

RELIEF OR RIOT -  
PRISONER OF CONSCIENCE

by Edward R. Clark

Part 1

This story is true and documented.

"Burn the prison down!" This threat echoed throughout the Stillwater prison, even among nonviolent prisoners. The obvious area to carry it out in this 100-year-old prison is its industrial buildings having wooden varnished floors, flammable materials, and large propane tanks. Once the fire started, it would quickly spread, while the local community's fire department waited at the gate for their fire trucks to be inspected before authorized to enter the compound.

There was a two-fold reason for the prison's increasingly dangerous unrest:

1) A new sentencing law went into effect, Sentencing Guidelines, but it wasn't retroactive for offenders already imprisoned. The Guidelines used a grid to determine how long the person would be incarcerated based on the seriousness of the crime and his/her criminal record, with a one-third reduction in imprisonment as good time. Whereas, offenders sentenced before the Sentencing Guidelines went into effect were serving up to years longer for the same crime who were at the mercy of a parole board whose decisions were arbitrary. Instead of independent, the parole board was controlled by the state's Department of Corrections.

2) Corrections officials wanted to build another prison, but the only means of justifying the funding ~~formula~~ was by maximizing the

prison population. So the parole board cancelled scheduled paroles and began a practice of returning parolees back to prison as "technical violators;" who allegedly violated the conditions of their release regardless how trivial the reason. Including parolees who were gainfully employed and raising a family/<sup>are</sup> sent back to prison for years, up to expiration of their sentence.

As this writer has endeavored for prison reform and referred to as a "jailhouse lawyer," including successfully litigating a class action lawsuit against prison officials, I was approached by three other prisoners; two known as leaders, the third an elderly man who apparently was distraught.

"Mr. Clark," one of the leaders spoke up, "Listen to what this man just experienced."

The elderly prisoner explained:

The parole board had given me a hardship parole so I could take care of my wife who is dying of cancer. I was supposed to be released tomorrow. Today I was called back before the parole board and the chairman sarcastically smiled while telling me they changed their mind, and I will serve the remaining years of my imprisonment.

I responded the only means of obtaining relief is if the state legislature were to pass a bill making the Sentencing Guidelines be applied retroactively, thus taking the authority away from the parole board. I explained it was a long shot at best as prisoners in this situation never attempted it before, but I would look into it.

With the judiciary committees from the legislature scheduling a tour of the prison, I contacted them. I introduced myself as the chairman of the Inmate Advisory Committee (I established for bringing issues

effecting the prison population in meetings with prison officials). I expressed my concern over the prison unrest that could develop into a full-blown riot and asked that I meet with them and outline the situation during their tour of the prison. The legislators instructed the Department of Corrections that they would be meeting with me.

In an attempt to minimize the time for the meeting it was scheduled at the end of the tour, with the deputy commissioner accompanying the tour telling me "You have ten minutes." In ten minutes, I outlined the problem along with the threats verbalized by so many. And, "If you have any questions -" The lawmakers had plenty of questions, with the meeting going on for an hour. At the back of the room the deputy commissioner and the warden kept pointing to their watches, but I ignored them.

At the conclusion of the meeting several legislators walked up and shook my hand, expressing their gratitude for revealing the problem and stating the oversight would be corrected with a bill introduced in the next legislative session..

Apparently corrections officials had not informed the legislature about the problem. But why would they, If a riot did break out and destroy the prison, the legislature would then appropriate funds for a new prison. There is a history of prison officials ignoring the violence, even encouraging it to obtain funding for more prisons that usually are maximum security facilities. One need only watch TV programs on prisons, focusing on the prison violence, implying the entire prison population as violent.

The meeting with the legislators was only the beginning, requiring my undivided attention and planning. Anticipating there would be opposition by corrections officials and law and order lawmakers, I contacted a law firm who are lobbyists. I explained the situation and inquired about the cost for

their services. With our course of action setting a precedence, the cost is \$15,000 to cover their out-of-pocket expenses. Raising that amount of money from the prison population in the 1980s seemed unlikely, but I would try.

The first step was setting up an account with the prison's Finance Department for accepting donations, but prison officials blocked it under the auspices that only a nonprofit could set up an account. Therefore I prepared the Articles of Incorporation and Bylaws and registered with the state under the name Guidelines Committee, Inc. thus meeting the criterion. The Board of Directors included the prison chaplain, an attorney donating his services, and the Governor's Aide on Corrections.

Appearing on the prison's closed-circuit TV channel, I outlined to the prison population the course of action we were taking, And that with emotions running high that could result in spontaneous acts of violence, to keep in mind that there are those who oppose the legislation an argument, claiming that the prisoners are "too dangerous" to be given an early release. Periodically, I reminded them of that in updates, and how it was progressing including the funds raised thus far.

I was informed by the bills chief author in the Senate that the only chance of getting the legislation passed was to exclude prisoners who are serving a life sentence; otherwise were eligible for parole after seventeen years of imprisonment. (As I am serving consecutive, i.e., back-to-back life sentences, that included me.)

At that moment I could have given up and just did my own time. But with the legislators willing to correct the disparity experienced by the prisoners, I was of the mind-set that if given an early release, and most were model prisoners, that they would not commit another crime. Especially with lesson learned to seek relief in a lawful manner.

As the months went by, a congenial attitude developed replacing the "us against you" mentality by both the prison population and the guards that is so common in a prison.

Word got to me from a prison official who respected our course of action that the administration routinely audited the fund raising account, anticipating my misuse of the funds for personal gain. In their way of thinking, "Why else would a convict donate so much of his time and effort to a cause with little chance of success - there must be an ulterior motive."

With no mishandling of the funds, another tactic was implemented, but poorly timed: A newspaper columnist was interviewing me over the phone when the security squad approached. Apparently I was going to be escorted to the segregation unit to separate me from the prison's general population, and face charges that would prevent the fund raiser from continuing.

I informed the columnist that if I didn't call him back by the end of the day, it is to sabotage our effort in seeking relief. When he didn't hear back, the columnist included in his article:

Clark suggested the decision [the Sentencing Guidelines not retroactive for all prisoners] may prompt lawsuits by inmates who feel they are receiving unfair treatment. But before he could expand on possible lawsuits, prison guards cut off the phone call and arrested Clark for allegedly threatening another inmate.

The prison official assigned to prosecute the case had attempted to hand me an anonymously typed letter addressed to the warden that threatened a specific prisoner. I refused to handle it and said I wanted the letter examined for fingerprints. The prosecutor responded that doing so could delay the proceedings for weeks, and "besides, you could have worn gloves".

The columnist's article raised public suspicion. A family who

visited me, talked to the prosecutor. Then they wrote a Letter To The Editor including:

I informed him [the prosecutor] that Mr. Clark was not so stupid as to use his typewriter and that Mr. Clark is not a troublemaker. His reply was, "I know that Mr. Clark is not a troublemaker and that he is a very intelligent man, in fact, an asset to the prison and the evidence is circumstantial." ...

The prosecutor's acknowledgment heightened suspicion the charge was trumped-up. So I was offered a plea bargain for time served in segregation to avoid a hearing, but I refused and demanded my right to a formal hearing.

A man two cells down from me in segregation loudly proclaimed, "I'm going to thump the old man, cause tomorrow I will be out with everyone else." Twice his age, the "old man" was me. He had a history of fighting, even in segregation when out of his cell with others. So there was a standing order he be restricted to his cell while other prisoners were out for their hour of recreation. For that man to be out with the rest of us, the standing order had to be countermanded by someone in the administration. Targeting me would be to convince the disciplinary hearing officers that I'm violent toward other prisoners.

The next day as we were about to be let out of our cells, the sergeant in charge, opposing the countermand, positioned himself where he could observe what was expected. Watching out of the corner of my eye, I prepared myself. The aggressor wasted no time rushing towards me, but didn't expect I would be in good physical condition. I stepped aside as he swung, I used his momentum to my advantage, bodyslamming him to the floor. Getting up, he swung again and missed. Again I slammed him to the floor. This time he was slow getting up and limped away.

Since I held the upper hand the sergeant only casually radioed for assistance. Guards rushed in and were not gentle putting the man back in his cell and slamming his door shut.

"Are you all right Ed?"

"No problem sarge," I responded. "He didn't connect with his punches."

I assume the order allowing the aggressor out to attack me came from the two prison officials who conspired to charge me with the disciplinary offense in the first place. Known by their unscrupulous behavior and opportunists, they wanted to impress the warden with their diligence.

One official was later accused of sexual harassment by female employees. His office phone was tapped, and with sexual harassment confirmed, he was transferred to another state agency.

The other official was later appointed warden, and cancelled rehabilitation programs. He was quoted in a nationally circulated publication, "We don't hold ourselves responsible for their rehabilitation anymore." When promoted to deputy commissioner, he implemented his punishment ideology throughout the state prison system. This resulted in a return to assaults against corrections officers, and the first murder of an officer by a prisoner in the state.

Due to the publicity over me charged with threatening another prisoner, along with the prosecutor's favorable characterization of me, the Department of Corrections sent hearing officers to conduct the disciplinary hearing instead of prison officials. Relying on the statements of the two officials involved in the scheme, the prosecutor claimed the letter was typed on my typewriter based on the condition of the keys. And by superimposing an identical letter from my typewriter that it was a perfect match (this was

before typewriters had automatic features to run off a perfect copy).

When the charge was made against me, prison officials hadn't expected I would be hiring a documents expert to examine the evidence. She testified on examining the typewriter that there were no irregularities in the keys as alleged. As for the "perfect match" by superimposing the second copy over the original, there would have been variations in the margins and the text. The expert concluded the second letter was actually a photocopy of the original. She offered her services to examine every typewriter in the prison, including staffs' to locate the involved typewriter. Her offer was declined.

Referencing the complaint, I pointed out that the warden received the threatening letter an hour after my arrest and escorted to segregation. With that revelation, the hearing officers took little time in ruling I was not guilty. I was returned to general population.

While the three weeks in segregation had been a trying experience , it served our purpose. The prisoners reasoned that if prison officials would go to that extreme, than it was feared we had a chance with the legislature. Within a couple of weeks the \$10,000 balance needed rolled in, partly from the prison population and through private donations.

Among my duties as the clerk in the Religious Resource Center was handling incoming phone calls. With the legislative session winding down, the bill's chief author in the senate advised me there were not enough votes for the legislation to pass. Concerned about the consequences, the lawmaker asked my opinion on if the prisoners would react. Telling him I would call him back, I stepped out into the hallway as the workers were returning from their work assignment. Instead of talkative, they were



unusually quiet; I could feel the tension. Apparently they had contacted their relatives earlier in the day who were monitoring what was happening in the legislature. Returning the phone call, I expressed my concern the threat against the prison could, in fact, become a reality if the prisoners did not get relief. And that raised a sobering question:

"If the bill did not pass, there are individuals who would blame someone for getting their hopes up - and that could be me!"

A second phone call was from the lobbyists. They were informed the parole board was working behind the scenes, erroneously telling legislators there was no need for the legislation, claiming paroles are being granted based on the amount of imprisonment called for in the Sentencing Guidelines. *Casework* Caseworkers were also recruited to travel to the State Capitol, at taxpayers' expense, to encourage the lawmakers to vote against the bill.

I came up with a plan: At the scheduled time to appear on the inhouse TV channel, while announcing the bill did not pass -

There is one day left in the legislative session, so it could still pass. And that is where each and every one of us comes in. For the rest of today and evening, contact your families and ask that they contact their legislator to support the bill. Phone calls will be limited to five minutes so everyone will have a chance to make the call.

What a sight! Long lines were reported at every inmate phone in every cellblock. When a man got off the phone, he went to the back of the line to make more calls. I was later informed that there were so many incoming calls at the State Capitol that the switchboard was overloaded.

Expecting the bill would not pass, and the threats made against the prison, it was placed on lockdown status at the 10:00 pm switchin that

lasted through the next evening. Prison officials, assuming the legislation would fail, delivered a memorandum to every cell, complementing the prison population for seeking relief in a legal manner and suggesting that at some point in the future they "might" obtain relief.

The closing hours of the legislative session was televised with the bill the last on the calendar to be voted on. A legislator grudgingly complained he received phone calls from prison inmates throughout the previous night. Another legislator, supporting the legislation, responded the calls could not have come from the prison because the inmates are locked in their cells at ten o'clock.

The bill passed with bipartisan support. In celebration the entire prison population went into an uproar, yelling and banging on their cell bars that went on throughout the night - sleep was impossible.

The next morning the lockdown ended. Lines at the phones were again long with men discussing the good news with their families. Others stood around in small groups discussing plans for when they would be released.

That evening an elderly man came to my cell, asking what all the excitement was about. He didn't have a television and kept to himself. He had been a derelict, retarded, and in prison on a theft charge. I explained what had taken place. He thanked me and left. A little later he returned. With teary eyes he pleaded, "You mean I might get out of prison?" I assured him he most likely would be released. He returned to his cell, closed the door and shut off the light.

Some men who befriended the old man noticed he was upset, and asked me what was bothering him and if they should talk with him. "No, just let him be for now," I responded. I closed my door, shut off the light, and just sat, oblivious to the noise, thanking the Lord it was over.

The Inmate Advisory Committee members assisted in this endeavor, and on behalf of the prison population presented me with a plaque manufactured in prison industries. With a balance in the fund raising account, I ordered two large plaques, which I presented to the Senate and House of Representatives during the judiciary committees tour of the prison following passage of the legislation. The plaque reads:

PRESENTED TO

THE MINNESOTA SENATE AND HOUSE OF REPRESENTATIVES  
IN APPRECIATION FOR PASSAGE OF CHAPTER 366 - 1981 SESSION.

IMPLEMENTATION OF THIS BILL RESULTED IN INCARCERATED  
PERSONS DEVELOPING A POSITIVE ATTITUDE, RESPECT FOR  
THE LEGISLATIVE PROCESS, AND ENABLED US TO SEE THAT  
CHANGE CAN TAKE PLACE IN A LEGAL AND PROPER MANNER.

THIS IS A GIANT STEP TOWARDS REHABILITATION.

ON BEHALF OF EX-OFFENDERS

THROUGHOUT THE STATE OF MINNESOTA  
GUIDELINES COMMITTEE, MCF-STILLWATER

1981

The project was closely monitored by researchers who included it in their book, along with interviewing this writer.

The prison administration confiscated a two thousand dollar balance remaining in the account, so I threatened a lawsuit and the funds were returned. To remove their temptation, I donated it to charity.

In the next legislative session a bill was introduced to end the funding for the parole board. A caseworker, in a Letter To The Editor praised the parole board. Subsequently my rebuttal was published:

John \_\_\_\_\_'s Letter To The Editor...praising the Parole Board's antics

is far from factual.

Two years ago the correctional facility at Stillwater was ready to blow apart at the seams, due mostly to the Parole Board refusing to adjust parole dates in line with the Sentencing Guidelines.

The Parole Board ignores its own rules and regulations and cancelled "guaranteed" release dates, telling hundreds of prisoners they would serve their entire prison sentence behind prison walls, thus adding years of unnecessary imprisonment at taxpayers' expense...

The bill passed and the parole board was dissolved. The Department of Corrections then established the Office of Adult Release (OAR) to take over the duties of the parole board. And who did the Commissioner appoint as its director - the chairman of the parole board!

I received an inquiry from the Executive Director of the legislature's Legislative Commission to Review Administrative Rules (LCRAR):

Dear Mr. Clark -

As I continue to research the Department of Corrections' statutory exemption...for certain rules, I reread the reports and letters you sent the Commission. I have a question for you. When the DOC proposed its Office of Adult Release rules..., why was there no hearing? Commissioner Pung [of the DOC] states in a letter to the Attorney General that only John Poupart made an oral request for a hearing. Considering there was a hearing on similar rules proposed in 1981, what happened do you think to the level of interest in supervising the DOC and OAR?

Any thoughts on this matter would be appreciated.

Thank you.

I responded that when the parole board was still in existence, the DOC was

trying to convince the legislature against passing the legislation that provides an early release for prison inmates and the bill dissolving the parole board. Now the DOC, through the OAR, is ignoring the early release process that is more in line with time served under the Sentencing Guidelines, and avoiding oversight by not holding public hearings. The intention includes continue the practice of violating supervised releasees and parolees back to prison as "technical violators."

(Over the years, the practice of returning people to prison as technical violators has increased 800 percent, making up 25 percent of the prison population, forcing the state to build three more prisons and an additional thousand beds to an existing facility. Philosophically, prison inmates are viewed as a commodity to increase the prison bureaucracy, i.e., the more prisoners equals more funding, equals more prisons, equals more opportunity for management advancement.)

The LCRAR summoned the director of the Office of Adult Release to appear before the Commission. On obtaining the hearing transcripts, the ~~director~~ director was asked about the new rules. He responded, "The new rules are still being promogated." He was instructed to return in one month and to bring the new rules with him. When the director returned without the new rules, he was asked why not. He responded,

"We decided not to publish the new rules. Otherwise, the inmates could take us to court."

That arrogant response was the wrong answer to the LCRAR, whose members are legislators with law degrees. Thus ended the director's career in the field of corrections.

Three years after the law was imlemented allowing prison inmates to seek relief from the parole board's refusal to grant paroles, the

legislature commissioned a study to determine how many of those who were granted an early release returned to prison on a new conviction. Very few, not even a percentage point, in contrast to 64 percent by those who were under the authority of the parole board.

This writer's activities include critiquing the prison system in reports to the governor and legislature. One report is on the mistreatment of mentally ill/mentally impaired prisoners in the segregation unit, including the deaths of two: One was denied medication, food and water. The other was beaten to death by guards. (In a wrongful death lawsuit the attorney quoted from my report.) I received a Service Award from the state chapter of the Forensic Alliance for the Mentally Ill.

Legislators' responses to my input include:

I appreciate the effort you made in compiling this information. I would urge you to continue your interest in criminal justice. I want you to know that I appreciate the work you do and that I find your suggestions and insights useful... (The Speaker of the House.)

Also:

Thank you for the attention you've given and will be giving to Minnesota's correctional institutions... Your personal experience is very valuable to the evaluation of these institutions... I hope your passion for these issues will continue. Your work is important to the work of the legislature... (Senate Minority Leader)

Corrections officials don't share that sentiment, as emphasized by the deputy commissioner labeling me, "A snitch to the legislature."

This writer's activities also include on public safety: When I was the brake technician in the prison's school bus renovation program, at the request of the state's vehicle safety inspectors, I prepared a School-Bus-Brake-

Inspection manual (prior to my involvement with the legislature) and received commendations:

Today I received a copy of the inspection manual on hydraulic braking systems that you have prepared for the vehicle safety inspector. This 20 page manual reflects your contribution, interest, and ability in both the school bus program and the field of hydraulic brakes. I have had other people connected with safety inspection tell me the same thing.

Your continued interest and contributions can help make all school buses safer. - (Director of Correctional Industries)

And:

I want to thank you for your demonstrated diligence and commitment to your job and bringing the matter of the brake warning and safety device to the appropriate authorities' attention. Your sense of responsibility in this matter is commendable... - (Warden)

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