

# Justicia

## **Advice From the Trenches: John Elmore at JPC in June**

By Suzanne Schnittman

When John Elmore talks to high school students he has advice galore. Listen in for a moment:

“Folks, when you get in a brand new car driven by one of your buddies, ask him where it came from. If it’s stolen, you’ll be arrested right along with him.”

“When you’re walking down the street and a police officer approaches you, don’t speak rudely or touch him. Be polite.”

“When you’re in a car full of kids and one of them has marijuana, if an arrest is made you’re a suspect.”

“If you resist arrest because you’re mad, make a big fuss, and even look like you might push against an officer, he can increase your offense from a simple ticket to a misdemeanor.”

*(JPC has chosen Elmore as the speaker at our annual meeting on Thursday, June 4, from noon to 1:30 p.m. [see p. 12]. At that time, we will have an opportunity to hear more of his message.)*

In short, John Elmore tells young people to use their heads and mind their manners. Elmore wrote a book that instructs African-American males (and just about anybody else) how to live legally and sensibly in a system that sends thousands of them to prison every year, sometimes simply because they were rude or unaware of the law. He tells them about discretion – theirs and that of officers when they encounter each other. Young people can choose to be polite and swallow their comments. They can smile, giving officers a chance to use their own discretions and decide not to arrest them for small offenses that often escalate.

Elmore, author of *Fighting for Your Life: The African-American Criminal Justice Survival Guide*, knows the criminal justice system well, from many angles. A former New York State trooper himself, then a prosecuting attorney, and now a defending lawyer, he saw a disproportionate number of African-American men go to prison. He wanted to uncover the reasons, especially the avoidable ones, then share his advice.

A partner at Harter Secrest Emery LLP, Elmore practices in their Buffalo office. He has tried

a variety of criminal and civil cases. He was co-counsel with James Harrington in Western New York's first death penalty case in forty years. He has taught criminal justice at Buffalo State College and Medaille College.

Elmore loves to talk to young people and often does so at schools, trying to keep them out of prison and instructing them out to behave if arrested.

"I try to shock them," he told me. And from the stories he relates, that's not difficult.

His book combines statistics and personal accounts that demonstrate the plight of young black men caught in the criminal justice system. One of the most enlightening pieces of advice I found was his suggestion that every African-American household have at their fingertips (and in their files) the name of a lawyer they know they can call in case of an emergency. He has many ideas about how to choose that attorney.

John earned his law degree from Syracuse University College twenty-five years ago. He is the recently appointed chairman of the Eighth Judicial District Attorney Grievance committee. He is a life member of the NAACP. He has received many awards that recognize his special ability to communicate with young people. These include Erie County Bar Association Community service award, Erie County Bar Association Criminal Justice Award, and the Buffalo News Citizen of the Year. He was a guest on the *Tavis Smiley Show* and continues to be in demand for speaking engagements.

Here is praise for his book from Jesse Brown, top best-selling financial guru:

"A chilling reminder of the impact that limited economic opportunities, lack of preparation for higher education and profiling can have leading to higher rates of incarceration and recidivism for African-Americans in the legal system. His guide poignantly outlines methods of survival for those facing wrongful convictions and legal challenges with parameters to remain out of the grips of the criminal justice system."

JPC welcomes John Elmore's appearance as our guest speaker on June 3 and strongly encourages our readers and the entire community to take advantage of this wonderful opportunity.

*Check the back page of this issue for more details.*



*John Elmore*

## Honoring Our Activists on June 4<sup>th</sup>

By Mary Boite

Especially during these tough and sometimes scary, times of economic and social turmoil, we need to take the time to remember and honor those who have worked and continue to work for social, economic and racial justice.

We always have the difficult task of choosing from among the many hardworking and compassionate individuals and groups who fit into that category, but as usual, feel that we've done a good job! We hope that you will join us on June 4<sup>th</sup> at the Downtown United Presbyterian Church, to applaud them and learn about their work, as well as to hear our speaker, John V. Elmore, and also to hear about the work of JPC.

In 2009 we will be thanking these caring community activists for their work:

**Lois Davis** co-founded the Judicial Process

Commission with the late Rev. Virginia Mackey and worked with the Task Force on Courts to monitor the criminal justice system. For many years she combined her love of children with her passion for peace by going into city schools, using puppets to help teach peacemaking and conflict resolution.

**Michelle Cardulla** represents another generation of activists, who turned her beliefs and talents into founding the Museum of Kids' Art, which she still leads as its Executive Director. Michelle truly works at preventing violence by developing and nurturing the arts in urban children. Some of that art will be on view at this lunch.

**Delaine Cook-Green's** name pops up in many unexpected places. She is currently the Executive Director of CONEA, the Coalition of NorthEast Associations, but her grand title belies her very hands-on work in those groups, especially with the young people of the city. She truly lives her belief in encouraging the potential of youth by initiating and supporting a variety of programs in her (and our) community.

Wherever a life has been cut down in Rochester, there is **Bill Coffey** to publicly support the families and the community by standing with them as they mourn and demand justice and an end to the violence. Retired as Deacon at St. Mary's Church in downtown Rochester, Bill started and continues to be a presence at that church's Homicide Prayer Vigil. He is truly the most "faithful member" of that group, according to the church.

**Michael J. Miller**, of counsel with the firm Chamberlain D'Amanda, is a former Family Court judge who also works on juvenile justice issues. Miller quotes Rabbi Abraham Joshua Heschel: "The famed teacher and philosopher," he says, "was once asked by a student who was devastated by all the pain and suffering in the world, 'Where is G-d, where is G-d?' Heschel replied, 'G-d is hiding in the world; it is our task to reveal G-d through our deeds.' That is what I tried to do as a Family Court Judge and am still trying to do with whatever time I have left."

It's good to be able to celebrate all of our work, while we look at what still needs to be done. This is the JPC's 37<sup>th</sup> Annual Fundraising Luncheon and Meeting, so please come and chat with old and new friends, enjoy a great lunch, meet some new Board members and hear our speakers.

*See the back page of this issue for registration details, mark the date and get right on that! The check must be mailed or brought in, but you can also call or email your registration, so we know you are coming and can guarantee you a seat at the table!*

*Late note: JPC is sorry to hear about the very recent death of Bob Cobbett, a long time JPC supporter/collaborator, anti-racism activist and workshop presenter. Justicia will carry more about his life and contributions in a future issue.*



Lois and Bill Davis at the JPC office in April 2008, when both were honored for their work and dedication.

## Memories of and Homage to Bill Davis

By JPC activists

All of us at JPC – indeed, people throughout Rochester and far beyond – are mourning the passing at age 90 of Bill Davis, a consummate activist, in early February. Bill, who's survived by his equally committed and justice-minded wife Lois, as well as their children, grandchildren and great-grandchildren, was a retired Eastman Kodak industrial engineer. He dedicated himself for many years to the community of Charlotte, and his name is practically synonymous with the successful campaigns to preserve and restore the historic Charlotte Lighthouse and the city's Turning Point Park.

I worked with Bill on various causes over the years, but the first long conversation I had with him was during a tour he gave me of Turning Point, a jewel of a park along the Genesee River; this was at the time Bill was associated with a significant local and natural history educational project at Charlotte's School #6. I'll never visit Turning Point and the trail up to the Port of Rochester without thinking about how he introduced me to some of the river's long-hidden beauties.

—Jack Spula

I met Bill Davis in 1983 when we were involved in the Sanctuary Movement. We had many solemn and also celebratory times over that issue and others.

One strong memory for Michael and me was a Sanctuary Weekend in Washington, D.C., in the late 1980s. We were embarked on one of those long marches with thousands of people in solidarity with undocumented refugees, like our Sanctuary family. Bill and Lois were on their way to the airport, so they had a huge suitcase in tow, in the days before suitcases all had wheels. Mike and Bill took turns (Mike did the lion's share, I hope) lugging the suitcase throughout the long march. We laughed many times over "carrying our load" in love for Bill. We'll miss his crinkly-eyed grin, soft voice, and endless good humor.

*-Suzanne Schnittman*

By the time I really met Bill and got to know him a little, he had already suffered a devastating stroke. Thanks to his loving and supportive wife, Lois and his devoted children, he eventually was able to get around and do much more, and for far longer, I think, than anyone expected. For the next several years, even with a walker, both Bill and Lois were there at the anti-war marches, the Judicial Process events and others supporting the causes dear to them both.

Throughout those years, I most remember his smile and his sense of humor that sustained us all, even as it probably helped sustain them. I last talked with Bill at the 2008 JPC Open House where he and their sons watched while we honored Lois Davis with the dedication of the Lois Davis Welcome Room in JPC's new space. Wherever we go, that plaque will go with us as a fitting tribute to our co-founder. Given the honor of welcoming and saying a few words about Lois, I was a little nervous about talking about a woman so many others in the room had worked with for so much longer; when I had finished, Bill said that I had done a wonderful job and that of course "she deserved it." Bill, I'm sure your family misses you every day, and we at your "JPC Family" do too.

*-Mary Boite*

I first met Bill Davis way back in the sixties. It was clear then that he was special. We both worked at Kodak Park. He was superintendent of the Sundries Division, later renamed Plastic and Metals. I was recently out of school, and planned their production. I met him again in the seventies when we each were involved in social justice issues. I was president of Metro Justice. He sought and received our support to prevent the city from turning his beloved Genesee River into an oil storage depot. Through his efforts, Turning Point Park was created. In the nineties, our paths crossed again - this time via our work with JPC.

Through the years, it was clear to me that Bill was a strong, independent, outside-the-box thinker whose values held people and community at the highest echelon. He was a Renaissance man, in that he could do it all. He put his time, money, words and integrity

where his heart was. When I saw him he usually had a smile on his face, even during poor health. Well done, Bill!

*-Fred Schaeffer*



## **“If You Do What You Did You’ll Get What You Got!” - A Reflection on Correctional Philosophy**

By Timothy J. Muise

I'd like to start this little piece off by putting on the record that I have been known to be as thick headed as anyone. It takes me several touches of the stove sometimes before I figure out that it is hot. My ears are closed and my brain is switched to off on occasion. With that said I think I qualify as an expert on stubbornness. What I can't fathom is how after a few burns from the heat some folk still don't get it.

Now I'd like to put forth a proposition I ask you to look at objectively. If your job was to create the meanest junkyard dog how would you get the job done? I say you take the biggest and baddest looking mastiff, put him in a cage, and then pike him with a sharp stick until he attacks anyone (or anything) that comes near him. The thing with this vicious mastiff is that he will be placed on a chain and only be able to reach those that trespass upon his territory. Where am I going with all this? Let me elaborate.

The Massachusetts prison system has been producing bull mastiffs without chains for decades now. They place men and women in a cage and poke them until their anger boils with venom. They then release these men and women upon society and endanger an unsuspecting populace. No chains. No muzzles. Mayhem waiting to happen. Seventeen years of regression introduced prisoners to "the joys of breaking rocks," as former Governor Bill Weld once moaned, but

what it really did was set public safety back in a counter-productive cycle that will continue probably for as many years into the future unless we grab the bull by the horns as soon as possible. How do we saddle this bull? Certainly not with dehumanizing retributive punishment.

The solution to the public safety dilemma lies in a real step down system of incarceration that allows men and women the chance to put in place employment, housing, counseling, and support system components prior to their release. A merit-based system of classification must be employed. When a man or woman enters the system they must be made aware of the chance for step down security moves that will be adhered to if the man or woman does what is expected of them. Deal breaking on either side will not be in the plan. The process of true rehabilitation will begin as soon as the prisoner enters the door. Non-violent offenders will move to lower security quicker. Violent offenders will be required to complete certain proven violence reduction programs. All will be afforded education. Diplomas and degrees will be made available through viable educational sources both in-house and via the Internet. Men who succeed in educational pursuits are far less likely to come back to prison. If your crime is drug related in any way there will be a mandate to attend twelve step programs. Support system building will be the main focus. This responsibility/education/application phase will be the initial focus during the beginning of incarceration.

The next phase of the process is to move the offender to the lower security settings that allow more personal responsibility. At minimum security he or she will be continuing what they started at the previous step down level, but will be able to work for their needs and have more contact with an outside support system. At this stage, plans for post-release housing and permanent employment will be activated. Outside twelve step group schedules and support system plans will be furthered. Once an offender is afforded pre-release status he/she will be given ample opportunity to get all their individual needs set. The longest segment of prisoners sentences needs to be spent in these lower security settings so that they can obtain what they need to assimilate back to society. All the world's successful systems employ this strategy. It has a proven success record.

If the true focus of corrections is to protect public safety and not just to act as a jobs program for DOC employees, then we need to put into place a real, effective and proven system. New blood needs to be brought in. When you instill hope into men and women you afford them the best chance of success. Once you believe in the installation of hope you have to back it up with the proper mechanism. To get it done you need to build the proper facilities, staff them with the proper people, and oversee them with officials that have a background and education in progressive corrections. The bonus here is that these type of facilities require

less staff (a huge savings), have lower operating costs, and afford more bang for the buck as far as public safety is concerned. The time has come for Massachusetts to move forward and get its act together.

A good friend of mine used to say, "If you do what you did you'll get what you got!" The meaning being if you keep repeating the same actions you will get the same results. If the results are negative you need to try some new actions. If Massachusetts and other states do not radically change the system we will continue to get what we have gotten – higher crimes rates, soaring recidivism rates, higher poverty rates, social decline, and most alarming, diminished public safety. It's time for a change.

Please contact your state representative, senator, and public safety department officials. Demand change. Support progressive agencies. Do what it takes. Change come hard, but it will come if we fight for it. If you do what you did you'll get what you got!

## **And What About Police Officers and Judges Who Violate the Law?**

By Joel Freedman

In my article on penal institutions in America, which appears in this issue of *Justicia*, we see that far too often our prisons and jails are corrupt, brutal and inhumane places where many inmates are subjected to abuses by corrections personnel, unsanitary and unhealthy living conditions, inadequate medical care, insufficient rehabilitative programs, and/or physical and sexual violence by fellow inmates. (I will discuss prison rape in more detail in a forthcoming *Justicia* issue.)

I am mindful of the fact that serious shortcomings in our penal institutions reflect problems that permeate our entire criminal justice system. I had just completed my review of *American Furies* one day this winter when two news stories further reminded me of the gap between the way our criminal justice system is supposed to operate and the way it actually operates sometimes.

In Manhattan, David London, a 16-year veteran police officer faces up to 7 years imprisonment if he is convicted of the brutal beating of Iraq war veteran Walter Harvin inside an upper West Side apartment building. London was caught on tape pummeling Harvin dozens of times with a baton last year, according to Manhattan District Attorney Robert Morgenthau, who calls the alleged assault a "very sad story" and "a very serious abuse of police power." Harvin was accosted by London and another police officer when he tried to slip into the front door behind other tenants in order to visit his mother. Sources who have reviewed the tape say that London even paused to take a 90-second call on his cell

phone before resuming the brutal beating. Harvin told the two police officers he was visiting his mother, but the attack apparently began because Harvin did not have identification. Besides assault charges, London faces fraud accusations because London initially arrested Harvin for assault and resisting arrest, charges that were dismissed by prosecutors after they viewed the surveillance videotape.

The videotape begs a question: How many other acts of brutality or wrongful arrests were committed by London prior to his arrest for the Harvin incident? And how many police officers in large or small communities in our community are engaged in police misconduct? Law enforcement begins with the police. Their behavior and decisions are not usually closely scrutinized by higher authorities. As the sociologist Jerome Skolnick has said, "Police work constitutes the most secluded part of an already secluded system and therefore offers the greatest opportunity for arbitrary behavior."

Equally if not even more disturbing to me are reports of misconduct and crimes committed by our judges, who, like the police, hold considerable power over other citizens. Judges are supposed to use their authority to uphold the law in an impartial and fair manner in their dealings with people accused of violating our laws.

In Pennsylvania, two Wilkes-Barre juvenile court judges pleaded guilty in federal court to taking millions of dollars in kickbacks to send juveniles accused of non-violent offenses to two privately run youth detention centers. The Pennsylvania Supreme Court, which removed Judges Mark Ciavarella and Michael Conahan from the bench shortly after their arrest, is now looking into whether hundreds or even thousands of sentences should be overturned and the juveniles' records expunged.

For many years, youngsters were brought before Ciavarella and Conahan without an attorney, despite a U.S. Supreme Court ruling 42 years ago that children have a constitutional right to counsel. For many years, these judges were sending teenagers to juvenile prisons even after probation officers recommended alternative dispositions. For years, Ciavarella and Conahan ran a system that operated like a conveyor belt to put juvenile offenders in lock-ups, after conducting hearings that lasted only a minute or two. Marsha Levick, an attorney with the Philadelphia-based Juvenile Law Center, which is representing hundreds of youths sentenced in Wilkes-Barre, said that this is a case "where literally thousands of kids' lives were just tossed aside in order for a couple of judges to make some money." (About \$2.6 million in payoffs.) Hopefully, officials at Pennsylvania Child Care LLC and a sister company, Western Pennsylvania Child Care LLC, who made these payoffs, will join their judicial partners in crime in prison.

As with the case against police officer London, this case of serious judicial impropriety raises many

questions. Why did it take so long to put a stop to what the two judges were doing? How many other judges are abusing their authority by engaging in wrongdoing ranging from blatant corruption to rubberstamping prosecutorial and police misconduct responsible for the wrongful imprisonment of falsely accused defendants? Virtually every miscarriage of justice case I have reported in *Justicia* involves judges who have not honored their oaths of office.

I believe that the majority of police officers, judges and other professionals in the criminal justice system are conscientious and dedicated to trying to do a good job, often under difficult circumstances. I don't believe in throwing out the baby with the bathwater. But there remain far too many professionals in law enforcement, in our judiciary system, in our jails and prisons, and in our probation and parole departments, who have betrayed their positions of responsibility and trust, and who have often caused our criminal justice system to be deeply flawed and in need of meaningful reforms.

The arrest of police officer London, and of Judges Ciavarella and Conahan, will hopefully place other betrayers of the public trust on notice that they are expected to adhere to the moral standards of their professions. That would at least be a step in the right direction to help assure that our most deeply held ethical principles must never be divorced from America's law enforcement, judicial and corrections systems.

## ***American Furies: Crime, Punishment and Vengeance in the Age of Mass Imprisonment, by Sasha Abramsky***

A Review by Joel Freedman

A jury in U.S. District Court of New York recently awarded \$1.4 million in compensatory and punitive damages to former Oneida Correctional Facility inmate Angel L. Martinez for injuries he received while imprisoned at Oneida. In his federal complaint, Martinez alleged that he was beaten repeatedly, denied medical care, and falsely charged with assault and placed in punitive segregation because he annoyed an officer by ringing a buzzer multiple times. Martinez claimed the beatings by correction officers caused him to sustain fractured ribs, herniated discs and dozens of cuts, bruises and welts. The jury rejected claims by correction officers that Martinez was the aggressor who had assaulted them.

A report released last year by the U.S. Justice Department concluded that the Worcester County Jail and House of Correction (HOC) in Massachusetts failed

to properly investigate use-of-force incidents by correction officers, to provide a satisfactory grievance process, or to adequately protect inmates from assaults by other inmates. In February 2007, an inmate awaiting trial was beaten to death by his cellmate, an inmate who had already been sentenced. Inspectors also concluded that inmates were endangered by unsanitary conditions that promote the spread of infectious diseases. Exposure to high levels of dust, filthy showers, infrequent changes of clothing and bed linen, "extremely cold" areas of the jail, shoddy medical and psychiatric services, and inappropriate use of restraints on inmates are also included in the Justice Department's 40-page report. During the time that this jail was under federal scrutiny, it had been accredited by the American Correctional Association and the National Commission on Correctional Health Care. If significant improvements at the jail are not implemented, the Justice Department "may" initiate a lawsuit, pursuant to the Civil Rights of Institutionalized Persons Act of 1979.

A lawsuit filed in federal court last year alleges that a prison nurse in Delaware used the same needle on 15 prisoners to draw blood and inject insulin. Forty-six other prisoners were treated with the same multi-use bottle. At least six of the prisoners who received injections from the multi-use bottle have tested positive for hepatitis.

On August 31, 2007, an Alabama federal court awarded \$484,406 in attorney fees and \$53,771 in expenses to prisoners who successfully challenged conditions of confinement in Alabama state prisons for women. The plaintiffs in this class action civil rights lawsuit alleged deprivation of adequate living space, ventilation, personal safety, security, medical care and mental health care at three women's prisons in Alabama.

Last year a correction officer at the Pinal County Jail in Arizona was arrested and charged with stealing money from inmates booked into the jail.

In New York last year, the Second Circuit Court of Appeals reinstated the civil rights conviction of a correction officer who fatally punched, kicked and stomped a county jail inmate.

**All of the above situations** were reported since the publication of *American Furies: Crime, Punishment and Vengeance in the Age of Mass Imprisonment*. But for every action taken by prisoners or prisoner advocates to try to remedy some of the cruelties that exist in our penal institutions, countless other abuses go unreported or uncorrected. "The prison is a dark pocket of mystery and silence," wrote Tom Wicker in his book *A Time to Die*, which was published three decades ago. In *American Furies*, Sasha Abramsky has attempted to penetrate the mysteries and silence and injustices that continue to exist at our prisons and jails in the 21<sup>st</sup> century.

In ancient Greek mythology, the Erinyes, or Furies, periodically emerged from the underworld to avenge wrongs or to harass unpunished wrongdoers. So

feared were these goddesses, that those they pursued were generally driven insane. When Orestes killed his mother, Clytemnestra, in revenge for her murder of Orestes' father, Agamemnon, the soul of Clytemnestra conjured up the avenging Furies to persecute Orestes.

Throughout history, Sasha Abramsky tells us, the Furies have reawakened periodically to rise from the depths and to wreak havoc. In Europe during the Inquisition era, tens of thousands of accused witches were burned alive, hung or otherwise killed and persecuted. "Similar hysterias," Abramsky points out, "against putative threats to the existing social order appear with almost cyclical regularity across the continents and millennia."

"And so it was in the 1970s the wild-haired ones began rubbing their eyes and stretching their arms as, once more, they shook themselves out of their slumbers. By the 1980s they were fully awake and ready to enact their punishments. They were no longer in the Mediterranean, now they were hovering over the United States of America, a land so consumed by its desire for revenge, its willingness to subjugate other social goals to this overriding end, that the politics and rhetoric around crime and punishment had assumed an almost mythic quality. Because sensibilities had changed since the witch trials, and the wholesale shedding of blood was not acceptable in the ostensibly more civilized environs of late-twentieth-century America, the Furies channeled their energies into a carefully constructed, bureaucratic prison system."

As the number of prisoners skyrocketed during the past three decades, America's political leaders increasingly called for sending convicted felons to prison for punishment as well sending them to prison as punishment. Responding to U.S. Supreme Court decisions that overturned progress made in the 1960s and 1970s toward protecting the rights of prisoners, Associate Supreme Court Justice Harry Blackmun in 1984 cautioned that "careless invocations of 'deference' to prison administrators run the risk of returning us to the passivity of several decades ago, when the then-prevailing barbarism and squalor of many prisons were met with a judicial blind eye and a 'hands-off' approach." The main argument presented in *American Furies* is that we have largely returned to the snake-pit era in American penology. Here are some excerpts from *American Furies*:

"In the 1980s and 1990s state and federal legislators repeatedly stepped in to usurp the discretion of judges in drug cases; to mandate long sentences; to eradicate early parole for prisoners who showed evidence of having reformed themselves behind bars; to take away perks such as education, drug rehabilitation programs, and visitation rights (despite evidence that these are precisely the things most likely to lower prisoners' recidivism); to banish ex-offenders from many kinds of employment; to declare people convicted of drug felonies ineligible for most forms of welfare,

government-funded student loans and public housing. They voted for massive expansions in the budgets of prison systems, even as state funds for higher education, food stamps, subsidized housing, and other public services wilted.”

“Within the massive human warehousing system that now passes for American criminal justice – an archipelago of prisons and jails not just for the hardened adult criminals, who most everyone agrees should be sequestered behind bars, but also for the mentally ill, disturbed teenagers, drug addicts, and homeless neighborhood nuisances – violence is all too common.”

“Ultimately, given the equations in play today, the culture of violence affects not just the closed world of the prison or the jail, but entire communities. The acceptance – indeed, the expectations – of violence nurtured behind the high walls of the incarceration archipelago are amplified outward, ripping into the broader social fabric. Conversely, the tolerance of violence on the outside bounces back echo-like into the prisons.”

“Today, prisons are what we might call total environments: computerized, video-saturated Panopticons within which every inmate’s actions are minutely scrutinized, and officers and prisoners alike are subject to mushrooming numbers of rules and regulations that too often give the nod to violence. Even when they don’t, many prison administrators turn a blind eye to the violence within their institutions, and correctional officers, hewing to the informal code of silence, adopt a “see no evil, hear no evil” approach to the actions of their colleagues. This was most vividly demonstrated in California, where guards who turned whistleblowers after a string of particularly violent incidents reported receiving threatening phone calls and being set up by fellow officers to be attacked by inmates.”



**Thirty-seven years ago**, a group of psychologically healthy college students were temporarily but dramatically transformed, in the course of a brief period of time spent in a prison-like environment, in research conducted by psychologist Philip Zimbardo. The Stanford Prison Experiment, as it came to be known, demonstrated the way in which social contexts shape

our behavior.

A laboratory at Stanford University was built to resemble a jail. The researchers selected two dozen middle-class students with similar personality characteristics. Interviews and tests revealed them to be mature, intelligent and emotionally stable – “the cream of the crop,” according to Zimbardo. Those selected showed no anti-social or authoritarian tendencies. Their motivation for participation was simply an opportunity to earn \$15 a day for two weeks. Whether a student was assigned the role of a prisoner or guard was determined by the flip of a coin.

Within a matter of days, some of the “guards” were inventing ways to degrade the prisoners. As the researchers later wrote, “despite the fact that guards and prisoners were essentially free to engage in any form of interaction – the characteristic nature of their encounters tended to be negative, hostile, affrontive and dehumanizing.” As for the student “prisoners,” some became “servile, dehumanized robots”.

The majority of the “guards” were not unkind, but not once did a “good” guard interfere with the actions of a “bad” guard or complain to Zimbardo about what was happening. The experiment was canceled after six days. Three decades later, Zimbardo attributed the current crisis in American corrections to our society’s failure to learn from the Stanford experiment, which became an example of how easily moral restraints can be shed, of how brutality, callousness, and indifference lurked beneath our civilized veneer. In the July 1998 issue of *American Psychologist*, Zimbardo and fellow researcher Craig Haney wrote: “There has never been a more critical time at which to begin the intellectual struggle with those who would demean human nature by using prisons exclusively as agencies of social control that punish without attempting to rehabilitate, that isolate and oppress instead of educating and elevating.”

In the wake of the revelations of prisoner abuse by American military personnel at Abu Ghraib prison in Iraq (a central figure in the scandal had previously been a correction officer in the United States), Zimbardo told reporters: “It’s not that we put bad apples in a good barrel. We put good apples in a bad barrel. The barrel corrupts anything that it touches.”

In 1960, Stanley Milgram conducted an experiment at Yale University. Milgram wanted to know how people in a democratic society would respond to orders from authority figures when such orders were in conflict with basic societal standards of morality. The volunteers – adults of all ages and of both sexes, of varying racial, educational, class and economic backgrounds – were informed the experiment was designed to evaluate whether people memorized things more effectively when they were threatened with punishment for failing. The volunteers were instructed to administer what they thought were painful electric shocks to “learners” who gave wrong answers to word-combination questions. In fact, the “shocks” were faked

and the “learners” were acting when they exhibited signs of excruciating pain. Nevertheless, more than half of the volunteers continued all the way up to what they were told was the 450-volt level. Milgram’s experiment showed not so much that people are inherently cruel but that, according to Milgram, “it is the extreme willingness of adults to go to almost any lengths on the command of an authority that constitutes the chief finding of the study ---Ordinary people, simply doing their jobs, and without any particular hostility on their part, can become agents in a terrible destructive process.”

**Taken together, Abramsky argues,** the Zimbardo and Milgram experiments “show the toxic possibilities inherent in the institution of the prison, which by definition is a place delineated by strict hierarchies; a sphere in which obedience is inculcated as the highest virtue; and a miniature social system characterized by extremes of power and powerlessness, control and subordination. As such, they stand as reminders of the dangers of locking away huge numbers of people under the absolute control of uniformed officers of the state.”

Abramsky wonders if a nation’s democratic institutions can survive when so much of its social and penal philosophy is based on revenge. As he examines the state of affairs in the early twenty-first century, which includes life sentences for nonviolent crimes under the “three strikes” doctrine and deplorable conditions and flagrant human rights violations that are widespread in our penal institutions, Abramsky concludes that a penal philosophy based mostly on vengeance demeans our culture and is counterproductive to any attempts to make our society safer and more humane.

One of the least satisfying aspects of this book is Abramsky’s lack of in-depth discussions of what is being done or what should be done to most effectively deal with violence, crime and drug abuse in American society.

**Abramsky makes many** valid points. I frequently receive communications from prisoners or their families that sound much like what Abramsky, a freelance journalist who has reported on American prisoners for Human Rights Watch, describes in *American Furies*. But I don’t believe America’s correctional system is all doom and gloom. During the past 20 years, many programs, including Drug Court and bringing juvenile offenders into maximum security prisons for 3 hour shock incarcerations and confrontations with inmates who want to help juveniles stay out of prison, have flourished.

Drug courts run on a parallel track to regular criminal courts, and divert nonviolent drug offenders and offenders who committed non-violent crimes to support their drug habits into community treatment programs rather than jails or prisons. There are drug courts in every county in New York State. I have personally observed drug courts and juvenile awareness programs in action, and I appreciate how worthwhile and important

such programs are.

On January 12, 2009, a veterans court was created in Monroe County, New York, which is aimed at veterans who commit non-violent offenses. Modeled after a similar court in Buffalo, New York, Veterans Court will steer veterans of military service to services designed just for them – from drug and alcohol treatment to housing assistance, employment services and treatment for psychological problems – while criminal charges against them remain on hold. Veterans who successfully complete the program can expect a break on the charges, ranging from a dismissal to a reduction in charges or in the sentences, depending on the seriousness of the crimes and their prior criminal history. The court is meant for veterans who have committed offenses such as burglary, larceny and possession of drugs. The intent is to help veterans deal with issues that led them to commit crimes, such as a drug dependency that compels them to steal, in order to reduce recidivism. The court is being funded with a two-year \$263,939 grant from the Federal Bureau of Justice Administration.

In New York and elsewhere, as Abramsky points out, “There is no doubt that many correctional professionals are honorable and caring people. The guards and medical personnel, the administrators and counselors have extremely hard, often unpleasant jobs, and many of them go beyond the call of duty on a regular basis.”

Different prisons and jails operate on widely different standards. Within each prison, standards often vary from one housing unit to another, from one work shift to another. Abramsky’s basic point is that America’s prisons make mean people meaner, sick people sicker. However, what about the many people who emerge from prison as better people than when they were initially incarcerated? Many convicted felons have told me about positive and helpful prison programs and personnel, as well as positive experiences in their encounters with probation and parole officers. In a very real sense, rehabilitation often comes from within a person. If he is truly motivated to change, a prisoner can do so even amidst harsh prison conditions. Likewise, if a prisoner is not motivated to change, he is apt to recidivate even if he served his sentence in the best of prisons. But we should always strive to make all our prisons safe and decent places to be incarcerated in or to work in. The improvement of conditions at local, state, federal and private penal institutions should be the concern of every citizen. I also believe that if we can take a more humanitarian interest in prisoners, particularly those who are really striving for spiritual growth and change, we will then take positive steps in dealing with crime.

Abramsky concludes that while officials frequently denounce prison violence, “too often they do so halfheartedly, allowing abusive conditions to continue while removing the burden of responsibility from senior prison administrators and politicians. They denounce

cruelty in the same nudge-nudge-wink-wink manner employed by federal officials when confronted with evidence of torture in military and intelligence facilities outside U.S. borders. Occasionally, if the abuse is particularly extreme or well documented, a few guards are prosecuted; even more occasionally, senior correctional administrators are fired for allowing the violence to continue under their watch. On the whole, however, once the doors to the prison click shut, the conditions inside are out of sight, out of mind to the rest of the population.”

**We should not let our awareness** of prison abuses fade or allow ourselves to forget that there are many prisoners who are basically good – even as we can understand and appreciate the public clamor for toughening up on crime.

Nell Bernstein, author of *All Alone in the World: Children of the Incarcerated*, praises *American Furies* as “a smart, compassionate and tough-minded look at the rise and impact of the tough-on-crime culture that has made America the world’s foremost jailer. By showing us how we got into this mess, this revelatory book also holds out hope that we might find our way out.”

Abramsky has, indeed, given us a much deeper understanding about the worst aspects of modern American penology. The book is the culmination of Abramsky’s reporting on criminal-justice issues and his insights about the interconnectedness of penology with broader cultural and political trends. While the roots of crime are far more complex than what Abramsky portrays, and while *American Furies* should have done a better job of examining explicit remedies for the problems described in the book, overall this is a timely, useful, and well-written book.

I read *American Furies* with more than usual interest because I frequently receive letters from incarcerated men and women throughout America who describe mean-spirited, vindictive practices and unsafe, unhealthy conditions in the jails or prisons where they are confined. There are far too many superintendents, correction officers, counselors and other staff who abuse their authority and responsibility.

**Here in New York**, the Correctional Association of New York and Prisoners Legal Services of New York try to correct abuses. I publicize their endeavors in *Justicia* or in other media. But these organizations are also understaffed and underfunded. I sometimes call personnel at the Correctional Association (CA) to request prompt investigations of particular prisons, but there may be a long delay before such investigations can get off the ground. And the New York State Department of Correctional Services is usually unresponsive to CA investigative reports. As for the New York State Commission of Correction, which was created in the 1970s to be a watchdog agency and to protect prisoners’ rights, this is a weak and ineffective

agency that does not really play a meaningful role in prison oversight.

And so I apply the serenity prayer to what I can and can not do to further the cause of prison reform: “God, grant me the serenity to accept the things I cannot change, courage to change the things I can, and the wisdom to know the difference.”

One couple that was involved in a transition seminar at one of New York’s maximum security prisons wrote me: “We have been very concerned about the current situation at this prison. We’d like to make contact with you and do some sharing of ideas for humanizing some of the inhumaneness going on there. In any event, thanks for making the effort to express yourself in public so we know we’re not alone.”

When citizens raise valid complaints, questions or suggestions about public institutions or programs, and their concerns are not taken seriously, then the rights of these citizens are being violated, including the right to participate in a democratic society, and the right to accountability from those in a position of responsibility and trust. *American Furies* is a reminder that beyond the issues of prison reform or other social issues, there is also the issue of citizens alienation arising from the feeling that the individual may be powerless to influence the workings of his or her government. Nevertheless, as anthropologist Margaret Mead believed, “Never doubt that a small group of thoughtful, committed citizens can change the world; indeed, it’s the only thing that ever has.”

As *American Furies* acknowledges, there are many conscientious correction officers. Their jobs can be frustrating and sometimes dangerous. When officer brutality or corruption is ignored, the morale of well-intentioned officers deteriorates and prison violence is perpetuated. And, as Tom Wicker pointed out in *A Time to Die*, officer misconduct is “most serious because corrections personnel are supposed to uphold the law, because the inmates have no real means of protecting themselves against official violence and because guards have or should have at least some correctional functions, if no more than to set a law-abiding example.”

Our prisons and jails certainly don’t exist in a vacuum. More attention must be paid to widespread drug abuse and alcoholism, the general tendency toward law-breaking and violence by millions of Americans, racial strife, breakdown of the family and increased domestic violence, the perpetuation of slums that are breeding grounds for crime, and the lack of decent job opportunities inherent in a country with a high unemployment rate.

Various stereotypes notwithstanding, there are many “good guys” who are imprisoned, and there are many “bad guys” in the free world who portray themselves as pillars of the community.

**It has been 35 years** since Jessica Mitford asked in her book, *Kind and Usual Punishment: The Prison Business*,

that we try to envision “a prison system populated primarily by the white and well-to-do, convicted of crimes that are peculiar to the affluent: price-fixing, purchase and sale of political influence, product adulteration, industrial pollution, criminal neglect of industrial safety standards, fraudulent stock manipulation, manufacture of unsafe, death-dealing cars, violation of the minimum wage law---That this notion seems like the wildest flight of fancy is already a commentary on the class character of the prison system.” Mitford addressed conditions that have long existed in our society and that certainly have become painfully apparent in our country and in our world today.

*American Furies* asks us to closely examine the most evil aspects of current American penology but, in a very real sense, an underlying message of this book suggests the need to confront the nature of our society.

However, as one death row inmate told his minister just before his death, “Man is what he chooses to be; he chooses that for himself.” To take the responsibility for his or her own actions away from each individual is to promote chaos. Most people in prison committed the crimes they were convicted of. Many of their victims and their victims’ loved ones will suffer far more than the imprisoned offenders will suffer. I know one World War II veteran who was severely wounded during the Battle of the Bulge but who sustained even worse injuries after being stabbed and beaten by two men who robbed his home. I have also met nice ladies in their eighties who live in inner cities, who are virtual prisoners in their own homes, fearful of going out in the streets, fearful that their homes may be burglarized at any time. Victims have rights, too. Sometimes it’s tempting to say “lock ‘em up, throw away the key” when you read about particularly horrifying crimes.

I have friends and relatives who have been victims of violent crimes. Yet I also have friends who are or were prison inmates. I know people who have been both perpetrators and victims of crimes. It is important to maintain both imprisonment for serious crimes and opportunities for rehabilitation and redemption for a majority of offenders. And for some offenders, life imprisonment is a fair and just punishment.

In the world outside of prison I have encountered people who should be in prison. I also know people in prison who deserve a second chance sooner rather than later. Obviously, our prisons mean different things to different people, depending upon the vision, sensitivity, motivations and involvement of the viewer.

**Books such as *American Furies*** reinforce my decision to remain involved in what is happening in our criminal justice system.

The late Dr. Burton Blatt, former assistant commissioner of mental health in Massachusetts and writer about abuses at institutions for the mentally retarded, wrote that “America was discovered long before Columbus set foot on our shores, possibly long

before the Indians migrated here. However, Indians discovered America, Columbus discovered America, and each immigrant who sets foot on our shores discovers America. I discovered institutions. I discovered them and conceptualized their being in ways that caused me to think about things I had never thought about before, and to struggle with problems and ideas I had never known to have existed before.” Similarly, Sasha Abramsky has “discovered” prisons, and he has provided much food for thought in *American Furies*.

My own “discovery” of prisons and jails has been one of the most significant discoveries in my life. So let the voyage continue.

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### ***The JUDICIAL PROCESS COMMISSION***

285 Ormond Street  
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The Judicial Process Commission envisions a society with true justice and equality for all. We understand that in a just society, all institutions will be based on reconciliation and restoration, instead of retribution and violence.

#### **MISSION**

The JPC is a grassroots, nonprofit organization that challenges society to create a just, nonviolent community which supports the right of all people to reach their fullest potential. We do this by:

- Providing support services for those involved in the criminal justice system
- Educating the public
- Advocating for changes in public policy.

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