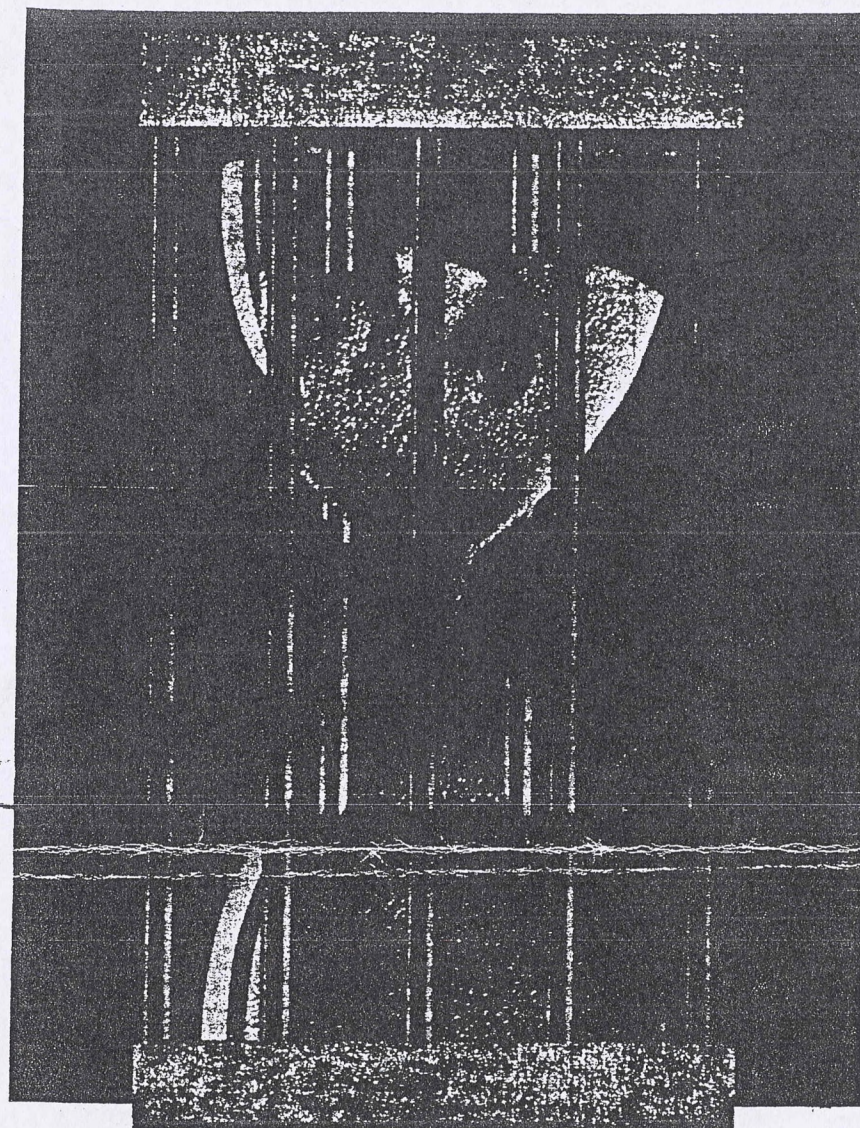


PRISON POLITICS: **Death Measures**



SEAN MANKOW

# Killing Time

A Californian prisoner reveals his own Abu Ghraib and a sentence worse than death. By Kenneth Edward Hartman, C-19449

*California's prison system is one of the largest in the world and costs taxpayers billions annually. The public has every right to know about the operations and conditions of our prisons.*

*However, California's regulations make interviewing one of the state's 166,000 inmates nearly impossible. Face-to-face interviews between journalists and specific prisoners are banned by the California Department of Corrections unless the reporter is on the prisoner's visitor list. Journalists allowed access cannot bring cameras, tape recorders, pens, or paper. Understandably, most publications have abandoned trying*

*to cover our state prison system.*

*Americans were horrified by Abu Ghraib images delivered to their TVs. But few understand what it is like to live behind prison walls, largely because the media is unable to report on it. While we may appreciate the concept of keeping our families safe from the threat of danger at the hand of dangerous criminals, we can neither comprehend the inner workings of our own prison system—nor empathize with the numerous individuals living within it. The Monthly decided to print the following perspective in order to give voice to one prisoner's experience.*

—The Editors

I can't remember his face. Thomas Allen Fellowes. Frankly, I can't remember anything about him at all. I haven't seen him in more than 24 years, and the one time we met I was drunk and drugged up on speed. It was late at night, about three in the morning, in a small neighborhood park. I was 19 years old, fresh from a three-year stretch in the California juvenile prison system—the Youth Authority. I was angry and devoid of any moral compass. But our brief encounter changed both of our lives irrevocably.

For Mr. Fellowes, a 44-year-old homeless man sleeping on a park

bench, our meeting ended his earthly journey. We argued for a moment, he called me a punk, and I beat him to death in a blazing fury of fists and boots. He never knew what hit him, and for that, at least, I am thankful. I hope he has found a more welcoming place on whatever plane he may now exist. For me, it was the beginning of the end. I killed Thomas Allen Fellowes in a one-sided fist fight and, just as surely, killed whatever hope for a better future I may have harbored. Life without parole—the other death sentence—began for me on that clear, crisp night, so long ago.

### Take the Keys and Lock Him Up

I was quickly arrested. After a rapid-fire, two-day trial, I was convicted of first-degree murder and attempted robbery. Fifteen minutes into a sentencing hearing, I received a life-without-the-possibility-of-parole sentence.

Even then I knew I had done wrong. I could offer no plausible explanation because none was available. The shocked faces of the jury as I testified how Mr. Fellowes had insulted me, called me a punk—my only defense—stand out as mute totems to my own savagery.

From the outset, the system seemed unsure of what to do with me. Too young for the walled monoliths of San Quentin or Folsom, I was sent to Soledad. Shortly after arriving, I remember meeting a guy who had served four years; I was horrified at how long he had been imprisoned. Like most prisoners, I spent the first years of my term awaiting relief from the appeals process. Needless to say, it never materialized. The universal response to my situation, from staff and prisoners, was disbelief that a murder committed in a fist fight had resulted in a life sentence.

Soledad decided I was serving too much time for a medium-security prison and sent me to Folsom, the veritable end of the road. We called it "The Pit," to which the worst were cast. At 20 years old, I was the youngest in a world of heavily tattooed and scarred men.

Like a drowning man, I clung to every line thrown my way to support any fantasy of release. I recall with vivid clarity the words of the Folsom warden, back in 1981, even the calm assurance of his voice, as he told me no one really serves life without parole. "Everyone gets out at some point," he said, and I believed him because he believed what he was saying. This was, after all, the California of Jerry Brown, back when we all assumed Linda Ronstadt might be the next First Lady. The idea that our progressive state would actually sentence someone to a long, slow death in prison seemed far-fetched.

It didn't seriously occur to me that I would die in prison until I approached my 30th birthday, more than ten years into my life sentence. Perhaps it was the

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significance of my age, or the decade gone behind me, or maybe simply some species of delusion, but for all of those earlier years I believed freedom from prison would eventually happen.

When I first arrived at Folsom I was allowed to live in a cell all if I wished. All that was soon changed. Ten years and a series of hard-tough-on-crime politicians later my illusions disappeared and were replaced by a growing sense of connection from the workings of a free world I neither understood nor had meaningful contact with. Prisons had sprung up everywhere and I was no longer a special case. I became but another prisoner, of thousands condemned to die in prison, to serve out the other death penalty.

### Doin' Time

Prison, under the best circumstances, is brutal. Throughout the '90s, California corrections hardened into an out-front, beat-them-into-submission policy. By the end of the decade, the conditions of confinement had deteriorated to such a degree that mass rioting took place throughout the system. All the carrots were uprooted in the drive to make punishment a daily reality; the stick sharpened in the headlong rush to toughness. The things that made life tolerable disappeared, one by one. Weightlifting was banned, personal clothing taken away, access to higher education, conjugal visits, along with a basic denial of dignity as the prison system sank into a dark funk.

Today's prison is little more than a human warehouse stocked with the failures of society. The campaign to make prison so unattractive no one would be fool enough to ever come back has been a dismal failure. Instead of lowering rate of returnees, the vast majority paroled from prison quickly return for another dose of dehumanization. The fact is that men reduce to beasts and specters have great difficulty rejoining society.

The widely reported abuses of prisoners in Iraq barely raised an eyebrow in here; most of us have witnessed similar cruelty, at one time or another in our prison careers. We've all been forced to stand naked in large groups, sometimes for hours, often for the amusement of staff. No one has ever been held accountable for the staged "gladiator" fights at Corcoran Prison near Fresno, in which prisoners died; these incidents were exceptions only in degree, not kind. The products of these cathedrals of separation are human beings so fundamentally broken as to be practically incapable of living in a free society.

It wasn't always this way. So how did we get here?

### Perpetual Incarceration

American prisons originally were based on a model of penitence. The underlying philosophy of punishment rested on atonement and ultimately, forgiveness for the misdeeds of one's life. It applied to all but the most heinous of criminal acts, which resulted in a quick death.

But now criminals are deemed unworthy of forgiveness and incapable of reform. Public support for longer sentences and harsher treatment of criminals is high among

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most Americans. The question that has not been sufficiently answered: Is it morally defensible to sentence someone to a long, slow execution?

The United States Constitution contains the famous ban on cruel and unusual punishment, but its definition has been fluid. The strange and unique history of the death penalty encapsulates the problem of this clause. With the rest of the industrialized world abandoning capital punishment, our country's stubborn refusal to stop executions seems, on its face, unusual enough. But, to lessen the cruelty, the U.S. has abandoned traditional methods, because of their obvious barbarity, and instead adopted a clean, antiseptic execution. Rejecting hanging and electrocution as methods too cruel, we introduced a surgical quality to our executions—society's treatment for the disease of murder. The murderer is excised, like a malignant tumor, from the body of society. Execution is conducted in the dead of night, in sterile, hermetically sealed rooms by doctors, and the subject essentially goes off into that long good night asleep.

For the vast majority of murderers not subjected to this ultimate punishment, a life sentence is imposed. What constitutes a life sentence has fluctuated. In the first penitentiaries, operated on a Quaker model, this meant until the offender regained communion with God, recognized the error of his actions, repented, and sought leave to rejoin the free world. Common Law, never comfortable with the vagaries of religious conversion, defined a life sentence as seven years. A man who was not heard from for seven years was deemed to be legally dead for the purposes of debts and obligations incurred during his lifetime. Thus, in most states, a sentence of seven years to life became the standard penalty for murder.

But in the '60s, '70s, and '80s, the penalty for murder began to jump up from seven to life. As politicians and the media fed off of each other, and the public became entranced by a gory numbers game, new and harsher sentences were enacted. Although murder rates have been fairly consistent, we fear that murder is increasing at an exponential rate and believe, mistakenly, that people who kill will be scared into submission by longer sentences. But the murder rate has been unaffected by sentencing structures.

In an ironic twist of the Law of Unintended Consequences, the "humane" alternative to the death penalty is life without the possibility of parole. This means, in practice, a long, slow death penalty carried out over decades with no promise of hope. The civil rights community trumpets it as a progressive development, while the "tough on crime" crowd uses it as a compassionate cover. For the tens of thousands of prisoners serving forever and a day, it is the most demeaning and depressing of sentences. A sentence to a dark Purgatory with only death as a release date.

The rest of the industrialized world is unanimously opposed to endless prison terms. But our prison state has expanded to enormous proportions. The United States incarcerates at a higher rate than any other country in the

world. Small towns, seeing an increase in tax revenues and government largesse, bid for the next prison. California's "three strikes and you're out" law has been used to imprison petty thieves, hapless drug addicts, and various other nonviolent miscreants, to what amount to long death sentences. The millions spent to house and feed them surely could be more wisely allocated.

The prison state, a source of jobs and revenues, has emerged to a place of political and commercial prominence. Whole industrial sectors survive by servicing existing prisons and constructing new ones. They hawk their wares and lobby for additional markets. More prisons, and more prisoners serving longer sentences, are transmuted from sad testaments to failed social policy into valuable centers of commerce and employment. It is clearly in the best interest of prison-dependent groups to expand the number of life prisoners, regardless of ethical implications.

As sentences have lengthened and incarceration rates have

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increased, prison culture has seeped into pop culture: Schools are placed on "lockdowns," fashion models proudly display tattoos, and prison clothing styles show up in sitcoms and movies. Prison, with all its demented logic of force and repression, has become a mainstay of the American worldview. It is hardly surprising, but troubling nonetheless, to see this cultural perversion.

As my 24 years in prison have taught me, and the sad history of uprisings and death demonstrate, order brought about under duress inevitably leads to terrible disorder.

The state has elected to rely on mass incarceration as its single answer to lawlessness and disorder; of this there really is no debate. Nevertheless, even the state tacitly acknowledges the basic unfairness of death in prison. Laws have been passed authorizing "compassionate release" in cases of advanced infirmity and terminal illness. It is in these laws that the answer to the ethical

question is found. Death in prison is not compassionate, is not humane to a prisoner not sentenced to death by execution.

Prison is a powerful instrument of social control, of the expression of a society's will to punish those who fail to adhere to the basic norms of conduct. Prison is also an invidious force on a society, capable of exerting a corrosive influence that can permeate a culture to no good end. When the state conveys the message that redemption and restoration are not possible, it teaches that human aspiration is limited.

Death penalty opponents unwittingly have fallen into this logical trap by advocating the use of life without the possibility of parole as an alternative to execution, not realizing they are advocating a different form of execution. It is no far leap to conclude that these offenders, who would never have the chance at freedom again, must truly be unworthy of restoration. Those who profit, materially and otherwise, by the permanent prison state see in the life-without-the-possibility-of-parole prisoner the perfect resident.

### Free Bird, Jail Bird

My own experience of a life-without-the-possibility-of-parole sentence is grim. I came to prison as a troubled and disordered young man. That I was dangerous, to myself and others, was evident. I did kill a man in an unprovoked attack. I earned punishment.

One of the requisites to parole demanded of all other life prisoners is remorse. I came to feel a profound sense of remorse for the death of Thomas Allen Fellowes, a sense I still harbor. As the years have progressed, though, that genuine feeling of remorse has receded into a back corner of my consciousness. It has been overlaid by an overwhelming existential despair at the demeaning of my life. I have been adjudged unworthy of ever rejoining society, no matter what I do, no matter how profoundly I have been able to reform myself. For many of us who exist in this harsh twilight, condemned to a slow and truly painful death, a quick and painless execution looks inviting.

I refuse to believe that an existence perceived to be less attractive than death can be defended as ethical or moral. It is neither. A life-without-the-possibility-of-parole sentence is as immoral and unethical as the death penalty. It is equally wrong because life without the possibility of parole in prison is a death sentence, minus the doctors and ritualized trappings, but a death sentence, an execution, just the same.

I am now approaching 25 years in this prison world. I look back on my horror at four consecutive years of incarceration and marvel at my innocence. One look at my intake photo, my first mug shot, and I see a boy I no longer know.

The years have gone by in a strange mélange of speed and sluggishness. It is a function of the terrifying monotony of the average day in prison, and the occasionally startling intensity that occurs episodically and without warning.

Generally, all the days blend, one into another, like featureless phantoms. The loudspeaker announces the morning meal, and I walk to the chow hall. Back to the cell till yard time. Yard, followed

by a sack lunch, followed by another yard period, followed by the morning meal. A quarter century of mind-numbing routine. Of course, no one really serves life without parole.

My hair has fallen out, or migrated everywhere besides top of my head. My teeth have grown longer and looser. My hurt, and my face has fallen to inexorable force of gravity. I've spent a lot of time behind bars.

Through the years, desperate to resist the nothingness of mindless being, I have studied a manner of subjects, becoming something of a prison polymath—a jack-of-all-intellectual-trade am a paralegal, literacy advocate, journalist, writing teacher, and prison reform activist. My pursuit of knowledge ultimately led me to discover the field of criminology. My studies of this arcane and complicated subject finally opened my eyes completely to the reality of my existence.

I am a condemned man with execution date. Whether I accept responsibility for my crime or whether I function for the good society or not, is irrelevant to my status. I choose to be a force for positive change because the alternative is to drop into a spirit of nihilism. To be forced to live without meaning, without purpose is a far harsher punishment than any form of execution yet devised. So, I work to regain connection to the real world and not be wholly subsumed by this nonworld of grammatical failure and dissipation.

And the world beyond the life of concurrent wire and electric fences pushes into my reality through the narrow slit of a window at the back of my cell. I can see the steady progress of a residential housing project. In the too distant future, hopeful and expectant families will move in to fill these structures and make their homes. Children will be born, grow up, and move away to chase their own desires. I wonder what effect this psychic black hole will have on those futures unrealized. Will our own longing for a brighter tomorrow diminish our neighbor's? Will the vast emptiness of this life of quashed hopes dim the expectations or limit the reach of their aspirations?

No one really serves life without parole. These hope-filled and compassionate words now seem so removed as to be like the words of a secondary character in a novel read long ago. My memories of freedom feel more like a dream that remains in focus only for a fleeting few moments. Sadly, so many people really do grow old and die in prison. To be honest, I mourn the opportunities I squandered much as I mourn the life I took. Nevertheless, the life I live, here on the outside of hope, grinds away at my insides and leaves me envious of those who toil no more. ☹

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