ABANDON HOPE, ALL YE WHO ENTER HERE

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THE PRISON IN WESTERN CIVILIZATION – A BRIEF HISTORY

(based on material from *Going Up The River* by Joseph Hallinan, a Pulitzer Prize winning journalist)

In ancient Egypt, the pharaohs used prisons to hold their enemies, whom they generally employed as slaved. In Athens, the prison was called the *desmoterion* – literally, "the place of chains." Socrates was kept in one during his trial for impiety and so hated it that upon conviction he chose as his punishment another penalty permitted under Greek law – compulsory suicide.

The Roman prison was known as the *carcer*, the root of our English word "incarcerate." Beneath the *carcer* was an underground chamber – a hole, really – that served in its day as a kind of primitive administrative segregation unit.

In general, prisons in the ancient world were not used for punishment. Most were holding cells, places of temporary confinement where the accused was held until his fate was decided. The laws of most early civilizations rarely punished criminal acts by prison terms. In Rome, the preferred punishments were torture and death, often in combination.

It was not until the Middle Ages that the prison as we know it emerged. Under early Roman law, most crimes were considered private affairs, rather than offenses against the state. Criminals were prosecuted not by the government but by the victim. But as the Church expanded its reach, crime came to be viewed not as a private wrong, but as a sin, and as such, open to correction…through penitential confinement.

During the High Middle Ages prisons began to sprout throughout Europe, especially in England. In the 12th century, Henry II embarked on a prison-building program, placing royal prisons throughout the kingdom. The right to run them was sold to men who were allowed to pocket the difference between what it cost to run the prison and the money they received for the prisoners' upkeep.

Local prisons in England began to specialize. "Jails" were used primarily to hold those awaiting trial. "Houses of correction," on the other hand, were theoretically intended for the reformation of petty criminals. In houses of correction, inmates were taught industrious habits, but

sentences were too short, conditions too cramped and inmates, congregating with other criminals, actually learned new ways to practice old vices. Little rehabilitation was achieved.

America generally followed the British model until the early 19th century when the Cherry Hill prison opened in Pennsylvania. Inspired by Quaker philosophy, Cherry Hill provided each inmate with his own cell -- an extravagant and novel notion at the time. The object was for the offender to spend every waking hour there, alone with his thoughts. Such solitude, the Quakers thought, would lead to meditation, and meditation would lead to penitence. For this reason they called their new house of detention a "penitentiary," and a distinctively American institution was born….

Cherry Hill did not rely on the whip or the rack, only on work and solitude. An inmate's entire sentence would be served inside his cell. He would work alone, eat alone, pray alone. He would never be allowed to see or speak to another inmate…. Penologists of the day had proclaimed Cherry Hill to be an extraordinarily humane institution, but when Charles Dickens visited from England in 1836 he was horrified. The inmate "never hears from his wife or children; home or friends; the life or death of any single creature. He sees the prison officers, but…otherwise he is a man buried alive; to be dug out in the slow round of years."

The Quaker model was widely imitated in Europe and South America, but eventually prison authorities discovered that solitary confinement did not reform men; it just drove them mad. By the late 19th century the system had been abandoned.

The penitentiary gave way to the reformatory, the first of which was built in Elmira, New York, in 1876. At least in theory, Elmira offered criminals treatment, not punishment. This distinction reflected a changing view of crime – not as sin but as disease, something that could be cured. Zebulon Brockway, the Superintendant of Elmira viewed his "patients" as he called the inmates, as products of their environment. Given the right reinforcements for good behavior and punishments for bad behavior, they could be induced into making "right" choices. Change the environment, change the man. Two institutions that are with us to this day were introduced at Elmira: "flexible" or indeterminate sentencing and parole.

But the glowing reviews of early visitors only masked incompetence and brutality at the reformatory. Inmates who

did not conform to the institution's strict regime were severely beaten while others were chained in dungeons, sometimes for months. The parole hearings were largely a sham. Gaining parole was often less a matter of reformation than of meekly submitting to the system.

Nevertheless, the "Elmira way" spread across the country. But when word got out that reformatories produced no more reform than penitentiaries had produced penance, enthusiasm waned. By 1920 the reformatory movement was all but dead as well.

The next chapter of the story saw the introduction of modern medical principles. During the so-called "Treatment Era" crime, more than ever, came to be viewed as disease and treatments included everything from vasectomy to psychotherapy. Release from prison was the equivalent of release from a hospital. An inmate could not be discharged according to any predetermined schedule, but only when an expert had determined the "patient" was "well." For some inmates this cure might come quickly. For others, it might take years. Ground zero for this approach was California, and by 1956 some five thousand California inmates were enrolled in a variety of group therapy sessions.

But then a backlash began. Citing low success rates, states began cutting back treatment programs and eliminating so-called frills – televisions, weight rooms, libraries, basketball courts, air-conditioning. The new attitude was summed by Florida state representative Randy Ball, "Our objective," he proclaimed, "is to make prison life intolerable." And that pretty much sums up where we are today.

** REFLECTIONS **

Five years have now passed since revelations of wholesale torture and abuse at Iraq's massive Abu Ghraib prison shocked the world's conscience. Horrific pictures of shackled detainees – not criminals, mind you, but mere suspects -- being sadistically beaten and humiliated by American military personnel saturated the media. **General Janis Karpinski**, the former commander of the prison, later estimated that 90% of more of Abu Ghraib's inmates were innocent of wrongdoing.

Former Marine Lt. Colonel Bill Cowan addressed the irony of the situation. "We went into Iraq to stop things like this from happening, and indeed here they are happening under our tutelage."

Very few members of the military were ever held accountable. Seven low-level army personnel were court-martialed and only two – **Charles Graner** and **Lynndie England** received prison terms.

What could possibly induce well-trained American soldiers to engage in such reprehensible behavior? We'll probably never know the full story, but we do know that the soldier who seemed to revel most in his role as a torturer was **Charles Graner**, a man who had previously worked as a Pennsylvania prison guard and who had been implicated in the abuse of several American inmates. In other words, the seeds of Abu Ghraib may well have been planted in our domestic criminal justice system.

Two years ago a comprehensive bi-partisan study of U.S. prisons was released. The national media all but ignored the **Vera Report**, but among its findings were these: America's prisons are dangerously over-crowded, violent and excessively reliant on solitary confinement to maintain order. Meaningful programs for inmates are lacking and infectious diseases prevalent. U.S. prisons are staffed by underpaid and undertrained guards who operate in a culture that promotes widespread abuse. Like the detainees at Abu Ghraib, American inmates have little ability to legally challenge their living conditions and generally are at the mercy of the corrections staff.

And while not every prison is a living nightmare, the problems with the American corrections system is pervasive enough that **Supreme Court Justice Anthony Kennedy** recently declared that "our resources are misspent, our punishments too severe and our sentences too long."

College educated and a serious Buddhist practitioner, **Fleet Maull** spent fourteen years in prison on a drug charge. Now free, he still works with inmates and runs a prison hospice program. "I was fortunate," he says.

> I had studied meditation and psychology for years, was connected to a great spiritual teacher and was able to turn my time into a journey of healing and transformation through practice and service.

But **Maull's** experience convinced him that as a rule prisons are not set up to help people, but rather to control and crush them. "We are living in a culture of draconian punishment" that produces anger and bitterness rather than reform, **Maull** laments. True, most prisoners <u>are</u> guilty of something, but they are

> …so over-prosecuted and over-punished that they are buried under a mountain of guilt and shame. Prisoners are just trying to survive. They cannot access genuine feelings of remorse and don't feel guilty because they are being punished too severely.

Back in 1975 I worked as an intern chaplain at the California Correctional Facility in Vacaville. In that role I was permitted to fraternize openly with inmates. I walked the mainline, dined in the cavernous inmate mess hall and spent many hours in the infirmary and on the cell blocks. Although the atmosphere always felt oppressive, I never felt seriously threatened.

Inmates at that time were afforded opportunities for group counseling, education, vocational training and creative expression. This was by no means a "country-club prison", however. I visited with mentally ill inmates who had been rendered practically catatonic by heavy-duty psychtropic drugs. Disabled inmates in the infirmary suffered from gaping bedsores due to medical negligence. Small inmate infractions were dealt with severely. Nevertheless, prison life at Vacaville struck me as unpleasant but not intolerable, harsh but not cruel.

Since the mid-seventies, the nation's prison population has increased exponentially and, with that expansion, inmate welfare has suffered a significant set-back. Today, one percent of adult population – more than 2.3 million men and women – are behind bars. The United States has developed a prison-industrial complex to rival its military-industrial establishment, and in this respect no other nation can hold a candle to us. With only 5% of the world's population, we house 25% of its prisoners. So many young African American men are behind bars that it has prompted a French sociologist to comment that "America deals with its problems of poverty and race by building new jails rather than urban housing."

The growth in U.S. prisons has been driven by several factors. First, **Henry Ruth and Kevin Reitz** observe, the courts began sending more "marginal" felons to prison – burglars and auto thieves that might have been put on probation in the past.

Then war was declared on Drugs. By the end of the millennium almost 60% of all federal prisoners were serving time for drug offenses – the vast majority convicted merely of possession or of selling very small quantities of illicit substances, according to **Senator Jim Webb**. More than half of all state and federal inmates are in for non-

violent crimes and only 8% for serious felonies such as rape, murder and robbery.

Finally, the prison population swelled as a result of mandatory sentencing laws promulgated in the 1990's by state legislatures and the U.S. Congress -- laws which made prison terms longer and precluded the possibility of parole for good behavior. Despite a steady decline in the U.S. crime rate after 1992, the number of people behind bars continued to increase until today a larger percentage of Americans are serving time than at any period in history – nearly five times as many as during the gangster era of Al Capone and John Dillinger.

Here in Wisconsin the number of inmates increased four-fold between 1987 and 2002 and today we are notable for incarcerating a larger percentage of African Americans and juveniles than any other state in the union.

Has this expansion and the $60 billion dollar per year price tag that goes along with it made the streets safer or reduced the availability of illegal drugs? Has this imprisonment strategy panned out? According to research performed by **Bruce Western**, a Princeton sociologist, only about 10% of the drop in crime over the past several decades can reasonably be attributed to increased incarceration. Other experts suggest a 20 or 25% relationship, but whichever figure you choose, the effect has not been dramatic. **Andy Collins**, the former Director of the Texas prisons, is blunt. The rapid expansion of that system, he now says, "is the stupidest thing the state of Texas has ever done."

Moreover, whatever safety benefits they might confer, today's prisons have produced a host of serious problems. **Joseph Hallinan** has been studying these issues for over a decade and says that "virtually everyone I have talked to felt prisons were…a terrible waste of money" and that they were ill-equipped to rehabilitate anybody.

Although prisons today house tens of thousands of drug and alcohol abusers, treatment programs are scarce. Mental illness afflicts 15-30& of all inmates, but a single counselor or psychologist often has a prison caseload in excess of 700. A high percentage of inmates suffer from hepatitis, tuberculosis, drug-resistant staph infections or HIV. A huge proportion are high school drop-outs – functional illiterates with no marketable skills or work ethic. Tens of thousands of inmates languish in "administrative segregation" where they sit alone and unoccupied for 23 hours of the day. Such conditions, **Craig Haney**, the nation's foremost expert on prison psychology

observes, are incubators of psychosis and produce "an unparalleled degree of despair and desperation."

Out of sight, out of mind, you might say. But most inmates are eventually discharged, released back into society with a one-way bus ticket and less than $200 of "gate money" in their pocket. Uneducated, angry and often physically or mentally ill, they must now rejoin a culture that fears, mistrusts and despises them. No wonder that 40% of released prisoners are back in custody within three years.

Joseph Bruchac, a Native American poet and story-teller volunteers at a Maximum security prison and has worked with prisoners throughout the country. "The vast majority of people should not be there," he insists. "In general, whatever long-term problem prison is meant to solve, it can be simply said that prison makes it worse."

Society as a whole suffers when we rely too heavily on prisons and punishment to solve our social problems. 2.1 million children have a parent behind bars, the long-term implications of which should be pretty obvious. Each year thousands of released prisoners introduce infectious, drug-resistant diseases into the general population. Prison guards like **Charles Graner** work daily in facilities that are unsafe, unhealthy, unproductive and inhumane the **Vera Report** points out, and "carry the effects home with them."

America's prisons have also helped create an African-American sub-culture that is increasingly alienated from and at odds with prevailing social norms. If current trends continue, 60% of all African American men without a high school diploma will spend some time in prison. "Through this mass incarceration," **Bruce Western** observes, "the poor are made poorer, they have fewer prospects" and the gulf between America's "haves" and "have-nots" grows ever wider.

Finally, the exorbitant cost of Corrections deprives society of funds that could be used more productively. As prison spending goes up, university system budgets go down. But sacrificing education for punishment isn't wise. One important study has shown that a million dollars spent on incarcerating repeat offenders prevented 61 serious crimes. The same amount of money spent on high school graduation incentives prevented 258 serious crimes.

Incarceration may be the simplest, but it isn't the sanest response to crime. By devoting extra resources to programs that address the causes of crime – drug and alcohol abuse, for instance – Minnesota has maintained a prison population that is just a third of Wisconsin's.

Given the physical, social and psychological damage prisons inflict, it is in everybody's interest to keep as many men and women as possible out of that unwholesome environment. In recent years the Navajo Indian Nation has made this a priority and reintroduced a traditional tribal custom for dealing with crime. *Nalyeeh* – peacemaking -- focuses on the act rather than the actor. The objective is to bring the offender, the victim and their respective families together for a heart-to-heart discussion of the event, facilitated by a trained Peacemaker.

Navajo peacemaking, Chief Justice **Robert Yazzie** says, is about the effects of what happened. Who got hurt? How do they feel about it? What can be done to repair the harm? Several things happen as a result of this process: the perpetrator's wall of denial is penetrated as he is forced to confront the consequences of his actions; restitution is negotiated and given; family members commit themselves to assist the rehabilitation process; a plan for averting future problems is put in place.

Not all crimes are handled in this manner. Tribal police still refer serious felonies to the federal authorities. But for most offenses, **Robert Yazzie** says, "The answers may lie in dealing with actions, not actors,"

> …allowing people to face and solve their own problems, using peacemaking for crime prevention by getting at the disorder early on and re-writing old scripts.

Imprisonment ought to be the solution of last, rather than first resort and more attention, time and money devoted to creating the kind of opportunities – counseling, education, employment, proper medical care, restorative justice -- that can help offenders turn the corner.

For that to happen, the public's infatuation with brute punishment will have to change. Fortunately, one of the U.S. Senate's most admired members – **Jim Webb of Virginia**, a former Marine, is making this a priority. **Webb** is convinced that society can be made safer while making the system more human and cost-effective.

> I think you can be a law-and-order leader and still understand that the criminal justice system as we understand it today is broken, unfair and locking up the wrong people in many cases.

So as we enter a new era, with a new president, a new-found willingness to question old assumptions and give

serious consideration to promising alternatives, there is reason to be hopeful. But change is not going to come overnight. The politics and economics of our criminal justice system will make reform very difficult. Fortunes are being made though prison construction. Rural towns, bereft of industry, compete for correctional facilities and the economic benefits they bring. Unions representing correctional workers' put up fierce resistance to the curtailing or closing of any prison. Tearing the prison walls down will take time.

Meanwhile, Dane County itself is home to many men and women who have previously served time and who need understanding and support. Some time ago, Madison Urban Ministry inaugurated a volunteer program for prisoners returning to Dane County. It has been notably successful, with ex-offenders returning to prison in significantly lower numbers than those who lack such support. Our own congregation was involved in this program at its inception and perhaps it's time we got involved again – for the released prisoner's sake, but also for our own.

Walter Dickey, former head of the Wisconsin Department of Corrections, urges the public to sit up and pay attention, and not wait until a crisis occurs. The lack of interest in how our prisons are run, he recently told an audience,

> Reflects a fundamental but unstated belief in the larger society that those who are in prison don't deserve the time and effort it would take to run them consistent with the values of our society.

Americans were scandalized by what occurred at Abu Ghraib. We need to be equally concerned about what happens or <u>doesn't</u> happen at Columbia, Oxford or Waupun. It is hardly to America's credit that in recent decades we have found it so much more convenient to imprison people than to give them a new lease on life.