrospective documents published during the heyday of rehabilitation as well as at the beginning of its decline, his memoirs seem like fruitful texts for further exploration and analysis of the administrative side of rehabilitation.

## **8.5 MALCOLM BRALY AND *ON THE YARD***

This brings me to the final chapter of the book, an analysis and reassessment of novelist Malcolm Braly and his most important work, *On the Yard* (1967), which might be the best US novel ever written by a convict in (and about) prison, and is certainly (for my money), one of the best US novels published in the 1960s. Its main characters are Chilly Willy, a young convict who has managed to establish himself as one of the major bosses of San Quentin's many sub rosa black market activities (including a scheme to smuggle in drugs) and Paul Juleson, who accidentally killed his wife and was imprisoned as a murderer. However, the cast of characters is

immense and reflects, in many ways, the period of California incarceration just before the emergence of the Black Nationalist and Civil Rights movements. The first chapters of the novel deftly introduce the institution to readers of the novel as we follow the pre-prison process (staying in the bullpens of the courts, the sentencing process, transportation across the state to various prisons) and the means by which a prisoner is then processed. In a way, we are processed alongside another busload of characters like the “fish” Will Manning, a mild-mannered middle-class man convicted of having sex with his fifteen-year-old stepdaughter. Through Manning’s eyes we see the unfolding of the institution, especially as his cellmate Paul walks him through how to survive it. The dialogue of the novel is exceptional: it is witty, pithy, funny, and realistic, in part because a constitutive part of the dialogue is predicated upon characters “playing the dozens,” an often bawdy verbal game of one-upmanship where two convicts trade insults. The novel attempts to describe the totality of the institution: its sex, rape, violence, drug addicts, casual racism, and the collection of people who populate it, including crazy, violent Mexicans, pimps, old cons, and one kid named Stick who is attracted to the symbology and mythos of fascism (and, implicitly, white supremacy) and who eventually tries to escape via a doomed prison-made hot-air balloon.

Braly was, in part, a product of Spector’s bibliotherapy and has written in his memoir *False Starts* about the ways in which he manipulated the program and Spector’s de facto role as prison censor in order to have his earliest creative work published in magazines. So, with the exception of Stroud, this future project rests on a fairly complicated and overlapping nexus of figures culminating in Braly’s novel. His work exists as a direct response to and outgrowth from Spector’s literary experimentation as rehabilitation; in some ways, the novel is a demonstrable “proof” that Spector’s project was productive, since Braly did make use of it to work on his craft.

But Braly's novel also challenges the moralizing and "curative" aspects of bibliotherapy too: reading books was ostensibly intended to cure an individual of his antisocial tendencies, but the writing and publishing of *On the Yard* (as a cleverly disguised con job that was snuck out of the institution and published without Spector's approval) and the content of the work (its grittiness and amoral take on California prisons at midcentury) do nothing but confirm Braly's antiauthoritarian streak, taunting, as it were, the institution and its naïve and futile mandates.

Including *On the Yard* in my treatment of rehabilitation allows me to include an overtly literary text as part of my analysis, and to think about literature—in its register, its aesthetic dimensions, and its different mode of production and reception—as a mode of critical response to rehabilitation as well. I say this because in the novel's preoccupation with the incarceration in the 1950s, there is a fertile critique embedded in the nostalgia of a moment when incarceration was not as complicated by racial dynamics as it was in the year that the book was published. For in the 1950s, convicts were clearly on the side of convicts (as least as depicted by Braly and confirmed by other contemporaries, such as the novelist Edward Bunker), and opposed to the administration and "screws." In the 1960s, the impact of the Nation of Islam's influence in prison, the Civil Rights movement, and the conservative (white) backlash against minorities in general fractured the convict solidarity of the previous decades. Complicating this narrative is the success of rehabilitation in serving as a means of fragmenting this solidarity: the treatment of every convict as an individual, as a solitary case, was another means of intervening in and fracturing the collective and communitarian political identity proudly worn by prisoners during the 1950s. Thus Braly's nostalgia for the 1950s is also a trenchant critique of the rehabilitative efforts that effectively broke apart a politically powerful anti-authoritarian "united front" prior to the realigning of prisoner politics along racial (and then class) lines in the 1960s.

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