

PRISON LAW PROJECT
of the
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"Where shall we seek justice when the injustice of power is our
destruction?" Euripides

LEGAL JOURNAL

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This is our tenth issue. We hope that the Journal fosters discussions and study concerning a number of legal issues and issues pertaining to society and the law. You should have received the Bibliography for a Prison Law Library from us in November/December of 1995.

Thank you to Bob Blum for his generous bequest to the Project in the name of Charlie Shaw. Caring for those who do not readily have resources available to them, Bob and his friend, Charlie, wanted to donate funds to help all prisoners who find themselves at one time or another with little or no recourse available to them. This grant also paid for the printing and mailing of the Bibliography, and the operating expenses of this Project.

Thank you also to those all over the country who donated money for this particular issue. There was tremendous support to get a Legal Journal dedicated to women published.

Thank you, C.O.R.E. of the Struggle, a group of dedicated Jailhouse Lawyers, who collect stamps to send to the Project. Every time we receive your packet of stamps, we feel as though we are celebrating our Birthday!

WOMEN'S ISSUES ARE EVERYONE'S ISSUES



On any given day, over 90,000 women are incarcerated in U.S. jails and prisons. ["Women in California Prisons: Hidden Victims of the War on Drugs," report published by the Center on Juvenile and Criminal Justice, San Francisco, California, May 1994]

The greatest increase in the rate of criminal justice supervision has been among African American women. That figure rose 78% from 1989 to 1994 -- a result of the crackdown on drug use in recent years. (The Sentencing Project report of 10-4-95)

From 1981-1990, the number of women in U.S. prisons increased by 256%; the total arrests of women increased by 60%. In Illinois, the number of women in prisons increased by 276%. There are almost 95,000 women incarcerated; 48,474 in state prisons and 6,981 in federal prisons; and over 38,818 in pre-trial detention. Conservative estimates report that over half of all adult female offenders were victims of physical abuse and 36% had been sexually abused; some studies report 88% had experienced at least one major form of violent victimization. Two-thirds of incarcerated women in the U.S. have children under the age of 18 yrs. Eight to ten percent of women are pregnant when they enter prison, while another 15% have babies less than six weeks old. (Crossroads, Vol. 6, #2, Sept./Oct. 1995. This issue lists the sources for these statistics at the end of the article.)

CHOWCHILLA: GATEWAY TO PROSPERITY

By Chrystos

(First printed in Out of Time, December 1995, Volume #30, and read by the well-known poet at "Sparks Fly-- A Celebration for Women Political Prisoners," San Francisco, CA, in November 1995)

There are over 2,000 roses
planted in a straight stern line
in front of the last row of barbed wire
around the prison
for the pleasure of the passerby.
I am a gardener whose roses cost \$10 a piece
at the discount store
The usual fee for landscaping labor is \$15 an hour
The irrigation system through this hot dry country
cost a minimum of \$5,000
Our taxes paid for these roses you might never see
The women locked inside Chowchilla
whom we have been brainwashed to fear
for their poverty or their race
or their drug addictions
or their love of a man the kops caught
are dying and in pain from lack of medical care
In California there are more prisons than any other state
Per, capita, it imprisons more people than any other place worldwide
The cost of a college education there
has risen 500% in 5 years
This money is used for prisons
Once in the top 10 for universities
it now ranks 41
In a 2 square mile area over 6,000 women
will be locked down with no doctor employed full-time
Health care costs each prisoner \$5 per visit
with a guard trained in a first aid course
The strongest pain medication given
even for those dying of AIDS/SIDA
is Tylenol
Starting salary for a guard
the majority of whom are male



& often sexually abuse their powerless female prisoners
is \$30,000 a year plus benefits
also paid for by our taxes
All prisoners are required to work
even those mentally ill
for wages as low as \$6 a month
The roses & irrigation system could have paid
a years salary for a woman doctor
Have I become a thorn in your side yet
or will you pass by the razor wire of these words
looking to smell the roses



PRESS RELEASE
December 12, 1995

"PRISON ACTIVISTS DEMONSTRATE AT THE BUREAUCRATIC HEART OF THE PRISON/INDUSTRIAL COMPLEX MONSTER -- Pouring Rain Does Not Deter San Franciscans from Demonstrating at the California Department of Corrections Branch Office, December 11, 1995"

On December 11, 1995, there was a demonstration in front of the California Department of Corrections (DOC), organized by the California Coalition for Women Prisoners. About 100 people demonstrated in front of the CDOC Branch Office from 4-6:00 p.m., while ten demonstrators registered their dissent concerning the conditions at two California Women's Prisons, Valley State Prison for Women and Central California Women's Facility (both located at Chowchilla, CA, in the San Joaquin Valley), by presenting a list of demands written by women prisoners. These demands focused on improved health care and shutting down the Security Housing Unit at CCWF.

When the ten demonstrators presented the demands, the DOC refused to meet with them. The DOC called the building manager, who asked the demonstrators to leave, and when they refused, he called the police. The police, already present, arrested the ten demonstrators one-by-one, handcuffed them, did not read them their rights, and took them out to the paddy wagen, where they were then transported to 850 Bryant Street. All were charged with trespassing, and some were charged with vandalism as well for sticking walls with the red, white and black stickers that read: "Women are Dying, Close the Control Units, Health Care Now," and "Remember Joann Walker, Chowchilla is a Death Camp for Prisoners with AIDS."

When they arrived at the police station, the men and women were separated and held in holding cells for approximately one hour while they were processed. They were all cited out, agreeing to appear in court on January 17, 1996.

On the outside of the DOC building, people marched for two hours, chanting and passing out leaflets. The police had erected barricades and parked about six cars across the street from the building. There were about eight police officers guarding the entrance to the building.

Several speakers spoke about the conditions at the two prisons, the Shumate v. Wilson case, the issues facing women prisoners in particular, and health matters concerning women.

WOMEN JAILHOUSE LAWYERS -- ON THE MOVE

By Marcia Bunney

"In America, the female prisoner is invisible. When political or media campaigns are waged, prisons are glorified as the answer to all of the violence problems. The attention is concentrated on men, and the examples of their criminal acts are used to sell the public on the idea of tougher and more inclusive laws, and the increased use of the death penalty. Very little mention is made of the female prison population. Without this attention, a veil of secrecy shrouds the activities of individuals and institutions, and sets up an atmosphere where it is assumed anything can be done and there will be no repercussions." (Charla Greene, American Women Prisoners: Our Invisible Sisters, Workshop booklet, United Nations World Conference on Women, Huairou, China, September 1995)

Women -- Invisible Prisoners

Although the incarceration rate for women has risen sharply over the past 15 years or so, the existence and plight of women prisoners remains a foreign idea to the average person. That this is true on a global scale was borne out recently by the direct experience of those who participated in the Non-Government Organization (NGO) phase of the United Nations World Conference on Women, at Huairou, China. Charla Greene, a columnist for the Sonoma Free Press, says that doing her workshop on American women prisoners "opened up the dialogue on this subject. Everyone I talked to has the same reaction when I mention [women prisoners]: Huh? Like they didn't even know women prisoners existed!"

Our existence in a system designed for, dominated and largely administered by men, sets women up for a diverse array of problems. Despite the acknowledged tendency of women prisoners to be talkative and willing to negotiate via - discussion and/or administrative grievance procedures, resolution of issues is unfortunately seldom possible on an informal or legal level. Then when women attempt to take the next logical step--litigation--retribution by prison officials is swift and vicious.

Women as Economic Criminals

Women are still primarily incarcerated for non-violent drug- and property-related offenses. Numerous studies reveal that these "economic" crimes are committed by women with children, who are unable to make ends meet on a small fixed income, or who are unable to stretch the typical "female work" income when an absent father refuses to meet child support obligations. According to attorney Charlene Snow, "The majority of women convicted of violent crimes...usually kill men, not women, and women who are charged with homicide have the least extensive criminal records. A study of women in

Chicago's Cook County Jail found that 40% of the women arrested for murder, voluntary manslaughter, or involuntary manslaughter were battered women." (Women In Prison," Clearinghouse Review, February 1981)

The over-incarceration of women is thus a serious and widespread problem, with myriad adverse consequences. California, for example, continues to build high-security housing for women, when the characteristics of existing populations demonstrate that the focus should be minimum-security facilities, including work release and community housing programs for women with children. In 1993-1994, when the population of the Central California Women's Facility (CCWF) was approximately 4,000 (double its stated design capacity), more than 1,500 of the women were designated "level I," or minimum security. Yet, what did California just spend millions of tax dollars building? Not badly needed minimum-security facilities, but the Valley State Prison for Women (VSPW), CCWF's twin, literally across the street from CCWF. The ratio of "Level I" women presently housed at VSPW is unknown. It's already notorious SHU Unit, which serves both VSPW and CCWF, now houses approximately 50 women.

Medical Care

The inferior medical services women prisoners receive can have a substantially adverse effect on more than our health. California's system, for example, utilizes an arbitrarily applied set of standards: for medical/dental clearance, for work release and other programs. Combined with high populations in the women's prisons, delaying the processing of clearances, denies many women access to programs for which they qualify, thus forcing them to remain under more onerous conditions of confinement than their case factors and other circumstances warrant.

Redress in the Courts

What many women prisoners have come to view as "feminist backlash"-- conferring a convoluted "equality" by way of harsher sentences and increasingly brutal conditions of confinement-- has driven an increasing number of us to attempt to seek redress in the courts. Those who are beginning litigation or who prefer to operate pro per/pro se, are consistently targeted for harassment by prison officials, as a punitive and/or deterrent measure. Even for those who can afford counsel or combine efforts to enlist the support of advocate organizations, the risk of retribution by D.O.C. officials remains high.

The untarnished truth is that the system does not want women prisoners to become proficient in utilizing the protections of the law on our own behalf. Prisons are, in this sense, virtually intact bastions of male dominance and suppression of women. Given the fact that recent studies reveal that a majority of women prisoners have been abused by men, in some form, at some point in their lives, this oppressive treatment can be viewed with even greater clarity as a deliberate effort to abrogate women prisoners' rights to meaningful access to the courts.

Our Children

Women prisoners face not only the same types of issues men do -- criminal charges, appeals, writs, conditions of confinement -- but are more frequently required to deal with family law matters, particularly child custody. It is estimated that nationwide, 80% of prisoner mothers are unmarried heads of households. Unless, at the time of their arrest or very soon thereafter, a woman can arrange for her child(ren) to be placed with relatives or reliable friends, it is virtually certain that the child(ren) will go into foster care. From that point, the mother's battle for the return of her offspring begins. Many women, intimidated and demoralized by the system and their situations, have no idea how to proceed, and ultimately lose their parental rights. This is devastating for the mothers and children, who frequently perceive that "Mom didn't care enough" to try to keep them. The damage to these families is incalculable; children who experience such forced separations often end up in the prison system themselves, leaving their children behind them, perpetuating the tragic cycle.

Women Jailhouse Lawyers

How do we, as Jailhouse Lawyers, deal with all this? Divorce and child custody matters are generally fairly straightforward, and there are a number of "Do-It-Yourself" manuals on the market, including some specifically for prisoners. (NLG/PLP Bibliography, 1995) Undertaking litigation, on the other hand, can be extremely involved and intimidating; a well-prepared lawsuit represents a great deal of work, a fact that many novices fail to appreciate.

A review of case law demonstrates that flawed understanding of fundamental legal principles and procedural standards, coupled with inadequate preparation, hampers many prisoner litigants and ultimately costs us all dearly, in terms of adverse rulings and viable opportunities lost. While it is undeniably important to get a case to court, the mere act of filing a cause of action is not enough. The courts are required to construe our pleadings liberally (Haines v. Kerner, 404 U.S. 519, 92 S. Ct. 594, 30 L. Ed. 2d 652 [1992]), but this by no means absolves us of our responsibility to adhere to certain basic standards, particularly at the pleading stage.

Tempting as it is to draft something and "Get the case moving," the importance of attending to the basics cannot be overemphasized:

- Make an "investment" in systematically learning the fundamentals of legal research, including basic case analysis. It is impossible to prepare a good case without understanding how to find relevant cases. Discern whether they are "good law," and evaluate their applicability to your issue(s).
- Familiarize yourself with the rules of the court in which you will file, especially the specific requirements for pleading.
- The best legal writing is simple, but not simplistic. Remember that you can't expect the court to "read between the lines." Your statement of the facts must be clear and precise. Use words and phrases with which you are familiar; if you are confused, chances are good that the court will be, too.
- If your State has a prisoner grievance system, use it. sometimes, despite what other prisoners may tell you, it actually works. It is also a very useful means of investigation and documentation for further action, especially

Section 1983. Structure grievances to provide support for a cause of action. Study case law for examples in which well-prepared grievances demonstrated the facts and supported rulings in favor of the prisoners. Be aware of requirements to exhaust administrative remedies prior to filing, as failing to do so may delay your case or lead to dismissal.

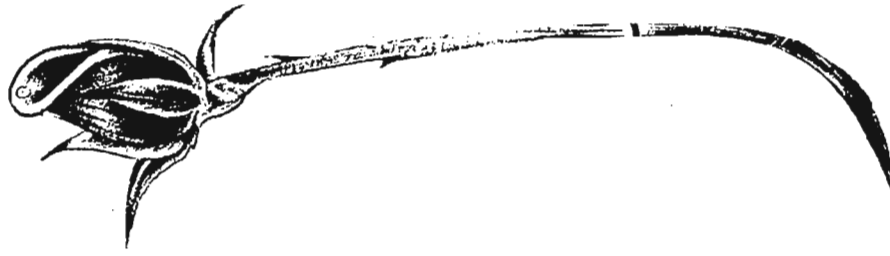
It is also useful to:

- Know the structure of your prison's administration, and the hierarchy of the Department of Corrections. In processing grievances and gathering information, it is imperative to have a clear understanding of "Who's who" and how the various levels of prison administration interact. Often "organizational charts" are utilized within prison facilities, both local and department-wide. If your State produces an agency telephone directory, this is a good way to decipher relationships between arms of the bureaucracy.
- Study standards governing the civil and human rights of prisoners, particularly recent developments such as the International Convention on the Elimination of All forms of Racial Discrimination, and the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment. (Both treaties became effective in the United States on November 20, 1994.) A particularly important treaty pending ratification is the Convention on the Elimination on All forms of Discrimination Against women, which is, according to Anne Wagley of the NLG and Meikeljohn Civil Liberties Library, "broader and more specific than the Equal Rights Amendment in protecting the rights of Women." (National Lawyers Guild Guild Practitioner, summer 1994)
- Read case law on a broad basis. Sometimes an unlikely case will explain a puzzling legal concept in detail, and provide citations to other cases addressing the same point or issue.
- Learn to read case law with an eye toward both sides of a legal question. Think creatively when analyzing what appears to be an adverse ruling -- you may be pleasantly surprised.
- Make notes on cases which explain or set forth standards in areas which can be difficult to locate in treatises, etc.,(such as specific dollar amounts in developing/computing damages).

Above all:

- Work to build your law library collections. Evaluate your law library's holdings; if mandates are not met, take the appropriate measures to get staff to generate the necessary purchases. If the staff is receptive, submit suggestions for the purchase of materials, explore the possibility of having non-mandated materials donated by outside groups or individuals.
- Communicate and share. Too often, vital information is underutilized because individuals try to use the law as a personal power base. This hurts everyone. "Each one Teach One!" is as practical as it is empowering. Ignorance is the enemy.

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LEGAL ISSUES FOR WOMEN IN FEDERAL PRISONS

DUBLIN FCI -CALIFORNIA

By Marilyn Buck and Laura Whitehorn

The federal prison system, like the state systems, has many unique problems because it has its own set of inconsistent and irrational rules. The system does not accept that women prisoners constitute a very different population from men. Officials will readily admit that many rules are made for men, but, being "policy," are applied to women. Because the population of women in the federal system is so much smaller than that of men, and because of sexism, our particular needs and situations are disregarded or minimized. Thus our whole condition is deformed. For example, there are only two FCIs (medium-maximum prisons) for women. As a result, most women are locked up thousands of miles from home -- stranded and isolated from their communities. This means few or no visits, little contact of any kind, and general abandonment by any community. While some of our legal problems may not seem so different on their face from imprisoned men's, this increased isolation affects all areas of our lives, from the legal to the social.

ACCESS TO LEGAL AID: Here in Dublin there is no legal aid program. There have been programs (law schools/students) which have been willing to come into the prison, but for various unknown reasons, no outside program has been allowed to function. Given that there are very few experienced and accomplished jailhouse lawyers here, it is difficult for the prisoners to pursue legal remedies in their own cases or in relation to legal issues that arise in the course of imprisonment.

Access to the legal community outside is further hampered by the restrictions on phone calls (We are restricted to a pre-approved phone list.), and on legal visits, which must also be pre-arranged. No papers can be brought in by lawyers without prior clearance of each item. Finally, all phone calls are monitored.

CHILD CARE/CUSTODY: women are usually the ones primary responsible for their children. There are not facilities to aid or support women in their legal struggles to maintain the integrity of their family structure or to ensure their children's rights to a safe, healthy environment. Even for those whose children are fortunate enough to live with a family member, trying to obtain aid to families with dependent children (AFDC) is difficult from inside. If other issues arise, such as abuse, rape of children, getting legal aid is virtually impossible. Besides a lack of legal aid, there is no financial aid available for children to travel here to visit their mothers. Most women never see their children.

LANGUAGE DIFFICULTIES: Approximately 1/3 of the population is composed of foreign nationals, most of whom speak little or no English. These women's legal rights have generally been trampled on from the day of arrest. As xenophobia and legal proscriptions against immigrants escalate in this

country, women prisoners are also profoundly affected. Here in the federal system, a prisoner may work for UNICOR - prison industries -- and be paid a salary comparable to the slave wages paid to workers in countries like El Salvador, South Korea and the Philippines. This is most women's sole means of support for themselves and to send money home. Foreign nationals are in danger of losing their jobs, given the rapid changes in federal laws and policies.

THREAT OF SEXUAL ABUSE: Male guards are in the housing units; pat searches by the male guards are routine. These practices result in the complete absence of privacy and the constant threat of abuse. For women who have been sexually abused (some figures say as high as 85% of women in prison), invasive pat searches by men are especially damaging. For all of us, these searches serve as a constant humiliation and reminder that we have no right to dignity and safety. Male guard pat searches of women have been ruled illegal in California, yet they continue unabated throughout the federal system.

RACISM, SEXISM AND SENTENCE DISPARITIES: The disparities in sentencing between crack cocaine and powder cocaine has had a profound effect on the prison population as a whole. Women have been wrenched from their homes and children for 5, 10, or 15 years for mere possession. Given that the majority of those imprisoned for crack are Black, this has affected the entire social structure of the black community -- more children without others, cast into inadequate and hostile social welfare system. It is perhaps one of the most blatantly racist laws designed to implement cultural genocide. That a large percentage of young Black men are imprisoned under this law is fairly well-known and admitted. That a large number of young black women are, as well, is seldom mentioned. (Typically, women involved in drug conspiracy cases have no access to the things that qualify as "mitigating circumstances" for shorter sentences. Being in the lower echelons of most conspiracies, or because they are related to a man who is their main tie to the conspiracy but have refused to "cooperate" --snitch --, many women receive very long sentences.

While the Bureau of Prisons (BOP) equivocated about the reasons for the mid-October national lockdown of all federal prisons, it seems clear that this level of cultural genocide and racism -- fortified by Congress' refusal to correct the sentencing disparities for cocaine-- is heightening the contradictions. There is a steady march to increased repression and brutality. In modern times there has never been such a lockdown. The lockdown itself -- a preemptive strike it might be called -- provoked responses from prisoners so arbitrarily locked down. That occurred here: when women were forced to go to work during the lockdown, trash can fires were set in all the living units on a Monday night. A sweep followed. In the next days, around 60 women were rounded-up -- mostly Black women. They were summarily tried, most convicted, and nearly 40 shipped off to a federal men's prison in Coleman, FL, where they remain locked down in the segregation unit there. With few legal resources, especially no legal aid programs at our command, there was little we could do from inside.

Some of these problems are not unique to women prisoners, but they have a particular and distinct impact on women -- and through us, on our families and communities as well.

EXCERPTS FROM A LETTER TO KATHLEEN HAWKS (October 1995), Director of the Federal Bureau of Prisons

By Deborah S. Williams

I have been in Shawnee Unit for two years now and conditions have finally gotten to the point where I feel the need to write. I read a statement Kathleen Hawks of the Federal Bureau of Prisons made in FAMM, clarifying that some of the "perks and frills" within prisons were in essence basic necessities and often used as management control tools. My concern and reason for writing is that Shawnee Unit has been basically stripped of any and every incentive we have ever had and as a result, tension is high in the unit and violence is increasing on a daily basis.

In the last 12 months we have lost Pell Grants -- and as a result, all college programs, including UNICOR scholarships (financial aid for accredited college correspondence courses). The windows have been bolted shut despite the fact that the air conditioning system fails regularly, leaving us with no air or circulation during these down times. All street clothes have been taken and all colors other than grey and white. The free weights have been taken. Photographs for the unit and visitation are no longer a privilege for us. MACS Club, the inmate organization that earned funds for inmate/unit activities, was dissolved (without an accounting of funds). The leisure library was moved into the common area, thereby eliminating a quiet place to read or study. We lost half of the door at the UNICOR bathroom. We lost the shower doors completely because of an incident in the men's prison. We have very few organized recreational activities. We have no outside lighting for the recreation yard, so it is now closed at dusk, which gets earlier every day and makes it almost impossible for UNICOR to use the rec yard. The picnic tables and benches have been taken off the recreation yard. Blinds for the windows have been removed. Preparations are currently being made to take the televisions out of the rooms and to replace them with sets in the common area. There isn't much left to take.

Since I've been here there have been no vocational programs of any kind. There is no drug program, especially the 500 hour program; no educational programs other than GED and ESL. It's scary to think about what the long-term end results are going to create insofar as the type of person who will be created or cultivated for re-entry into society. Most of the women here don't care about anything as it is, and what few incentives we did have are going or gone.

I came into the system with goals to improve myself, to stay out of trouble, to get my education and to equip myself with the skills to be able to survive and prosper once I am finally released. It's a long-term plan and I have the time and the determination to implement it. I'm doing everything I can for me so that I won't make the same mistakes I did in the past, the ones that put me here. It's going to be hard to get a good job and I will need all the skills I can

get. I'm determined now to correct my shortcomings as I was once determined to get drugs.

Not everyone is as determined as I am or as self-motivated. We desperately need educational programs, drug programs, rehabilitation or modification programs to prepare all of us to live in society -- or the majority will spend the rest of their lives in prison. Some people will always be "warehoused" in prisons because they don't care; others can learn and grow if they are given the opportunity. Positive growth isn't going to come from taking everything away.

Violence and the potential for it is increasing every day and from the sounds in the unit, it's going to get worse....I separate myself from the population as much as possible to avoid trouble, potentially bad and/or hazardous situations, obnoxious people and excessive noise caused by them. I'm not alone in my theory of survival in this place, as many others also choose the safety and sanity of solitude. People don't have much to lose and most of them don't care.

THOUGHTS ON PREPARING A BATTERED WOMEN'S SYNDROME DEFENSE

We would like to thank C.K. Ferguson, a Jailhouse Lawyer in Arizona, for the initial idea and outline for this article. The end result comes through the cooperative efforts of many women Jailhouse Lawyers, including Marcia Bunney in California. A thank you to all the women who continue to fight and struggle so that the rest of us can keep on fighting and struggling. This is for our children and their children. - Ed.

The "Father Knows Best" households in which we women often find ourselves are ones run and dominated by a working male who defines the circumstances in which the entire family lives. We are conditioned to be passive and to accept the circumstances in which we find ourselves. Rarely are we recognized for our independence, creativity and potential for earning a good living; instead, we are recognized for our looks, "kind" disposition and our "caring, sensitive, nurturing" attitudes towards everyone around us.

The only future many women have is to marry, raise children, and participate in the social life of their family and community. While these women anticipate a traditionally happy life, they instead find that the men in their lives work, play and succeed in an environment totally separated from that inhabited by them. Even the independent and financially successful woman can find that her life is dominated by men.

The media's image of the protected, respected, loving mother and wife is often brutally deceptive. Unfortunately for many women, "home" is a place of violence, abuse and disrespect. The choice of staying with an abusive, violent husband or, alternatively, returning to her father's and/or mother's home is often a non-choice. The humiliation and degradation of both situations is often equally intolerable. More and more women find themselves choosing welfare and unemployment as viable alternatives to abusive home lives.

The economic condition of most women, especially if they have children, is that they have no "better" place to go than where they are. The violence of

poverty, especially when it is imposed upon children, is not always qualitatively preferable to the violence of an uncaring, abusive partner. In fact, the violence associated with poverty is often no different from that suffered in an affluent, but cruel household. Instead of seeking a refuge, therefore, many women try to maneuver their way through life, surviving as best they can.

If you are Bob Jones, and if someone rapes, assaults or terrorizes your wife or girlfriend, you will demand the severest punishment allowed. You will ostracize the rapist, and demand he not be paroled to your neighborhood. But, if those same acts are committed by a Mr. Smith against his own wife or girlfriend, you think that is not very nice, act surprised and invite him to a barbecue at your house. The only difference is the relationship between the victim and the perpetrator.

Through the magic of a name change, legislators in some states have turned rape, aggravated assault, and terrorism -- all felonies, punishable by stiff prison terms, into misdemeanors -- ones with lesser consequences than acts of vandalism. This is accomplished through segregating these acts on the basis of familial or emotional relationships whether past or present. A man who beats "another man's woman" finds himself facing severe penalties. A man who beats "his own woman" will face penalties less severe than those attached to minor vandalism. -C.K. Ferguson [In California, the opposite is true, in that there are assaults that would normally be misdemeanors that are translated into felonies. -Ed.]

An ever-increasing number of women, though, who find themselves unable to tolerate their abusive circumstances, are striking back against the abusive men in their lives. At Chowchilla prison, for example, one of the women's prisons in California, approximately 30% of the women serving time for murder, have been convicted for murder of a boyfriend, husband or ex-husband. (Pelican Bay Express, Vol. 3, NO. 2, p. 28)

When the abuser lies dead, there are no accolades -- the woman must now face the wrath of this society and its legal system. She finds herself charged with murder. She might be confused and in a daze; she might only be thinking about how glad she is that the ordeal is over. Unfortunately, however, the courtroom is another ordeal, and justice has little to do with courtrooms.

How do we translate the anger and fury that women feel when pushed to the point of no return into a male developed, defined and dominated legal system?

As the woman sits in jail, she doesn't know who to trust, who to turn to for support, and how to get a fair shake in a predominantly male-dominated courtroom and legal system. She is led through a maze of legal proceedings about which she has little or no understanding or experience, and is ultimately sent to prison. As she hears the gates close, she looks at the male guards, quickly sensing that she is back to ground zero. She discovers that she soon will again re-live the very kind of sexual and mental abuse that drove her to violence in the first place. In this context, it is important to understand the history and application of the "Battered Women's Syndrome" defense (BWS), in order to provide the best defense and protection for women who have fought back.

This article is designed to shed some light on the various legal alternatives available to women charged with and convicted of crimes of violence against the men in their lives. It is hoped that by understanding the dynamics of sexism and the reasons why the Battered Women's Syndrome defense is so rarely raised effectively, women will begin to feel empowered to assist each other in defining and recognizing the strategies that can help them struggle against the personal and legal helplessness they feel; to struggle against the passive acceptance of unacceptable conditions; and to come to an understanding of the concept of self-hate. It must be pointed out that some states, like California, have begun to initiate changes in their Evidence Codes and instructions that assist women facing such charges, while others, such as Arizona, lag far behind in this regard.

PREVALENT MYTHS

Television programs such as the "Burning Bed" have spawned myths of the typical woman who suffers from the battered woman syndrome, and who kills. The myth is that the happy little girl, raised in a normal non-violent home, falls in love, and marries, only to find that her Prince Charming is a violently physically abusive man; she takes the beatings until she can't take any more, and then kills him while he sleeps. -C.K. Ferguson

Domestic violence laws perpetuate the erroneous idea that women are the chattel property of men. For a man to damage his "human property" is distasteful, but not serious. Many courts view rape, assault and terrorism leveled against women as only a little bit naughty as long as the victim "belongs" to the perpetrator. This attitude permeates our society and serves to cloud the issues when a woman is put on trial for killing or assaulting her abuser.

The trivialization of these crimes against women by men who claim to love them leads jurors to doubt the severity of the abuse as testified to by women on trial for assaulting or killing their abusers.

Dr. Lenore Walker, a leading psychologist in the field of battered women and author of the "Battered Woman Syndrome," defines a battered woman as "one who has been physically, sexually or emotionally abused without regard for her wishes or rights by someone who claims to love her." [Affidavit of amicus curiae in People of New York v. Doris E. Ciervo, 506, N.Y.S. 2d 426 A.D. 21 Dept. (1986)]

The Army Survival Manual contained this admonition to soldiers captured in enemy territory: "Respect their property, especially their women."

CASE EXAMPLES - (These examples are provided by C.K. Ferguson, and are currently being litigated.)

The following cases demonstrate two of the many different situations facing battered women -- the kinds of equally devastating, but different abuses suffered and different reasons the abused kill. Names and cites are being withheld due to pending litigation. They also demonstrate other myths also

believed by men and women in all fields, including lawyers and mental health workers.

Susan -- "Before He Could Awaken"

Susan was raised in a middle class family. She was sexually, emotionally, and physically assaulted by her father from a very young age until she escaped through marriage. When she was very young, she heard her father brag of killing a hitchhiker and dumping his body. Following the death of her mother, Sally's father became totally obsessed with her. The father harassed her, and threatened violence against both her and her husband. Following the pattern she had been trained and forced to follow since childhood, she was unable to resolve the feelings of fear and guilt involved in her father's cajoling and threatening suicide. He broke up Susan's marriage and forced her to return home. With Susan's experience, she had no choice but to return home, where he again abused her. She left several times, but her father always tracked her down and used his total control over her to force her to return. On one occasion, her father fired a gun at her. The police refused to intervene. Susan could not escape her childhood memory of her father bragging of killing the hitchhiker; she believed his threats and knew he easily could kill her. One night, while he was sleeping, she retrieved her father's gun and shot him. Susan was convicted of first degree murder. She is serving a sentence of 25 years to life.

Mary -- "Sacred Wedding Vows"

Mary was raised on a farm by loving, non-abusive, religious parents. She believed that marriage vows were sacred, and that the woman was responsible for maintaining the marriage regardless of the cost to her personally. Early in her marriage, Mary discovered her husband in bed with another woman. The husband claimed that she was to blame for his infidelity because she would not indulge in what she considered to be his deviant sexual demands. After thirty years of enduring sexual practices totally repugnant to her, she once again discovered her husband in her bed with another woman. This was too much for this deeply religious woman. In the heat of passion, she killed them both. She was convicted of two counts of first degree murder. She is serving 25 years to life.

WHAT ARE THE TRADITIONAL WAYS OF DEFENDING THESE CASES -

In the great majority of cases, lawyers would defend these cases either upon a theory of temporary insanity or a theory of voluntary manslaughter (i.e. a heat-of-passion killing done without malice aforethought or premeditation.) Insanity should not be confused with "incompetency." Incompetency refers to the situation where a defendant is insane at the time of trial, and cannot therefore effectively participate in her own defense. It should not be confused with the question of what the defendant's state of mind was at the time the "crime" was committed.

Both of these theories suggest that the woman was guilty of some form of homicide, even if of a lesser degree than first degree murder. Both theories underscore the idea that the woman had no right to strike out against her abuser, and that but for some mental lapse, or weakness, on her part, she would not have had to perpetrate any violence against her spouse.

The author would argue that the first line of defense in every case similar to those set forth above should be self-defense. [The fallback position should be "imperfect" self-defense (where the defendant honestly, but erroneously believed she was in danger, and acted out of an "unfounded" belief that her life was in danger.) Theories such as temporary insanity and heat-of-passion manslaughter should be argued only where the more appropriate approach of self-defense is impossible to present. By arguing self-defense, the jury is forced to focus on the circumstances and conditions that compelled the woman to act as she did, thereby deflecting the prosecution's argument that women who kill in these situations are vindictive, revengeful aggressors, and not victims themselves.

Whereas the first question most men ask in such a situation is "Why didn't she leave?" the defense should be directing the jury's attention to more appropriate and legitimate inquiries: "Why was he abusing her, how long had it been going on, and what protection did she get when she tried to defend herself in the past?" Why was she left to respond personally to the abuse, instead of being able to rely for protection upon the society around her? By recognizing the legitimate sense of helplessness many women feel in these situations, the defense team can transform a defensive posture into an offensive one.

In every case, the defendant will have to answer the question of why she didn't (or couldn't) leave, as well as explain the basis for any passage of time between the last beating and the killing. Accordingly, expert testimony is crucial to an adequate defense.

EXPERTS -

In a recent California death penalty case, the Court of Appeal issued a Writ of Mandate ordering the trial court to appoint for the defense a psychiatric expert with particular expertise in Battered Women's Syndrome and Post Traumatic Stress Disorders (PTSD). Doe v. Superior Court, October 23, 1995, 95 Daily Appellate Report 14242. The court emphasized the fact that many so-called experts do not have adequate training to properly analyze certain types of conditions.

Because so many women who face murder prosecutions are indigent, they must rely on court appointed psychiatrists, many of whom are unsympathetic to and unfamiliar with BWS and/or PTSD. It is the job of the expert to explain the subtleties that are overlooked in a male-dominated judicial system:

- 1) Why couldn't the defendant "just walk away" from the abuse?
- 2) Are women actually placed in greater danger when they try to walk away than when they stay and put up with the abuse?
- 3) Why is it crucial in such cases to understand the social histories of both the abuser and the abused?
- 4) How can one describe a case as "self-defense" when the "victim" is sleeping, or has temporarily left the location where the abused spouse is residing?

In spite of the existence of extensive literature and medical analysis providing answers to these questions, these issues are frequently left unanswered in a courtroom where temporary insanity, or heat of passion are the main focus of the hearing.

INSTRUCTIONS -

There is an omnipresent sexual bias in the prosecutorial system. Prosecutors, defense attorneys, judges and jurors have no difficulty understanding the uncontrollable wrath of a cuckolded husband. They have no difficulty understanding the reasonableness of a small man's fear of serious bodily harm or death at the hands of a much larger, stronger man who has repeatedly attacked him without provocation. They no difficulty understanding the use of an equalizer, such as a gun, by that small man; yet, they are slow to understand that a woman in identical circumstances has the right to react in that same manner, even if the "bully" is her husband. Instead, the system expects her to seek help from other men, or the police, or a "marriage counselor."

Because of this, the defense must prepare instructions for the jury that inform them of the importance that relative size, muscularity, and fighting experience have when evaluating a woman's response to violence. Traditional instructions for self-defense read as follows:

- [The] defendant has offered evidence that she acted in self-defense. Self-defense requires you to find the defendant not guilty if the following three conditions are met: 1) the defendant reasonably believed that she was in immediate physical danger; and 2) the defendant acted solely because of this belief, and 3) the defendant used no more force than appeared reasonably necessary under the circumstances.
- Self-defense justifies the use of force only while the apparent danger continues. The right to use force in self-defense ends when the apparent danger ends. Actual danger is not necessary to justify the use of force in self-defense. It is enough if the defendant reasonably believed she was in physical danger. The burden of proof with regard to self-defense never shifts. If some evidence of self-defense is produced by the defendant, the prosecution must then prove beyond a reasonable doubt that the defendant did not act in self-defense. The defendant, in other words, has no burden to prove that she acted in self-defense: if the evidence has created a reasonable doubt that the defendant did not act in self-defense, you must find her not guilty.
- In considering the claim of self-defense, bear in mind that a person is not entitled to use greater force than is necessary to repel the attack against her. Consider all the circumstances, and judge the conduct of the defendant in light of her total situation at the time she acted.

If the defense does not present adequate expert testimony to explain why these traditional theories of self-defense differ in the context of BWS, and defense counsel does not offer instructions that give the jury the opportunity to apply BWS analysis in their deliberations, the case is destined to fail. On the other hand, broader explanations of self-defense can be effectively argued in a well-

presented case (see, for example, the discussion of the Inez Garcia defense, printed in The Forum (newspaper of California Attorneys for Criminal Justice), Vol. 20, No. 4, written by Susan B. Jordan.)

CONCLUSION -

Given the increasing number of women currently imprisoned for killing their abusive husbands, it is obvious that we must find more effective ways of dealing with problems of domestic violence before a killing occurs. Education regarding sexism, sexual abuse and harassment, non-judgmental techniques for social services (and/or police) intervention into domestic conflicts, and community responses to male violence are all pre-requisites to effective solutions of these problems.

In the meantime, women will continue to have an uphill battle in presenting a successful BWS defense.

OUR TASK; OUR DUTY

By Mumia Abu Jamal, Vice-President National Lawyers Guild

Law is simply politics by Other Means

There are tens of thousands of us across this vast land; Africans, Latins, Whites, Straights, Gays, Radicals, Supremacists, Maoists, Aryans, Atheists, Muslims, you name it, Jailhouse Lawyers, like prisoners themselves, come from a wide swath of America, united, if at all, by a fierce determination in the power of the word.

Most of us know, first hand, the dark power of the word, as use by the state to sentence us to prison.

We also know how the word can enlighten, enliven and energize.

For readers, a good book can do that.
For Jailhouse Lawyers, a good case can do that as well.

I will be writing to you, my fellow JLs, to discuss items of current concern, to TRY to open up areas of discussion, to TRY TO GET US TO FOCUS OUR POWER, and YES, TO URGE MANY OF YOU TO GET WITH THE PROGRAM -- to fill out the form on the last page, and join.

One thing is certain, fellow JLs, in unity there is power -- ain't that so?

Let us unite our many wills on the goals we all hold dear -- FREEDOM, and AN END TO THIS GOV'T CAMPAIGN OF REPRESSION!

THIS -- the NLG -- is our vehicle -- LET'S RIDE.

It is our duty and our task NOT to "make the system better; but to utilize our skills to expose this system for the barbarous monstrosity that is it!

You know, as do I, of countless crimes committed each day under the guise of "corrections." You are the Writ-Writers -- write about it!

Do not focus your attention solely on courts, write to newspapers, magazines and journals. Write to relatives, Write to friends. WRITE.

The corporate media exists to demonize and dehumanize men and women like you and me, and to sanitize the system, from which their status comes.

Most folks buy the media myths of prisoners and prisons (guys and gals living in country clubs, for example) out of pure ignorance. Fight that ignorance by the art of revelation -- show how these joints really are, y'all, in your litigation and in your letters.

I tried to do some in my book (and got wrote up for it). But I know, as do you, that there are a hundred thousands books out there, unwritten -- because of fear and/or apathy.

That fear paralyzes us, and apathy atrophies the spirit, as America marches backwards to chain gangs.

Let me not suggest there's nothing to fear, for I'd be lying (and you'd know it) for there are costs to be paid for any activism against the state. But what do you do when things go from bad to worse, as they are?

We must UNITE, WRITE AND FIGHT for our most fundamental human rights.

Simple as that, y'all.

The law is a tool, that's all.

It ain't a religion, nor a holy relic. In U.S. history it's been used to justify slavery (DRED SCOTT v. SANFORD (1857)), to justify land theft of Indian territories, to ok forced deportation of radicals, and to sterilize thousands of retarded folks (BUCK case). It is a tool of state, corporate, and class power.

But, the late Thurgood Marshall demonstrated its utility for the powerless, as well, and much of it was useful because it wasn't used alone -- it was a component of a broader movement.

Let us use this tool, one among others, to peel back the closed eyelids of Babylon, so that the horror these places may be seen.

There is reason to "Land of the Free" was among the last in the western world to ratify UN covenants on human Rights (and then, only with broad restrictions).

We know the reason.

WE ARE THE REASON.

--Let's make a difference!

Mumia Abu-Jamal

Mr. Frank D. Gillis, Superintendent of the SCI at Coal Township in PA, sent the following letter, dated January 22 , 1996, to Marti Hiken of the Prison Law Project:

"Dear Mr. Hiken,
As stated in your letter, the Publications Review Committee at SCI Coal Township had reviewed Live From Death Row and determined it unacceptable. Since then an appeal was submitted to the Central Office Review Committee and they overturned the decision of the Publications Review Committee. Live from Death Row can be received by the inmates." s/n

ORGANIZING A DEFENSE COMMITTEE By Lorenzo Stone-Bey

In starting to organize a Legal Defense Committee from within prison, we often are met with frustration, obstacles from prison officials, lack of funds and outside support. Each one of these obstacles makes it important to focus our attention and determination on exposing the injustices of each individual case. It also creates a desire not to be silenced by our circumstances. When I put my first flyer out about my case, I received a lot of positive replies, and criticism. This encouraged me to seek advise and to ask more questions.

It is very helpful if prisoners, who desire to organize a Defense Committee, have family members and friends actively involved in assisting in whatever manner that they can. Unfortunately, for many prisoners and for those who are less-known, the support of family members and friends is not available. This makes the task that much more difficult. It is my belief that forming a Committee begins with one's self -- working from the ground up, while building support by meeting friends who are willing to get involved in a particular prisoner's cause. It is a hands on experience that teaches us how to move forward.

It is important to make contact with political activists, grassroots organizations, newspapers (such as the Peoples' Tribune, North Coast Express and other prison news sources), organizations and people who defend the rights of prisoners and who also speak out against the injustices in certain cases.

Funds should not be the sole objectives in organizing a Defense Committee, even though it becomes important in the later stages. Exposing your case, gathering support, networking with people, groups and organizations (developing outside support) is the first priority. Therefore, we as prisoners must be the voice in our outcry against injustice and unconstitutional imprisonment as well as our mistreatment and abuse while imprisoned.

Organizing a Legal Defense Committee is not an easy task and can't be done overnight. My basic suggestions are: 1) acknowledge one's own mistakes, 2) be sincere and honest, and 3) don't lie or mislead people. I say this because there may be a number of ways to organize a Legal Defense Committee, but it is only by debate, discussion and being sincere with ourselves and with those, whose assistance and support we seek, that we are able to obtain positive results. It is our responsibility and duty to be the voice of our Injustice, and when we deny ourselves that voice then we also deny our right to grow. The more people we meet, we begin to learn how to express ourselves concerning the criminal justice system, social issues, child abuse, the homeless and many other injustices facing our society. So, not only must we seek change in our

own individual cases, we must also have renewed vigor to be a voice against all forms of injustice and for all of humanity. Keep the Faith! Peace Be With You.

Since there are so many lockdowns and prisoners in isolation, here are some constructive activities you can engage in while having time on your hands:

Eight Constructive Activities a Prisoner Can Engage in While Locked Down

- 1) Study an area of law or learning that would be of use to yourself and others (a language, art, history, etc.) Develop an expertise in an area that others do not have. Share your learning and information with others.
- 2) Organize a family member or friend to do prison support work on the outside. Persuade them of the importance of hooking up with a prison support group on the outside that is working to turn the prison/industrial complex around. Tell your loved ones not to mourn, but to organize.
- 3) Write about your feelings and emotions in a way that people on the outside can get a sense of your humanity and concerns. Break down the image of prisoners as selfish, brutal, uncaring monsters. Let others see the individual qualities of each person on the inside, and their potential for change.
- 4) Keep a chronicle of the oppressive conditions in prison. Make the chronicle available to others who can document the dehumanizing effect that cruelty has on people incarcerated. Be specific, and help break through the cynical suggestion that prison is a "country club" where people don't have to work.
- 5) Engage in physical exercise to keep your body in shape. Refrain from physical activities and conduct that is detrimental to your health.
- 6) Write newspapers, elected representatives and others to describe conditions in prison. Don't just complain about your own case, but educate the reader about how prisons destroy people, rather than improving them.
- 7) Take every chance you get to create solidarity among prisoners. Break down the issues that divide prisoners from one another - racism, homophobia, etc. Help prisoners to respect each other's differences and space. Don't allow the prison administration to divide you from other prisoners, through debriefing or bribery.
- 8) "Write poetry, short stories, novels, or any other kind of fiction that lets your mind free itself from the boundaries of the 4 walls. Expand the walls through your imagination and creativity." -- (quote from Luis Talamantez)

Any other suggestions?

<p>A Jailhouse Lawyer is someone who is incarcerated in jails or prisons and is regularly engaged in providing legal services to other prisoners.</p>

PROJECT BUSINESS

Sorry that this Legal Journal is late, but we had to raise the money to print and distribute it. Remember: Send stamps or money! We need your help. If everyone sent one stamp, we could mail out the next Legal Journal to everyone. This is an all-volunteer organization, and we have only a handful of volunteers reading thousands of letters. Your donations are essential! When we run out of money, we stop our work until we get more.

Until we can get more volunteers and funding to support this Project, our priorities are:

- to get out the Legal Journal
- sort through the mail in order to enter names into the computer of JL NLG members, cases/issues worked on, and prison conditions at institutions
- to mail out LJs to new members
- fundraising
- developing resources and outside support in all states to work with JLS

If you have not heard from us, it's because we are fundraising! We are now about three months behind in responding to mail.

Please put your return address on your letters as well as on the envelopes. This helps us to respond more quickly.

Please don't ask us to return your cases to you. We don't have the money or time to do this. Remember: This Project works with JLS, we don't handle cases for you. If you have cases, motions, court decisions that would help others, please send copies to us. Also, send us tips that would help JLS across the country with their legal work.

Note: Letters from prisoners and/or pertaining to prisons sent to the National Office (NO) of the NLG in New York are sent to us quarterly. The PLP has been set up to work with prisoners for the organization and the NO will not respond to letters. If you want to get Guild Notes, the newsletter of the NLG, you must send \$7.50/year to the NO of the NLG at 126 University Place, 4th FL., NY, NY, 10003.

INTAKE

We eventually read all letters and materials sent to us. It can take us a long time. We are not a Legal Services organization, so dealing with individual cases is not a priority. We're at the stage now where we have a few people reading and evaluating legal material; however, we can't comment or deal in any way with your legal work, much less afford to send back to you several inches of legal material. If you have extra copies, you should send those. If you don't have extra copies of what you want to send, then summarize the case and issues. It would help if you send us a separate cover sheet about the issues in the case, what happened to the case (disposition), and summarize conditions/retaliation issues. Put your name and address at the top. At the bottom, in a couple of words, say what you want to happen.

Thank you for all the information, suggestions and insight you give us about what is happening on the inside, about your struggles and about the legal issues you are working on. Together, our job is to educate the public about these matters and to help you pursue your legal work.

A MILLION IDEAS

After the OJ verdict, came the Million Man March. We viewed both as victories for us. The prosecution, continually getting away with flimsy, trumped-up evidence in criminal trials, based only too often on racism, finally lost a big one. The Million Man March demonstrated a pride, strength, unity, determination and atonement for everyone in this country. With millions of Americans listening, speaker after speaker spoke of prisons and prisoners, the economics of the prison/industrial complex, and the ruse and racism of the prosecutorial system. Mumia, Pratt, Acoli and many others were praised by name for their courage to continue the struggle against great odds. We should all take a moment to praise our hard continuous work that helps to expose the heinous reality of the American prosecutorial and prison system.
--Ed.

The members of the National Steering Committee of the Prison Law Project: Gillam Kerley and Audrey Bomse (Co-Chairs), Sue Griffen (Secretary), Angus Love, Jack Holtzman, Paul Gattone, Pia Gallegos, Paul Wright, Marcia Bunney, Beverly Seymour, James McGourty and Joseph Everroad. The five alternate Jailhouse Lawyer members: Margaret Meyers, Shep, Robert Relden, John Perotti and Steve Castillo. The members of the Core Group of the Project: Rose Braz, Jenny DeSilva, Luis Talamantez, and Jeff Lake. The director is Marti Hiken.

Important: Please send us information about lockdowns, work stoppages, riots, etc. occurring inside the prisons. We need the data on actual conditions that give rise to violent situations. Remember to add information concerning the specific dates, injuries, conditions, reprisals, etc.

Note: From time to time the PLP receives requests from the news media for names of prisoners who would be willing to be interviewed. Please let us know if you are willing and we will put your names down on a list that we keep. Without specific permission from any prisoner, this Project gives out no names to anyone. There will be times, however, when we contact/write one of you to ask if we can give out your names to the media.

This Project has received calls from the media concerning lockdowns, riots, etc. in prisons. Our answer to the media has been that this country cannot expect to be imprisoning the thousands upon thousands of people that it is, and not expect repercussions; that when access to law libraries is denied, when family members are treated cruelly when visiting their loved ones at prisons, when Pell grants are eliminated and the youth of this country are educated in detention centers and prisons, when life and death lawsuits are labeled "frivolous," when computers, tvs, radios are eliminated, when Control Units, isolation, sensory deprivation become the norm, when legislation is nothing but legitimization of torture and self-serving political games, when people are railroaded through court systems, when the economy of this country is

dominated by the prison/industrial complex, there comes a point when the human spirit, whether or not it is incarcerated, will say: "No More!" Human beings, when treated no better than animals, will fight back at some point. The implications of this weighs heavily on the society as a whole, and is the responsibility of the society as a whole. We know this, we feel this, we were taught this.

As one prisoner just wrote: "The regime keeps stacking bogus disciplinary charges on me. As of the other day I now have four thirty-day terms in the hole running consecutively, with another 60-day mail suspension looming. I believe it's like an initiation for Close Management (CM). They are attempting to justify such placement by showing that I am a disciplinary/management problem. It's just ironic their retaliatory tactics are proportionate to the litigation against them which has increased lately even though they are preventing me from filing any action challenging the present confinement...I realize how big their guns are. I guess historically and traditionally the NLG is thought to be a group made up of radical lawyers. That is what makes the NLG unique, awesome and powerful. The NLG is to be feared, not to fear, in the trenches of this battlefield."

A prisoner in Delaware sent us a newspaper clipping from The News Journal (2-3-95) that quoted Delaware's Commissioner of the Department of Corrections for the eight past years, Robert J. Watson. Its veracity is indeed frightening: "Maintaining security of prisons is a simple process and, when done well, is almost an invisible process. It becomes so inherent in every action, thought and reaction, that it is a nonissue [sic] when effectively practiced." (Good Luck, Commish! -Ed.)

Note: Sam Hunt: We inadvertently lost your address. Contact the PLP, please.

The following is a letter that was printed in the Daily Journal, a statewide legal newspaper in California. It responded to an attack upon the "frivolous lawsuits" brought by our members:

November 9, 1995

Letter to the Editor

To: Forum

Daily Journal

Re: Editorial Roundup article "Jailhouse Lawyering"

Given that the Prison Law Project of the National Lawyers Guild works with hundreds of Jailhouse Lawyers in their attempts to research and file lawsuits, it is appropriate that this Project responds to your editorial's attack on their integrity and hard work against great odds.

Jailhouse Lawyers work under incredibly difficult circumstances. Their access to law library materials is limited. (Jailhouse Lawyers, many of whom are locked up 23 and one-half hours a day, are forced to "research" their cases by providing case numbers to "runners" who go to inadequate libraries searching for the single case and bringing it to them for a limited period of allotted time.) They are allowed infrequent access, if ever, to the library itself to browse through books. They are limited in their ability to copy and type. Many are forced to pay minimal

fees for filing even though they have been declared to be indigent. Facing brutal treatment for challenging prison administrations, it is a miracle that the human spirit of those incarcerated continues to seek relief in the American judicial process. It is the only remedy available to them.

Access to the courts by the more than 1.5 million people currently incarcerated (and the number is rising) is a guaranteed right that should never be limited. Were prison administrations responsive to the courts and were the courts overseeing the egregious conditions and warehousing that is occurring, the number of lawsuits would decrease naturally. The fact is that the courts have a hands-off policy towards the prisons; no warden is ever sanctioned, no prison is shut down, debriefing is not ended, and one torturous condition after the other goes ignored by the courts. Prisons are, in effect, free-fire zones for those who run and administer them.

Before the attorneys general reap their political and financial benefit from harping on those incarcerated, let's examine their own frivolous lawsuits: filing against prisoners facing death who seek medical relief; filing against prisoners who seek such simple remedies as eye glasses in order to see the written word; filing against those who have been scalded and beaten as punishment; filing against women Jailhouse Lawyers seeking recourse for the protection of their children, etc. The list goes on and on.

The prison system in this country is not only a billion dollar industry, it is a dangerous and counterproductive system. The recidivism rate throughout the country is witness enough to the failures of this system. Torturing prisoners and ignoring prisons for decades at a time, and then releasing prisoners, untrained and unwanted into a hostile society, is a prescription for disaster, not punishment. Limiting access to courts is likely to create more violent situations. On whose hands will the blood lie?

Sincerely,
Marguerite Hiken
Director of the Prison Law Project of the National Lawyers Guild

PROPOSED CHANGES IN THE BY-LAWS TO THE NLG CONSTITUTION

"Jailhouse lawyers shall be members-at-large unless a (Guild) Chapter in their area shall elect to include them in its membership.

The organization shall be governed by a board of directions, known as the National Executive committee, composed of the following: a President, two Executive Vice Presidents, four National Vice Presidents, one national Law Student Vice President, one National Legal Worker Vice president, one National Jailhouse Lawyer Vice President, a Treasurer, A regional Vice President from each region, the Executive Director, a representative of the national office staff, and one representative each from up to ten NLG projects and national committees. Each of these members shall have one vote except for national office staff, which shall have two."

"The National Jailhouse Lawyer Vice President shall be elected by mail ballot of all jailhouse lawyer members of the organization, such mail ballot to be conducted prior to the national convention. The election shall be conducted by the prison law project, or such other committee, project or task force as may be designated by the NEC to represent the interests of jailhouse lawyer members...the term of office ...for...Jailhouse Lawyer Vice President shall be two years.....

"A vacancy for the office of National Jailhouse Vice President shall filled by the Prison Law Project, or such other committee, project or task force as may be designated by the NEC to represent the interests of Jailhouse lawyer members, in accordance with its bylaws. If its bylaws make no provision for filling a vacancy, or if a vacancy is not filled within 60 days, the NEC shall appoint a jailhouse lawyer to fill the office until the next election, when the remainder of the vacant term shall be filled by election.

"Upon 38 day advance notice, any elected member of the NEC may be removed from office by the remaining NEC members upon the occurrence of either of the following: failure to attend to consecutive meetings of the NEC and failure to complete tasks assigned by the NEC, except that the National Jailhouse Lawyer Vice President shall not be removed for failure to attend meetings...[COMMENT: for obvious reasons, the National Jailhouse Lawyer Vice President cannot attend meetings and should not be penalized for his/her inability to do so.]

b. To the extent practicable, the NEC shall provide for other means to keep the National Jailhouse Lawyer Vice President informed as to the issues before the organization. Recognizing that there is no guarantee that communications to and from incarcerated persons can be maintained as confidential, the NEC may, in its discretion, withhold sensitive information from mailings to the National Jailhouse Lawyer Vice President, summarize said information, or prepare information and materials in some other form.

c. To the extent predicable, the NEC shall arrange for the National Jailhouse Lawyer Vice President to participate in its decision-making process. Such arrangements may include, without limitation, the Jailhouse Lawyer Vice President voting in absentia or by mail ballot; the NEC circulating written comments, or ensuring participation by telephone or mail." [COMMENT: Incarceration poses specific problems for the National Jailhouse Lawyer Vice President. The intent to provide for maximum exchange of information and participation in the NEC's decision-making process, while recognizing the practical limitations and lack of confidentiality within prisons.]

COMMENTS ON ISSUES IN THE LAST LEGAL JOURNAL

By Jerry Stockstill, Jailhouse Lawyer, Arizona

It is good that the National Steering Committee of the Prison Law Project (PLP) advises you [the Director] on how to run the Project. I am glad that we Jailhouse Lawyers (JL) have opportunity for input. I was wondering, however, who in the NSC deals with what currently is happening with the prisoners down here, say in the South? If I recall correctly, all of the JL members on the NSC were elected from the North....

Since the work of the Project has multiplied many times over in the last few months and the reality that Project members don't focus on building up the role of the JLs on the NSC, other than mailing them information, getting their feedback on issues, and asking them for direction, the question has been raised whether there should be an Advisory Board and perhaps a smaller NSC.

Let me suggest the following: I believe you could create at least one position for each state. I say this because each state (prison system) faces different problems which must be individually fought. For this reason alone no other state prison is going to have their JLs fighting to say stop the overcrowding in Florida when they are currently fighting to keep off the chain gang a living in Arizona. Not that they don't care about what is happening in other states, but just that we have our own set of circumstances and problems to face and if by some chance we can help out others, then.... This, however, is just a point of view and by no means should be construed that I don't care about inmates in Florida, or care more for inmates in Arizona. I just live here.

Secondly, I believe that the work load should transfer to the JLs instead of to Marti, the director of the Project. By this I mean to say that we are the ones benefiting from the Project's help, and therefore we should do what we can to keep the Project running smoothly.

Thirdly, as to an advisory board, I see that this may be an option that may benefit the Guild in the same way as an appointment from each state. You could have one person from each state on such a board. I am steadfast that to make this Project work, it must benefit all concerned in a way that they can see. By this I mean some benefit that they can say "The Guild did this."

Fourth, I disagree with the statement that "We might create an Advisory board and then a strong NSC of fewer people." I am of the opinion that the Guild should utilize all of its JL members in whatever capacity it can for the solidarity to form between prisoners of each state and race, i.e. to utilize this substantial force in this way must on its own accord create the one function this country cannot afford to happen: solidarity among the prisoners." There will never be 100% agreement upon issues and direction; however, by utilizing the capacity available you can and will necessarily lead prisoners to the truth of solidarity. Should this trend take hold, then I promise you the tide will shift for the prisoners.

National Campaign to Stop Control Unit Prisons (NCSCUP)

Control Unit Monitoring Project (CUMP)
By Anne Sadler

The Control Unit Monitoring Project of NCSCUP met during the Fall national meeting in Chicago in October, 1995. CUMP's goals are to gather data regarding all Control Unit prisons (whether a separate prison or apart of a larger one), identify these control units state by state, and organize a "How-To" packet and questionnaire for state monitors to use.

CUMP divided the country into three regions: East; Midwest; and West, with regional coordinators for each region. They are represented as follows:

East- Colin Starger, PO Box 569, NY, NY 10163: NJ, DE, CT, DC, FL, GA, AL, WV, NC, SC, VA OH, PA, KY, MD, NY NH, MA, RI, ME, VT

Midwest- Christie Donner, Rocky Mountain Peace Center, PO Box 1156, Boulder, CO 80306: CO, NE, OK, LA, MS, TN, IN, IL, MI, MN, MO, IA, ND, SD, AR, KS, WI

West- Corey Weinstein, PO Box 2218, Berkeley, CA 94702: ID, MT, WY, HI, AZ, NV, CA, UT, NM, TX, WA, OR, AK.

CUMP's regional coordinators met at the Chicago national meeting . We had met earlier in the year in San Francisco to begin establishing the questionnaire. This was done with invaluable input from various prisoners around the country. In Chicago, the regional coordinators identified the need to create a Southeast or South region with a corresponding regional coordinator sometime in the future, due to the overwhelming scope of monitoring all 50 states.

The coordinators will be preparing an interim report regarding their initial identification of Control Unit prisons, the practices and conditions of these prisons, and the profile and placement of prisoners in these Control Units. The monitoring coordinators are also preparing a "How-To" packet and expanded questionnaire for state monitors to use in gathering further data regarding the Control Units in their states and/or communities.

CUMP will be in full swing by May, 1996, and is looking for individuals and groups in all 50 states who want to begin monitoring the Control Unit prison(s) in their area. Please contact the regional coordinators above that correspond to your state if you are interested in working with CUMP and/or NCSCUP.

NCSCUP MEETING

By Melissa Froiland- People Against Control Unit Prisons (Wisconsin) and NCSCUP

The National Campaign to Stop control Unit Prisons met in Chicago the weekend of October 21 and 22. The main discussion centered around developing a structure for the organization and initiating work leading to five regional hearings on Control Units and increasingly repressive trends in U.S. imprisonment.

The Campaign, composed of groups and individuals on both side of the walls, formally began with a December, 1994, meeting in Philadelphia. Our common goals are to stop the daily human rights abuses happening in Control Units now and to shut down all Control units. CUMP will begin gathering data to use in educating and organizing to accomplish these goals. A Political Action Committee was formed at the 1994 meting, the Campaign needed a formalized structure in order to better communicate nationally and make decisions.

About 45 people from states around the country attended the two day meeting held at the Puerto Rican Cultural Center in Chicago. A long discussion led to the formation of standing committees, regional representatives, and a steering committee. The Steering Committee stands at the center of the organization and is made up of a national coordinator, four standing

committee chairs, and five regional representatives. The Coordinator is Bonnie Kerness; Publications, Public Relations and Media Committee Chair is Pat Clark; Fundraising Committee Chair is Porter Kirkwood; Political Action Committee Chair is Nozomi Ikuta; CUMP Chair is Christie Donner.

Another primary discussion evolved into a decision to hold simultaneous regional hearings in each of the five regions just enumerated in late April of 1996. The hearings will focus on building public awareness around conditions in Control Unit prisons as well as more general Control Unit-like trends in other prisons. The campaign discussions placed an emphasis on regional autonomy to deal with particular prison issues relevant to particular regions. We want to open up discussions and make connections with other community organizations and individuals.

The basic idea of a regional hearing involves organizing a site committee to set up testimony to be heard by listening delegations. This could involve, for example, testimony by family members of people imprisoned in Control Units (or even in "regular" prisons depending on region and focus), a lawyer or other person versed in international law, members of religious organizations concerned about human rights violations, a person who might testify about U.S. imperialism and the imprisonment of captured colonial subjects and/or Prisoners of War and Political prisoners. (This is just a limited list of examples.) Listening delegations could be from religious organizations, high schools and colleges, human rights organizations, local parents' groups, and other groups and individuals from communities ravaged by racist imprisonment, etc. Much remains to be fleshed out. Aljandro Molina, from the National Committee to Free Puerto Rican POW's and Political Prisoners, will conduct trainings for regional site committee members in February in preparation for hearings in late April.

In early May, we have called for regional and local actions centered around Control Units. In the Midwest, for example, we plan to organize a caravan to one or both state Control Unit prisons in Indiana. The campaign will put out a national newsletter in March containing plans for regional activities in April and May. We will put out another newsletter after regional hearings and other activities to report on those activities.

CUMP will have an interim report out in March and is compiling data for that report now. Our next national meeting will be during the summer of 1996 in Colorado. Regional meetings will happen soon.

We are fine-tuning a brochure about the work of the campaign. We are also building a national emergency response phone and email network to act on particular crises in Control Units.

During the weekend of the meeting, both the National Committee to Free Puerto Rican POW's and Political Prisoners and the Committee to End the Marion Lockdown hosted an event commemorating ten years of lockdown at Marion prison in Illinois. The Saturday evening event at DePaul University in Chicago was well attended and spirited. Speakers included Jose Lopez, Nozomi Ikuta, and Alan Berkman. Sanyika Shakur, recently released from the SHU at Pelican Bay, CA, was scheduled to speak, but the California state prison administration barred him from traveling to speak at the event (and at other scheduled speaking events in the Chicago area) only five days before it. Yes, repression exists on both sides of the walls, and it affects all of us. Sanyika Shakur sent a video interview to the event.

The speakers all pointed out the central problems of colonialism and racism in the United States. Alan Berkman articulated the way that U.S. government politicians use the "crime" concept to actually discuss race relations with the white electorate. Jose Lopez reminded us that the problem of colonialism will

not go away without being resolved by national liberation and the real self-determination of Puerto Rican, New Afrikan, First Nations and Mexican colonies held inside U.S. borders. Nozomi Ikuta spoke of the dangers of tolerance of Control Unit prisons by communities that benefit economically from their existence. And Sanyika Shakur spoke of himself as an example of a man who had transformed his colonial criminal mentality into the revolutionary dedication of a member of the New Afrikan Independence Movement, ready to struggle and liberate the New Afrikan nation.

Our hosts at the Puerto Rican Cultural Center in Chicago graciously offered us a tour of the Center and the surrounding community on Sunday. We saw the Center itself, the Puerto Rican Museum, the Boriken Bakery, which is a project of the Center, a mural depicting Puerto Rican nationalists, and the new (this year) Puerto Rican flag sculptures -- which must be seen. The public sculptures stand at either end of about a mile of road in this Puerto Rican neighborhood, which is being encroached upon by white settler populations -- pushed by real estate developers in an all too common development in U.S. cities. The new sculptures were the brightest political statement I've ever seen in publicly funded art. They seemed to symbolically mark off the community from further invasion.

NCSCUP is still very young. We hope that the coming year allows us to develop as we work together on the regional hearings, the monitoring, and publications we intend to get out. We all need to better coordinate our activities in our various regions before we can work better together on a national level. Both the regional and the national organizing have begun now, and the campaign has renewed commitment to SHUT DOWN ALL CONTROL UNIT PRISONS!

CORRECTIONS: To the Bibliography for a Prison Law Library:

Third page: Prisoners' Self-Help Litigation Manual, (3rd Edition); paperback price: \$29.95 for prisoners and \$39.95 for outside folks, plus postage and handling. We had put 3rd "revised Edition" and had the price listed incorrectly.

Sixth page: Prisoner Collateral Attacks: Federal Habeas Corpus & Federal Prisoner Motion Practice. It is no longer published by Clark Boardman/Lawyer Cooperative Publishing, but is available in law libraries.

Two other useful additions to the prison law library are:

The Bridge, published by the New Jersey Prisoners' Self-Help Litigation Clinic, 2 Washington Place, Newark, NJ 07102

Citebook, published by Starlite Inc., PO Box 20967, St. Petersburg, FL, 33742

We realize that addresses for several publications were not provided. We will find the addresses and print them in a later issue of the Legal Journal.

VALLEY STATE WOMENS PRISON:

CDC LEARNS HOW TO OPPRESS WOMEN JUST AS WELL AS MEN

By Karen Wolff, San Francisco NLG Chapter Vice-President and Employment Discrimination Attorney

I thought going to the Valley State Womens Prison (VSWP) with an investigative team from the Pelican Bay Information Project would be interesting -- educational. I wasn't prepared for mind-numbing starkness, shocking stories and the feeling that I had just entered some horrible

futuristic snakepit called "criminal justice" as created by Dukmejian, Wilson, Bush, Reagan, Gingrich and the rest. I'm not sure what was I expecting -- maybe a place where it seemed HUMANE. I was naive.

Chowchilla, California, is a scary place. That little town in the middle of nowhere has the largest women's prison installation in the entire world -- consisting of approximately 5,000 women in the two prisons (VSWP and the Central California Womens Facility), which are conveniently located (at least for CDC management who apparently like to ship the women back and forth just to get the government reimbursement for transporting them) across the street from each other. Women prisoners are disproportionately women of color and overwhelmingly poor. Many of the women report significant histories of domestic violence.

I took the day off work on December 22, 1995. I had never been to a womens prison before, much less done an investigative visit. It was a bleak day, pouring rain and full of the infamous Tule fog -- couldn't have been more perfect weather for the ugliness that is VSWP.

There were about 22 women who had sent in their "permission slips" to visit with one of the team. Some of them were in general population and some in the SHU -- Solitary Housing Unit. We started with the general population, in attorney visiting rooms off to the side of the general visiting room. The stark visiting room had nothing in it except tables and chairs. Women visited with family and friends, including many of their children. When lunch came, it was served in styrofoam boxes, women filing up one by one to get their food after a number was called out. They brought the food back to their tables to eat with their visitors. It seemed like a humiliating experience. Even though it was one of the more benign things I saw that day, that picture of the women shuffling up one by one to get their little boxed meals in front of their families stayed with me a long time after I left.

Everyone in the investigative team at VSWP (there were four of us) brought quarters because they had apparently been allowed in the past to buy sodas and snacks for the inmates during the visit. No such luck. They had changed the rules. Attorneys could not buy food for the inmates because it was supposed to be a "professional relationship." We split up and began interviewing the women as they were called out of their cells to talk to us.

We heard complaints from the women ranging from denial of medical attention and services to freezing cells. I heard from several women that they could not stay warm at night. We heard that the women who were "Close A" or new "lifers" were really being jerked around. Their family visits had been curtailed and they were not allowed to pursue any vocation or schooling. All they were allowed to do was "kick rocks". Women were not being allowed to go to the law library except by "ducket" which means whenever the correctional officers decide they can go. We heard there was 1 gynecologist for the entire system -- in other words, 1 for 5,000 women. Furthermore, he's supposedly inept.

We heard about a woman in the SHU who fell and was bleeding and after a doctor looked in, it took him 15 minutes to come back and help her. We heard about a stabbing in the B Yard on 1st Watch, where there is only one Sergeant on duty for the whole prison, putting all of the women at risk because help cannot get to them fast enough with only one Sergeant there to supervise the officers. We heard about overcrowding -- the cells are supposed to have four inmates, but they are now housing 6.

We heard that an inmate with bone cancer was told by a medical technician (MT) that she could buy her medication at the canteen. which was not true. When the inmate then complained by going over the MT's head, the MT

slammed her hand in the window as she was picking up her medication. There is a \$5 charge every time the women go to sick hall and there is no follow up to those visits. A woman had a 102 degree fever and was told she could not be seen until it was 104.

Male guards in the "bubble" can see everything when women shower. When the women try to block the view with towels, the guards turn off the water. One woman reported that an inmate had told her she had had "rough sex" with a guard and showed her the bruises. Women in the yard were all strip searched outside in the cold because two women had gotten into a fight. The search of the other women was unnecessary and male guards watched. We were told that an inmate who was supposed to see us had been beaten by a Sergeant in the watch office and was put into the SHU.

The women said the prison was taking money sent by family members and putting it towards the women's "restitution" without telling the families. One of the only ways families can reach out to their loved ones in prison was being seriously screwed with.

In the SHU, I talked with one inmate who said it's so cold at night that she sleeps with all her prison issued clothes on as well as her two blankets, but still can't sleep the whole night through from the cold. When she washes her clothes (they have to do their own) it takes days for one item to dry in the cold cell. Jackets aren't allowed. She said the temperature is just about the same inside as outside. Wherever she goes, she goes in cuffs. Ten hours a week outside the cell is all -- but it's even colder outside, so sometimes she doesn't get out at all. Three showers a week, very limited amounts of soap, toothpaste, etc. Sometimes the guards will play mind-fuck games with the women to keep them awake, like playing little beeps, clicking the locks on the showers and laughing on the intercom. They announce over the intercom, "Come get your lemon-scented douches" just for fun.

When the women are on the phone with their families a voice repeats over and over "this call originates from VSWP" -- constantly. Women aren't being allowed to write to their loved ones who are also incarcerated. All the outgoing mail is lovingly graced with a prison stamp, so the recipient has to hide it or be stigmatized for "having someone in prison". A mother's little daughter was deathly ashamed to open her mom's birthday card in front of her friends because of that stamp.

In the SHU, a woman was sentenced 9 months on top of the 6 months she already had, for threatening a guard (no weapon). She had a gynecological problem which caused her to bleed excessively, but the guards wouldn't give her extra pads until the doctor said so, which caused her to bleed in the shower and on her clothes. When they found an ovarian cyst, they put her on the pill, but didn't give it to her everyday. She has to take seizure medicine, but has been denied it on several occasions. She takes Motrin for an arm injury, but when they ran out, the MT wouldn't give her more. They said she had to make a special request. She hadn't received any mail in over two weeks, even though she knew there was mail for her.

There are more stories I've either forgotten or neglected to write here because there just isn't space. I don't expect everyone to get the picture of what it was like from this little post-script. Words can't really explain it anyway. The place is HELL. I will go there again to help investigate if they need me, but I will be awake this time -- not in shock. The women inmates aren't treated any more humanely than the men. Don't ask me why I thought they would be. The California Department of Corrections has achieved equality of oppression at last.

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Jailhouse Lawyers can join the NLG for free. When you join the Guild, you join the PLP automatically. If you want to help sustain the Project, please don't hesitate to contribute what you can. Others can join the PLP by paying dues on a sliding scale:

PLP Dues (\$10-\$40/yr., includes the Legal Journal) _____

Guild Membership Form for Jailhouse Lawyers

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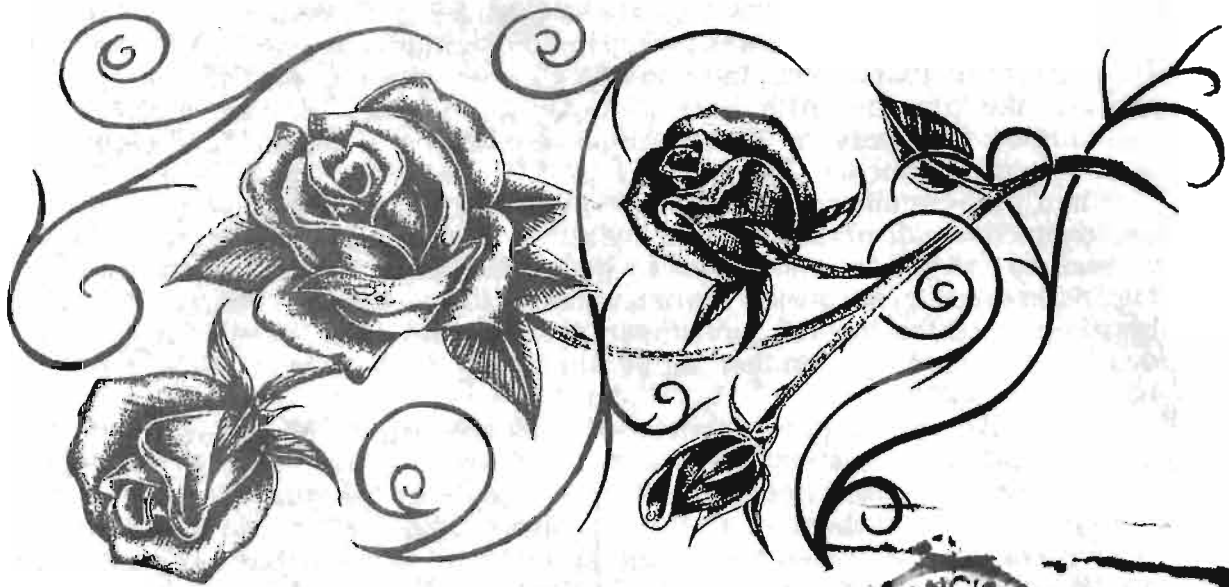
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Thank you to Mr. Timothy P. Martin for his beautiful artwork.



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