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## Between Soledad and Attica Brothers: The Raiford Protests and Prison Activism in Florida

Alexander Obermueller  
*University of South Florida*

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Between Soledad and Attica Brothers: The Raiford Protests and Prison Activism in Florida

by

Alexander Obermueller

A thesis submitted in partial fulfillment  
of the requirements for the degree of  
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College of Arts and Sciences  
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Major Professor: David K. Johnson, Ph.D.  
Brian Connolly, Ph.D.  
Philip Levy, Ph.D.

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## **Abstract**

In February of 1971 prisoners staged a weeklong protest at Florida's largest prison near the rural town of Raiford. Prior to the Raiford sit-in and hunger strike, George Jackson had only recently published his prison letters and six months after the Raiford uprising a similar protest would rock Attica Correctional Facility and bring prisoners' rights into national news. This thesis situates Raiford prisoners' protests in the context of an emerging prisoners' rights movement. Prisoners made use of various protest forms, retracted their labor, and engaged in litigation to fundamentally challenge prison and achieve some improvements to their lives behind bars. Prison reformers went along, adhering to the ideas of prisoners' malleability and rehabilitation. They echoed claims that prisoners raised in seemingly colorblind terms. Reformers believed that the problem of overcrowding that penal institutions faced could easily be remedied if only legislators allocated appropriate resources. Assumptions about race, sexuality, and gender in prison, lurked behind this progressive facade. By consulting a variety of sources – from mainstream and underground newspapers, poems, pamphlets, and papers written by prisoners to government documents and FBI reports, I show how prisoners fought their incarceration, the criminalization of their organizing efforts, and their treatment as second-class citizens. They did so in accordance with and supported by allies on the outside. My thesis adds to the buoying field of scholarship on prison activism in the “age of Jackson.” By approaching the Raiford protests with a prisoners centered lens, an ideological precursor to the protests that shock Attica six months later emerges.

## Chapter One: Introduction

When prisoners at Florida State Prison (FSP) located in Raiford, Union County, protested conditions of their confinement on February 11<sup>th</sup> of 1971, Florida-based newspapers quickly picked up the story. “Prison riots” promised all the elements that good reporting depends on and readers crave – prisoners took on the role of underdogs, rebelling against an omnipotent prison system. Advocates for prisoners’ rights and critics of lax penal policies alike would have a field day. Those sympathetic to prisoners’ demands – activists from all over the country – had to rely on hearsay and mainstream media reporting of events: Prisoners incarcerated in Raiford prison’s eastern maximum-security wing engaged in a hunger strike to protest parole and prison conditions. Prisoners in the adjacent medium-security wing camped out in the yard in solidarity. Guards ultimately subdued the protesters. Seven days of unrest at Raiford ended with more than seventy injured prisoners.

Underground newspapers like the *NOLA Express* actively reached out to attain first hand information from prisoners themselves.<sup>1</sup> Some quickly jumped the bandwagon and declared: “The riots are clearly justified. The prison is badly overcrowded and parole practices are sadly outdated. FREE ALL PRISONERS!”<sup>2</sup> When protester Bernhard Nash finally reached out to the *NOLA Express*, his statement confirmed fears that activists and sympathizers had held all along. “Well, people, I was a spokesman and needless to say I was beat senselessly and placed in maximum security, I have 3 yrs left to serve and no doubt I will do them right here.”<sup>3</sup> As Nash’s

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<sup>1</sup> “KCAB Feed Forward,” *NOLA Express*, March 19, 1971, 14.

<sup>2</sup> “Prison,” *Berkley Tribe*, Feb 19-26, 1971, 17.

<sup>3</sup> Bernhard Nash, “Florida State,” *NOLA Express*, April 1, 1971.

brief statement made abundantly clear, prison guards had responded to a peaceful protest by retaliating against prisoners' spokespersons. Nash went on to ask for a subscription and moral support because he had no one who would write to him. He concluded with a defiant "Right on," and stated that he "would enjoy hearing from the real people." By referring to "real people" Nash made his obvious affiliation with activist politics of the 1960s known. Not only should prisoners correspond with real people on the outside, he also claimed the status of "realness," authenticity, and sincerity – in short the activist mantle – for Raiford prisoners. Nash and his Brothers had shown that Florida prison conditions would not go unchallenged and in doing so they fueled the prison-organizing drive that swept the country.

Raiford prisoners' protests fit right into the context of an emerging prison movement. Prisoners united around demands for parole reform and better facilities from prisons like Soledad in California to Attica in New York. Iconic organizers like Angela Davis and George Jackson eloquently voiced a fundamental critique of the carceral state: calling for all out abolition. Activists in and outside of prison embraced Jackson's prison manifesto *Soledad Brother* and Davis became a scholar of and a life-long advocate against mass incarceration.<sup>4</sup> While historians like Heather Thompson recount the September 1971 Attica uprising and its aftermath, Raiford remains under researched.<sup>5</sup> Whereas no prisoners died at Raiford, guards' and state troopers' excessive use of force at Attica resulted in forty-three deaths. In the aftermath of both prison uprisings grand juries, investigative committees, and the news media negotiated ramifications or

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<sup>4</sup> George Jackson, *Soledad Brother: The Prison Letters of George Jackson*, ed. Jean Genet (Soledad, 1970). George Jackson, Fleeta Drumgo, and John Clutchette became known as the Soledad Brothers. Lee Bernstein, 'The Age of Jackson: George Jackson and the Culture of American Prisons in the 1970s,' *The Journal of American Culture* 30, no. 3 (2007): 310-23. Davis was incarcerated in New York House of Detention for Women. Regina Kunzel, *Criminal Intimacy: Prison and the Uneven History of Modern American Sexuality* (Chicago: University of Chicago Press, 2008), 191-2.

<sup>5</sup> Heather Ann Thompson, *Blood in the Water: The Attica Prison Uprising of 1971 and Its Legacy* (New York: Pantheon, 2016). For a reading list see: Ryan Huey, "The Carceral State and Prison Activism," *networks.h-net.org* (blog), n.d., <https://networks.h-net.org/node/109065/pages/4263563/history-prison-reform-america-ryan-huey>.

covered up misconduct. The House of Representatives' Select Committee on Crime identified both uprisings as indicators for urgently needed prison reform, and lawmakers remained uneasy about the prospect of further 'riots' and a surge in prisoners' politicization.<sup>6</sup>

Building on other movements that mushroomed in the political climate of the 1960s, mainly civil, gay, and women's rights movements, prison activism and advocacy took off as well and grew increasingly radical. Various groups including the Black Panthers and the Weather Underground articulated their disdain for capitalism and colonialism by attacking prisons. This worried reformers who held on to the idea of incarceration as a deterrent to crime. To them, prison appeared to be the appropriate response to delinquency. Prison organizers on the other hand highlighted racism's strong footing within the 'criminal justice system' and called for prisoners' rights and prison abolition at the same time.<sup>7</sup> By the end of the 1970s prison organizers had achieved considerable victories and reformers had successfully created an 'improved' carceral system ready to be filled with the victims of wars against crime and drugs.<sup>8</sup>

Although the Supreme Court's decision in *Brown v. Board* had formally settled the matter of desegregation, politicians' decision to thwart integration in the name of white supremacy, they implemented voting restrictions and housing policies such as red lining that perpetuated racial tensions. The prevalence of deeply engrained racial prejudices and the new rights-consciousness embraced by activists across the country triggered the protests in Raiford. Overcrowding served as an overall metaphor for the problems that plagued prisoners incarcerated in archaic institutions. Wars on Crime and Drugs inaugurated the carceral state's

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<sup>6</sup> Select committees are charged with a specific mission, often investigative, and dissolve after their mandate expired. House Select Committee on Crime, ed., *American Prisons in Turmoil*. (Washington: U.S. Government Printing Office, 1972).

<sup>7</sup> Dan Berger, *Captive Nation. Black Prison Organizing in the Civil Rights Era* (Chapel Hill: University of North Carolina Press, 2014) and Liz Samuels, 'Improvising on Reality. The Roots of Prison Abolition,' in *The Hidden 1970s*, ed. Dan Berger (New Jersey: Rutgers University Press, 2010), 21-38.

<sup>8</sup> Elizabeth Hinton, *From the War on Poverty to the War on Crime: The Making of Mass Incarceration in America* (Cambridge: Harvard University Press, 2017).



expansion and prisoners readily challenged this development. Reformers furthered carceral capacity under colorblind pretenses yet with a clear image of the deviant, black criminal in mind. Prison organizing and the Raiford protests did not attract similar levels of publicity like Attica in part due to concerted efforts by FBI agents to stifle radical activism in Florida. The Bureau's activities severely impaired potential allies' abilities to advocate on prisoners' behalf. Yet prisoners incarcerated behind Raiford's walls and sympathetic activists outside rallied around ideas of Black Nationalism, fought for better facilities, and challenged the carceral state, despite these damming odds. They did so in prisons and courtrooms alike. Inspired by prisoners' litigation efforts nationwide, Raiford prisoners confronted their brutal treatment by guards during the uprising in particular while also challenging conditions in overcrowded prisons in general. By focusing on prisoners' actions at Raiford, this event emerges as a precursor to the protests that shook Attica six months later. Raiford can be seen as typical rather than extraordinary: Similar uprising happened all across the nation and brought prisoners' rights to the political debate stage. My study of Raiford, situated in the context of an emerging prison movement epitomized by George Jackson and the iconic Attica protest, contributes to the scholarship on prison organizing and protests at the onset of the carceral state.

While many scholars view Attica as the pinnacle event in the history of prison activism, other uprisings, riots, and protests preceded the iconic and deadly act of defiance in upstate New York.<sup>9</sup> Prior protests in Auburn, Folsom, Leavenworth, Soledad, and Raiford laid the groundwork. The increase in prison protests led sociologists and criminologists to investigate potential causes and strategies to handle these incidents.<sup>10</sup> Scholars and correctional

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<sup>9</sup> "Organizing the Prisons in the 1960s and 1970s: Part One, Building Movements," *processhistory.org*, September 20, 2016, <http://www.processhistory.org/prisoners-rights-1/>.

<sup>10</sup> In his testimony in front of the House Select Committee, Dr. Vernon Fox, chairman of the Department of Criminology at the Florida State University identified five stages of prison riots. House Select Committee on Crime,

professionals alike identified overcrowding and the lack of rehabilitative programming as the prison systems' most pressing issues.<sup>11</sup> Attuned to reform-oriented thinking, these experts set out to improve penal institutions. Pathological explanations that attributed delinquency and poverty to the individual criminal remained key explanatory strategies. Early scholarship on prison conditions suggests that a reform-oriented framework gave way to a punitive one in response to an excess of 1960s liberalism. Scholars like Naomi Murakawa challenge this backlash thesis and tie the punitive turn to the initial project of prison reform.<sup>12</sup> Liberals, starting with Harry S. Truman through the presidencies of John F. Kennedy and Lyndon B. Johnson, laid the groundwork for the carceral state. Building on Murakawa, historian Elizabeth Hinton stresses the importance of law enforcement and welfare programs within President Johnson's Great Society. Reformers, initially targeting structural and individual causes of criminality alike, paved the way for an increase in funding for the criminal justice system, law enforcement's subsequent militarization, and increasingly intrusive police tactics. Regulating or banning antiquated and cruel institutions like chain gangs or convict leasing, yielded a sanitized and rule-based, therefore 'fair,' criminal justice system.<sup>13</sup>

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360. Bert Useem and Peter Kimball, *States of Siege: U. S. Prison Riots, 1971-1986* (New York: Oxford University Press, 1989) and Useem, Bert et al., 'Resolution of Prison Riots,' *National Institute of Justice Research in Brief* (Washington: Department of Justice, October 1995).

<sup>11</sup> James Bennett, 'The Significance of the Prison Riots,' in *Of Prisons and Justice; a Selection of the Writings of James Bennett, 1894-1978*, ed. Subcommittee on National Penitentiaries (Washington: U.S. Government Printing Office, 1964), 170-3.

<sup>12</sup> Naomi Murakawa, *The First Civil Right: How Liberals Built Prison America*, (New York: Oxford University Press, 2014). Murakawa names Thomas and Mary Edsall as key proponents of the backlash thesis. Thomas Edsall and Mary Edsall, *Chain Reaction: The Impact of Race, Rights, and Taxes on American Politics* (New York: W. W. Norton, 1992) in Murakawa, *The First Civil Right*, 216. Micol Seigel stresses a similar argument tracing the politics of antiblackness that shape penal institutions back to the progressive era and its welfare institutions. Micol Seigel, 'Critical Prison Studies: Review of a Field,' *American Quarterly* 70, no. 1 (2018): 123-37, 136.

<sup>13</sup> Vivien Miller, *Hard Labor and Hard Time: Florida's 'Sunshine Prison' and Chain Gangs*, New Perspectives on the History of the South (Gainesville: University Press of Florida, 2012). Convict leasing phased out in the 1920s. Miller finds that the percentage of African Americans among the total convict leasing population "never fell below 85 percent in the late nineteenth and early twentieth centuries, and the typical convict was a young, adult African American male laborer, when African Americans constituted less than 50 percent of Florida's total population." Vivien Miller, *Crime, Sexual Violence, and Clemency: Florida's Pardon Board and Penal System in the Progressive Era* (Gainesville: University Press of Florida, 2000), 113.

Whereas scholars agree that federal prison policies took a turn towards more punitive approaches, sociologist Heather Schoenfeld stresses that states proceeded at their own pace.<sup>14</sup> Historian Dan Berger also emphasizes: “The white South responded to the civil rights movement by expanding and modernizing its carceral capacity. Southern states relied more heavily on the jail cell than the lynch mob, embracing the lawful state as a more reliable and less controversial enforcer of political order than the lawless crowd.”<sup>15</sup> Scholars have debated which state correctional system paved the way to mass incarceration. Berger identifies three major theories on where the ‘incarceration binge’ originated: “the plantation, the penitentiary, or the political economy of post-1968 capitalism.”<sup>16</sup> Robert Perkinson views Texas at the forefront, while others like Berger attribute central importance to California’s correctional system.<sup>17</sup> Sun Belt states exerted crucial influence; Alex Liechtenstein even argues that the complex, consisting of Florida, California, and Texas, which he dubbed “Flocatex,” led the way.<sup>18</sup>

Southern prisons, and Florida’s in particular, had a reputation of being dire places. Historian Vivien Miller shows that chain gangs, convict leasing, and roadside prisons dominated Florida’s penal landscape.<sup>19</sup> Prison administrators used the Sunshine State’s climate to punish

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<sup>14</sup> Heather Schoenfeld, *Building the Prison State: Race and the Politics of Mass Incarceration* (Chicago: University of Chicago Press, 2018). Other researchers focus on prison education efforts or religious practices in prisons. D. Laufersweiler-Dwyer and Barbara McAnelly, ‘From Phosphate Mines to Diplomas... The History of Correctional Education in Florida Part I — 1800-1970,’ *Journal of Correctional Education* 50, no. 4 (1999): 112-22; Leonard H. Roberts, ‘Inmate Education in Florida’s 19th Century Penal System: A Failure of Good Intentions,’ *Journal of Correctional Education* 40, no. 4 (1989): 148-50; Ruth A. Ott, ‘A Descriptive Study of Inmate Education in the County Jails of Florida’ (Master’s thesis, University of South Florida, 1982); Leonard H. Roberts, ‘A History of Inmate Rehabilitation through Education in the Florida State Correctional System, 1868-1980’ (Dissertation, University of Florida, 1981); and Brad Stoddard, *Spiritual Entrepreneurs: Florida’s Faith-Based Prisons and the Carceral State*. (Chapel Hill: University of North Carolina Press, 2020).

<sup>15</sup> Berger, *Captive Nation*, 45.

<sup>16</sup> Berger, *Captive Nation*, 283.

<sup>17</sup> Robert Perkinson, *Texas Tough: The Rise of America’s Prison Empire* (New York: Henry Holt and Company, 2010).

<sup>18</sup> Alex Liechtenstein, ‘Flocatex and the Fiscal Limits of Mass Incarceration: Toward a New Political Economy of the Postwar Carceral State,’ *Journal of American History* 102, no. 1 (2015): 113-25.

<sup>19</sup> Vivien Miller argues that roadside prisons shifted from backbreaking labor to vocational outdoor training close to smaller communities, which came closer to reformers rehabilitative ideals. Vivien Miller, ‘Whatever Happened to the Southern Chain Gang?: Reinventing the Road Prison in Sunbelt Florida,’ in *Caging Borders and Carceral*

prisoners by locking them in so-called “sweat boxes.”<sup>20</sup> Practices like these made reforms even more pressing. Schoenfeld argues: “by 1950, Florida’s state punishment ‘system’ looked like an amalgam of the industrial prisons of the North and the road work chain gangs and prison farms of the South.”<sup>21</sup> Building upon Miller’s work, Schoenfeld stresses that the emergence of new administrative bodies like the Florida Bureau of Law Enforcement helped to centralize and modernize the state’s criminal justice system. Centralization pitted local police and correctional officials against their counterparts on the state and federal level who sought to implement standards devised by federal organizations like the American Correctional Association (ACA).<sup>22</sup> Scholars Michael Campbell and Heather Schoenfeld identify the gap in responsibilities between local authorities charged with arrests, prosecution, and sentencing and statewide officials’ influence on sentencing policies and prison capacities as a source of conflict.<sup>23</sup>

Modernization included concerted data collection efforts, merit-based hiring policies, and professionally trained prison staff.<sup>24</sup> When combing through personnel statistics last names frequently reappear. The *St. Petersburg Times* called employment at Raiford “tantamount to a birth right” and Miller finds prison jobs to be “inextricably linked to Democratic Party patronage.” Martin Dyckman, a Tallahassee-based journalist at the time, states that only those with political ties were able to secure jobs at prisons like Raiford, which provided otherwise

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*States*, ed. Robert T. Chase, *Incarcerations, Immigration Detentions, and Resistance* (Chapel Hill: University of North Carolina Press, 2019), 211-42, 221, 229.

<sup>20</sup> Miller, *Hard Labor and Hard Time*, 282. Jeffrey A. Drobney, ‘Where Palm and Pine Are Blowing: Convict Labor in the North Florida Turpentine Industry, 1877-1923,’ *The Florida Historical Quarterly* 72, no. 4 (1994): 411-34.

<sup>21</sup> Schoenfeld, *Building the Prison State*, 37.

<sup>22</sup> Michael C. Campbell and Heather Schoenfeld, ‘The Transformation of America’s Penal Order: A Historicized Political Sociology of Punishment,’ *American Journal of Sociology* 118, no. 5 (2013): 1375-423. The ACA produced the *American Journal of Correction*, to disseminate its findings. Florida’s Department of Corrections (FDC) started publishing the first issue of its magazine the *Correctional Compass* in 1975.

<sup>23</sup> Campbell and Schoenfeld, ‘The Transformation of America’s Penal Order: A Historicized Political Sociology of Punishment,’ 1376.

<sup>24</sup> “Guards. The Keepers of Their Brothers,” *St. Petersburg Times*, reprinted in *Penal Digest International* 1, no 3, August 1971, 10 and Miller, ‘Whatever Happened to the Southern Chain Gang?: Reinventing the Road Prison in Sunbelt Florida,’ 217.

scarce employment opportunities in rural areas.<sup>25</sup> Robert Turner, Assistant Warden during the Raiford protests, had no background in human relations and exemplifies the other major issue: the lack of professional training. According to Dyckman, Turner came to prison leadership from the business side; hired to head the economic aspects he quickly assumed other responsibilities. Regardless of his lack of training, Turner would go on to head Belle Glade Correctional Institution, where misconduct of guards and brutality against prisoners occurred in regular intervals.<sup>26</sup> Correctional professionals like Florida's Director of Corrections Louie Wainwright, who served as president of the ACA, pushed for reforms to rectify these wrongs, yet they frequently clashed with restive members of the Florida legislature.<sup>27</sup>

By paying close attention to Florida politics, Schoenfeld complicates the story of a unified, punitive legislative branch. Various stakeholders' interests and differing conceptions of a 'modern' criminal justice system collided. The struggle for penal modernism pitted the reform-oriented Governor Reubin Askew against conservative Republicans and fellow Democrats. Conservative lawmakers hailing from Northern Florida, who felt their power dwindling due to massive migration into Southern Florida, were unwilling to invest into modern penal institutions, which liberals pursued.<sup>28</sup> Why would conservatives invest in a prison system that resembled despised welfare institutions with rehabilitative efforts like vocational training and schools?

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<sup>25</sup> Conversation between Martin Dyckman and the author, Zoom-call, May 29, 2020.

<sup>26</sup> Conversation between Martin Dyckman and the author, Zoom-call, May 29, 2020 and Barry Bearak, "Where Brutality Rules: Suits Expose Hidden Hell Behind Bars," Los Angeles Times, June 20, 1986.

<sup>27</sup> Before becoming the head of all Florida prisons, Wainwright himself had worked at Raiford, where he had been shot in the leg during an incident in 1955. Wainwright provided the earliest history of Florida's carceral system. Louie L. Wainwright, 'A History of Florida's Correctional System: 1832-1978' (Master's thesis, NOVA University, 1978). In 1980 allegations surfaced in *The Gainesville Sun* that Wainwright had plagiarized large parts of his thesis. Besides plagiarism, Wainwright stood accused of charging state employees with doing his research and of sexual misconduct. Florida Representative Arnett E. Girardeau also inquired into the Department of Correction's conduct surrounding allegations of nepotism and guard brutality. Louie L. Wainwright, *Response to Allegations Concerning the Management of the Department of Corrections Presented to Gov. Bob Graham* (Tallahassee: Florida Department of Corrections, April 28, 1980), 20-1.

<sup>28</sup> A new Constitution that led to massive redistricting was adopted in 1968.

Conservatives, adhering to fiscal constraints, railed against prison construction's enormous costs and rehabilitative ideals alike. The latter clashed with the public's perception that criminals were not deserving of resources desperately needed elsewhere. Victims' rights organizations voiced concerns "that programs for offenders came at the expense of victims" and pressured legislators to halt rehabilitative programming.<sup>29</sup> This sentiment also manifested in Raiford itself. Guards resented instructors who taught at the prison because their own children were seemingly deprived of educational resources, which were so readily available for convicted criminals in poor Bradford County.<sup>30</sup> Raiford prisoner James Earl Smith recounted how a guard felt about him, a black prisoner, receiving 'prison services' funded by taxpayers. "He said that I was a black nigger and I tried to be a smart nigger. All this time I'm being beaten and kicked. He goes on to say that I was the cause of his wife and daughter being hungry cause he helped pay taxes."<sup>31</sup> How could legislators justify the 'generosity' extended towards prisoners to their law-abiding constituents?<sup>32</sup>

This multilayered field of debate illustrates that constructing prisons to ease overcrowding was not a done deal. Increasing carceral capacity remained only one solution to overcrowding. Scholars Joshua Guetzkow and Eric Schoon emphasize that policy alternatives like reducing prison admissions or increasing releases could have remedied the situation as well.<sup>33</sup> Florida-based prisoners' rights lawyer Tobias Simon even voiced the hope that fiscal

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<sup>29</sup> Schoenfeld, *Building the Prison State*, 64. National Organization for Victim Assistance (NOVA) lobbied on victims' behalf. Diane Kiesel, 'Crime and Punishment: Victim Rights Movement Presses Courts, Legislatures,' *American Bar Association Journal* 70, no. 1 (1984): 25-8.

<sup>30</sup> Guard Edward Roberts attested to these sentiments during his testimony in front of the House Select Committee on Crime, 303.

<sup>31</sup> "Inside Raiford-The Case Against Louie Lee Wainwright," *Both Sides Now*, September 1971, 21.

<sup>32</sup> House Select Committee on Crime, 337.

<sup>33</sup> Joshua Guetzkow and Eric Schoon, 'If You Build It, They Will Fill It: The Consequences of Prison Overcrowding Litigation,' *Law & Society Review* 49, no. 2 (2015): 401-32.

conservatism might block future prison construction.<sup>34</sup> Ultimately, conservatives saw the criminal justice system as one of the few fields in which the state needed to be invested. Schoenfeld lays out these conflicting views on prison reform in Florida. In doing so, she follows Murakawa's argument and asserts that the capacity to incarcerate, furthered by reform minded politicians of liberal coinage, not simply a conservative backlash paved the way for today's mass incarceration. Guetzkow and Schoon narrow this view down to the formula: "If you build it, they will fill it."<sup>35</sup>

While scholars have devoted considerable energy to tracing policy debates, both reform-oriented and punitive, prisoners' reactions and resistance remains a field wide open for further research. Hinton and Schoenfeld remain mostly on the policy level and their studies contribute to a more nuanced understanding of different interest groups and political players. I follow Schoenfeld and other scholars who shift the focus from federal policies to case studies of individual states.<sup>36</sup> I contribute to the historiography of prison organizing in Florida, by focusing closely on prisoners' actions. In doing so, I embrace the prisoner-centric approaches of Dan Berger, Garrett Felber, and Heather Thompson. Scholars pursue prison organizing on different analytical and geographical scales. Berger centers his study on black prison organizing and the ways the Civil Rights and Black Power movement engaged prisons to expand prisoners' rights.<sup>37</sup> Garrett Felber similarly chooses a specific social group – black Muslim prisoners – for his study.<sup>38</sup> Scholars also invest in research on Chicax prison organizing.<sup>39</sup> Heather Thompson

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<sup>34</sup> Schoenfeld, *Building the Prison State*, 87.

<sup>35</sup> Guetzkow and Schoon, 'If You Build It, They Will Fill It,' 401.

<sup>36</sup> Keramet Reiter, *23/7 Pelican Bay Prison and the Rise of Long-Term Solitary Confinement* (New Haven: Yale University Press, 2016); Mona Lynch, *Sunbelt Justice: Arizona and the Transformation of American Punishment* (Palo Alto: Stanford University Press, 2010); Perkinson, *Texas Tough*; and Ruth Wilson Gilmore, *Golden Gulag: Prisons, Surplus, Crisis, and Opposition in Globalizing California* (Berkeley: University of California Press, 2007).

<sup>37</sup> Berger, *Captive Nation*.

<sup>38</sup> Garrett Felber, *Those Who Know Don't Say: The Nation of Islam, the Black Freedom Movement, and the Carceral State* (Chapel Hill: University of North Carolina Press, 2020). Older studies also focus on Muslim prisoners'

focuses on a single prison – Attica – and the unique protest prisoners staged in 1971 and its decade-long legal aftermath.<sup>40</sup> Other scholars of prison organizing choose a larger lens and examine whole states like Robert Chase does for Texas, Daniel Chard for Maine, or Eric Cummins for California.<sup>41</sup>

Prisoners made use of a limited arsenal to voice their discontent and frustration. I devote the second chapter to events at Raiford and discuss how prisoners perceived problems within the criminal justice system and their place of incarceration. To tackle the emerging carceral state prisoners banded together and sought allies in and outside of prison walls. The third chapter situates the Raiford protests in the wider context of prison organizing in Florida. What tactics prisoners used and how they engaged the public in an effort to overcome prison’s isolation form key questions of this chapter. Organizations like the American Civil Liberties Union and the Nation of Islam provided crucial legal and political support. Their activities aroused the FBI’s attention. I show how federal agents actively thwarted prisoners’ organizing efforts and intimidated potential allies. Although prison reformers frequently stressed their intentions of aiding prisoners by improving institutions and offering rehabilitative programming, they often operated on underlying assumptions about race, gender, and sexuality. These categories merged in the image of the black perpetrator who threatened white primacy, heterosexual normalcy, and

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extensive litigation activities. Christopher E. Smith, ‘Black Muslims and the Development of Prisoners’ Rights,’ *Journal of Black Studies* 24, no. 2 (1993): 131-46.

<sup>39</sup> Edward J. Escobar, ‘The Unintended Consequences of the Carceral State: Chicana/o Political Mobilization in Post–World War II America,’ *Journal of American History* 102, no. 1 (2015): 174-84; Brian D. Behnken, ‘“We Want Justice!” Police Murder, Mexican American Community Response, and the Chicano Movement,’ in *The Hidden 1970s*, ed. Dan Berger (New Jersey: Rutgers University Press, 2010), 195-213; and R. Theodore Davidson, *Chicano Prisoners: The Key to San Quentin* (Prospect Heights: Waveland Press, 1983).

<sup>40</sup> Thompson, *Blood in the Water*.

<sup>41</sup> Chase provides the latest study on the prisoners’ rights movement, focusing on Texas. He portrays Texas officials as particularly prone to exploitation. Prisoners resented plantation work and resorted to the linguistics and tactics of anti-slavery activism. Robert T. Chase, *We Are Not Slaves: State Violence, Coerced Labor, and Prisoners’ Rights in Postwar America* (Chapel Hill: University of North Carolina Press, 2020); Daniel S. Chard, ‘SCAR’d Times: Maine’s Prisoners’ Rights Movement, 1971-1976’ (Master’s thesis, University of Massachusetts Amherst, 2010); and Eric Cummins, *The Rise and Fall of California’s Radical Prison Movement* (Stanford: Stanford University Press, 1994).



gender relations alike. These issues form the core of chapter four. Though reformers did mask their assumptions in a language of colorblindness, they became apparent during the Select Committee hearing, charged with investigating both protests in Raiford and Attica. These two eruptions of prisoners' protests not only shared a distinct place in lawmakers' and reformers' minds, they also entailed legal consequences. Prisoners had chosen to stage their protests in prison yards and courtrooms alike. In chapter five I focus on Florida prisoners' litigation efforts. Encouraged by an increasingly activist judiciary and emboldened by legal victories all across the country, prisoners took it upon themselves to claim new rights and defend themselves against discrimination and persecution. In chapter six I recapitulate the findings of this thesis and briefly discuss implications for the present.

Many scholars have argued that organizing collectively in prison presented a key strategy to counteract the carceral institutions' intended isolation. Prison protests exemplify the large-scale expression of this strategy, while calling a fellow prisoner "Brother" can be considered the smallest hint at a collective consciousness growing behind prison walls. Consequently I use the capitalized version of "brother" to highlight prisoners' strategies of forming a community and social relationships in defiance of a narrative that portrayed prisons as purely hostile places, without any nurturing social ties among those incarcerated. Similarly I stick to the word "prisoner" to refer to people behind bars. Whereas "inmates" remains in use until this day, the Marshall Project, a nonprofit concerned with journalism about criminal justice, found that those incarcerated prefer "incarcerated person" or "prisoner" to "inmate."<sup>42</sup> The latter also has a euphemistical ring to it. Finally, prisoners overwhelmingly named their stay behind bars "imprisonment" and subsequently referred to each other as "prisoners." Some have argued that

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<sup>42</sup> Blair Hickman, "Inmate. Prisoner. Other. Discussed." [themarshallproject.org](https://www.themarshallproject.org), April 3, 2015, <https://www.themarshallproject.org/2015/04/03/inmate-prisoner-other-discussed>.

“prisoner” reduces the humanity of those incarcerated by emphasizing their temporary status as captives of the state.<sup>43</sup> While this certainly can be a side effect of calling incarcerated people “prisoners,” and strict adherence to terms used by historical actors or found in sources might perpetuate injustice or even be hurtful, I argue that prison organizers and activists, like so many others, claimed a stigmatizing name and turned it into a political rallying cry. By employing the tag “prisoner of war” (POWs), prisoners and activists sought to tie their struggle to POWs and consequently claim the protection usually granted to those captured during war for themselves. Prisoners should not be forgotten behind prison walls, just as POWs should be honored and remembered, even if they remain captured behind enemy lines. By claiming that they served outrageous and unwarranted sentences, prisoners drew energy for their political struggle. In doing so, they asserted their rights as prisoners, clearly naming the institution that currently held them, frequently mistreated them, and still influenced their lives once they had physically left the place of their incarceration.

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<sup>43</sup> Edwin Ellis, who had been incarcerated for twenty-five years, argues that prisoner should be substituted with “people” to re-humanize the language we use to refer to people behind bars. Edwin Ellis, “Language.” [prisonstudiesproject.org](http://prisonstudiesproject.org), n.d., last accessed June 23, 2020, <http://prisonstudiesproject.org/language/>.

## Chapter Two: February 1971, Raiford/Fla.: Strike, Riot, Disturbance, or Uprising?

On February 10<sup>th</sup>, 1971 Florida Director of Corrections Louie Wainwright testified in front of the State Senate Committee on Health, Welfare, and Institutions, calling for quicker parole and remedies to prisons' deplorable medical services and additional rehabilitation opportunities.<sup>44</sup> The latter were desperately needed in the face of recidivism rates of 23 percent.<sup>45</sup> Additionally personnel turnover even reached 30 percent due to low salaries. High fluctuation in the workforce made professional training a futile attempt, which in turn swept people without sufficient training into positions that entailed considerable responsibilities for prisoners' care. To make matters worse, the 1958 Indeterminate Sentence Act granted prison officials considerable leeway in regards to parole. Under the act, prisoners could be paroled after they had served one third of their sentence. But prison staff could also extend sentences considerably. Lee Bernstein finds that "eligibility for release typically centered on participation in group therapy or other social work sessions. Conversely, participation in behavior deemed disruptive by corrections officials could result in what seem to be capriciously long sentences for minor crimes."<sup>46</sup> The lack of transparency in the parole process added to prison reformers' and prisoners' frustration. The former could not exert full control over the parole commission, which Martin Dyckman

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<sup>44</sup> FDC only employed one psychiatrist and two doctors to assist him. They mostly conducted "evaluations" of prisoners rather than treatment. Dr. Manuel Guerro was solely responsible for 9,000 prisoners' mental health, while at the federal prison in Tallahassee one psychiatrist and six psychologists cared for the 500 prisoners. "A Frustrated, Angry Man," *St. Petersburg Times*, August 1971, Crime of Punishment Supplement. In June 1970 prisoner Gordon Barwick died because his skull fracture had not been detected by medical staff who had to rely on old X-ray machines. In addition, no X-ray technician worked at Raiford. "2 Mistakes, Plus 1, Lead to Death," *St. Petersburg Times*, August 1971, Crime of Punishment Supplement.

<sup>45</sup> This rate was likely higher and correctional officials admitted freely that the lack compatible data resulted in little knowledge about true recidivism rates. Prisoners who entered a different correctional jurisdiction or ended up in federal prison were not accounted for in the 23 percent. House Select Committee on Crime, 324.

<sup>46</sup> Lee Bernstein, *America Is the Prison: Arts and Politics in Prison in the 1970s* (Chapel Hill: University of North Carolina Press, 2010), 56.

called a monstrosity. Only slowly could reform-minded Governor Askew replace punitively oriented members of the commission. Powerful politicians or journalists could leverage with the parole commission to get people out. The practice of dealing favors made the process even more prone to corruption, which enraged the second group unhappy with the parole commission – prisoners.<sup>47</sup> To ease overcrowding, another major grievance raised during debates on prison reform, Wainwright petitioned state legislators to fund construction of two additional prisons in the near future and another three to account for the anticipated population growth. He also called for a reexamination of Florida’s probation and parole system, arguing that prisoners’ chances for rehabilitation outside of prison were significantly higher.<sup>48</sup> The states’ highest-ranking corrections official essentially called for a mass release of prisoners.

Wainwright’s testimony speaks to the widely-held sentiment also voiced by U.S. District Court Judge James Doyle that the time of prisons might be up.<sup>49</sup> Correctional professionals across the United States believed in prison’s rehabilitative potential. Provided they received enough resources and thoughtful guidance, prisons could create upstanding citizens out of deviant criminals. Calls for an increase in parole and prison building joined trends in reformatory penal theory with professionals’ desire to enlarge and consolidate power in the correctional sector of the criminal justice system.<sup>50</sup> Historian Elizabeth Hinton stresses that federal funding via the Office of Law Enforcement Assistance (OLEA) and the Law Enforcement Assistance Administration (LEAA) initially favored police departments. Being aware of this imbalance, Wainwright argued in front of the House Select Committee on Crime for rules for distributing

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<sup>47</sup> Conversation between Martin Dyckman and the author, Zoom-call, May 29, 2020. Ray E. Howard, *35th Annual Report of the Florida Parole and Probation Commission* (Tallahassee: Florida Parole and Probation Commission, 18 December 1975).

<sup>48</sup> “Corrections Chief Asks Quicker Paroles,” *The Tampa Tribune*, February 11, 1971, B9.

<sup>49</sup> Hinton, *From the War on Poverty*, 172.

<sup>50</sup> Schoenfeld, *Building the Prison State*, 43.

these funds, otherwise he was sure that corrections was “going to get the short end of the stick.”<sup>51</sup> The 1970 Crime Control Act ultimately granted a piece of the pie to corrections.<sup>52</sup> Between 1969 and 1979 Florida’s criminal justice system received a downpour of federal dollars reaching a total of 198.6 million.<sup>53</sup> The desire for more money to enact much needed prison reform and calls to release prisoners until rehabilitative services could be provided made sense to liberal reformers.

On February 11<sup>th</sup> of 1971, a day after Wainwrights’ testimony, prisoners staged a sit-in and hunger strike in Raiford prison’s east wing. Ultimately 1,200 prisoners incarcerated in the maximum-security unit joined the protest. Six hundred prisoners at the medium security unit supported their efforts in solidarity.<sup>54</sup> In 1971 Raiford incarcerated 3,500 prisoners, one thousand more than the design capacity. Fifty-one percent of the prison’s population was black at the time of the hunger strike.

Prisoners’ demands aligned with issues raised by Wainwright a day earlier: speeding up the parole process, an increase in vocational training, fair compensation for their labor, and lockers and chairs in their cells. Prisoners joined basic appeals for the sale of peanut butter and cosmetic products for black prisoners at the canteen with calls for an increase in black prison

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<sup>51</sup> House Select Committee on Crime, 337.

<sup>52</sup> Hinton, *From the War On Poverty*, 172-3. To apply for LEAA block grants states had to form committees that would identify reform potential. Florida’s committee chaired by Charles J. Hardee submitted its report in August 1968, which opened the federal treasure trove. Charles J. Hardee, *Florida State Committee on Law Enforcement and Criminal Justice* (Tallahassee: Florida State Committee on Law Enforcement and Criminal Justice, 23 August 1968). In an editorial titled “Penal Consolidation Wise” published in *The Tampa Times*, the author calls for use of these funds directly in reference to Raiford. “Penal Consolidation Wise,” *The Tampa Times*, February 18, 1971, A8.

<sup>53</sup> Schoenfeld, *Building the Prison State*, 53.

<sup>54</sup> The medium-security main unit known as ‘The Rock,’ housing the isolation unit called Flat-Top, and located in Bradford County and the maximum-security east wing were split up into two separate prisons. Governor Askew suggested the split in his address to the House of Representatives on February 1, 1972. The east wing was named Florida State Prison in 1972 and the main unit is now known as Union Correctional Institution. Reubin Askew, ‘Governor Askew’s Supplemental Message to the Legislature’, in *Journal of the Florida House of Representatives*, Second Regular Session (Tallahassee: House of Representatives, 1972), 10-11, 11.

guards.<sup>55</sup> According to Tom Loyd, who was imprisoned during an earlier uprising in 1956, prisoners had raised all these demands except the latter one 15 years prior.<sup>56</sup>

Initial news reports cited officials who monitored the protests and stated that the situation at Raiford remained calm. *The Tampa Tribune* quoted James Bax, Secretary of the Department of Health and Rehabilitative Services: Prisoners “are depriving themselves of the opportunity to eat. Thus far the inmates have not hurt any person or property I think they have proven their point.” Bax went on to state that both black and white prisoners participated in the strike.<sup>57</sup> Notably the government official called the protest a strike. Although the public did not view strikes favorably, voicing concerns by retracting labor was definitely viewed more favorably than rioting. Journalist Martin Dyckman also made a point in calling the protests at Raiford a “sit-down strike,” an “incident,” or “disturbance.”<sup>58</sup>

A prisoner delegation consisting of two representatives of each of the eight wings and the four initial spokespersons chosen by the strikers participated in negotiations on Thursday night and Friday morning. Two journalists also attended the talks between the prisoners’ delegates, Wainwright, and prison superintendent Donald Hassfurder. The presence of journalists during negotiations foreshadowed the negotiating committee in Attica, which consisted of sympathetic activists and journalists.<sup>59</sup> Prisoners asked Dyckman, who came to Raiford shortly after the

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<sup>55</sup> During the House Select Committee hearings Wainwright stated that of the 2,100 employees under his supervision, only 70 had ‘minority’ background. House Select Committee on Crime, 319.

<sup>56</sup> House Select Committee on Crime, 272. Al House was released in 1949 and had spent half of his life in Florida prisons; his writing was published in 1968. Al House, *Freedom from Florida Chains, Illustrated* (New York: Carlton Press, 1968).

<sup>57</sup> “Prison Strike Emphasizes Grievances,” *The Tampa Tribune*, February 12, 1971, A14. Prisons fell into the domain of the Secretary of Health and Rehabilitative Services. James Bax, headed the Florida Office of Economic Opportunity from 1967 to 1969 and the served as head of the Department for Health and Rehabilitative Services, which oversaw prisons, from 1969-1971. In 2016 Governor Scott appointed him to the Public Employees Relations Commission and Bax is considered to be a potent political donor to the GOP. Daniel Ducassi, “How Florida’s Well-Connected Medical Marijuana Chief Got His Job, Despite Little Experience,” *politico.com*, February 22, 2017.

<sup>58</sup> Conversation between Martin Dyckman and the author, Zoom-call, May 29, 2020.

<sup>59</sup> “Raiford Guards Fire on Strikers; 14 Hurt,” *The Tampa Tribune*, February 13, 1971, 1 and House Select Committee on Crime, 326.

protest had started, if he was willing to come inside to convey what he knew to the protesters. He did not view his role as a journalist as compatible with assuming a role as mediator between protesters and the prison administration. Even without Dyckman's involvement, the strike, which had lasted for 72-hours, came to an end on Saturday as negotiators reached an agreement.<sup>60</sup>

On Friday night, those prisoners camping at the yard in solidarity with their fellow prisoners still engaged in the hunger strike, allegedly charged for the fence. According to Wainwright, this charge and the fact that it was getting dark "forced" the guards to fire into the crowd to gain control. Forty-seven prisoners were initially reported injured, one of them, 23-year-old James Peoples from Broward County, seriously.<sup>61</sup> While officials maintained they only used shotguns loaded with birdshot, prisoner Robert Benson's wife alleged that guards used a machine gun to quell the protest.<sup>62</sup> Ultimately, officials admitted to the use of two submachine guns to 'control' the prisoners.<sup>63</sup> Adding to the confusion, prison inspector R. P. McLendon reportedly fired three rounds of teargas into the crowd.<sup>64</sup> The level of trust previously established during negotiations clearly vanished in the face of guards firing into protesters.

The negotiating team and their Brothers had voiced their demands in a mimeographed newsletter: better food and health care, hiring of black correctional officers – only 34 out of a total of 2,229 employees with Florida's Department of Corrections (FDC) were black at the time – and parole and vocational opportunities.<sup>65</sup> In newspaper reports Wainwright commented that demands brought forward by prisoners shifted frequently. And while Wainwright agreed with

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<sup>60</sup> Conversation between Martin Dyckman and the author, Zoom-call, May 29, 2020.

<sup>61</sup> "Raiford Prison Strikers Fired On with Shotguns," *Orlando Sentinel*, February 13, 1971, 1.

<sup>62</sup> "Machine Gun Use at Raiford Told," *The Tampa Times*, February 17, 1971, A15.

<sup>63</sup> House Select Committee on Crime, 327.

<sup>64</sup> Office of the Governor [Mulligan-Pride], *Raiford Prison Incident: Staff Report and Recommendations* (Tallahassee: Office of the Governor, May 4, 1971), 2 and Dyckman, Martin, "Askew Suspends 10 Raiford Officers, Guards," *St. Petersburg Times*, May 6, 1971, A19.

<sup>65</sup> "Guards. The Keepers of Their Brothers," *St. Petersburg Times*, reprinted in *Penal Digest International* 1, no 3, August 1971, 10.

many demands that prisoners raised, he did highlight their seemingly chaotic organization and articulated this assessment to discredit the protesters. Yet his comment also hinted at political processes taking place. Organizing and consensus building among prisoners took time, which in turn resulted in varying outcomes.

Arthur Adams, prisoner at Raiford and witness during the House Select Committee hearings, stated that the uprising was spontaneous. “I was in school when it first started. It started at the tag plant. The guys working there got tired of working, taking what they had to go through over there. They just started striking.”<sup>66</sup> Adams, who served a life sentenced for murder, came in front of the committee to speak about the study release program he was enrolled in at the University of Florida, while still being incarcerated at Santa Fe Correctional Farm in Gainesville.<sup>67</sup> When asked by Congressman Larry Winn (R-KS) about the ringleaders, Adams responded: “I don’t know that ‘ringleaders’ is the right word. There were people, inmates, chosen to go up and talk to Mr. Wainwright, and the news reporters that were there and the attorney general, and everybody else that was there.”<sup>68</sup> Winn’s question on ringleaders spoke to the widely held assumption that prison protests were either stirred up by communist agitators or instigated by other radical elements like the Black Panthers.<sup>69</sup> Adams insisted that the strike “wasn’t a planned thing. It just happened and after it started happening, everybody started participating.” Adams’ statement illustrated the spontaneous character of the Raiford protests. In the light of a non-existent long-term plan or conspiracy that critics desperately looked for, it made sense that prisoners adapted their initial demands. Hence what Wainwright described as

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<sup>66</sup> House Select Committee on Crime, 271. Like in many other states, prisoners at Raiford produced the bulk of Florida’s license plates.

<sup>67</sup> House Select Committee on Crime, 258.

<sup>68</sup> *Ibid.*, 271.

<sup>69</sup> Daniel Glaser, “Politicalization of Prisoners: A New Challenge to American Penology,” *American Journal of Correction* 33, no. 6, 1971, 6-9. See also House Committee on Internal Security House of Representatives, ed. *Revolutionary Activities Directed Towards the Administration of Penal or Correctional Systems*. (Washington: U.S. Government Printing Office, 1973).



“prisoners keep adding more demands to their original ones, it depends on who you talk to,” actually demonstrated prisoners’ political organizing efforts.<sup>70</sup> Dynamics of other prison uprisings suggest that platforms were constantly negotiated and compromises found as more prisoners joined in on the decision-making process. Prison authorities’ insistence on a long-term plan suggests awareness of traditions of prison organizing.

Either insisting on a conspiracy or on spontaneity, prison officials dressed the protests in a narrative that benefitted their goals. Garrett Felber points out that officials used spontaneity and the seemingly unprecedented nature of prison uprisings to frame their brutal response as a singular but necessary mobilization of force. In the face of the unique challenge raised by protesting prisoners, an excess of force appeared justifiable and warranted. By insisting on these extraordinary circumstances, officials silenced prior uprisings and racial struggles. The exceptional nature of authorities’ response then obfuscated the continuity of repression and violence against minorities and prisoners alike.<sup>71</sup>

In another attempt to discredit protesters newspapers and prison officials highlighted prisoners’ acts of vandalism: They had destroyed recreational equipment. Critics denounced the destruction of the boxing ring, benches, and other equipment as senseless and mindless. Scholar Jeffrey Ian Ross suggests that prisoners’ destructive behavior exemplifies “low-scale, unconscious rebellion,” and Orisanmi Burton shows that organizing disorder fundamentally challenges prison authorities’ hold on the carceral regime.<sup>72</sup> In the context of an ongoing hunger strike destruction of prison property becomes political. During other uprisings these acts served to erect barricades or simply presented the only feasible way of expressing anger and frustration.

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<sup>70</sup> “Raiford Guards Fire on Strikers; 14 Hurt,” *The Tampa Tribune*, February 13, 1971, 1, 17.

<sup>71</sup> Felber, *Those Who Know Don’t Say*, 182.

<sup>72</sup> Jeffrey Ian Ross, ‘Resisting the Carceral State: Prisoner Resistance from the Bottom Up,’ *Social Justice* 36, no. 3 (2009): 28–45, 33 and Burton Orisanmi, ‘Organized Disorder: The New York City Jail Rebellion of 1970,’ *The Black Scholar* 48, no. 4 (2018): 28–42, 28.

The east wing hunger strike ended on Saturday the 13<sup>th</sup> with a compromise. Through their collective action prisoners achieved the installation of an “inmate council” and three hundred additional desks in half of the cells in the maximum-security wing.<sup>73</sup> For Wainwright the threat of future ‘riots’ loomed around the corner unless legislators swiftly acted on prison and particularly parole reform.<sup>74</sup> By simultaneously embracing prisoners’ demands for parole reform and warning of potential ‘riots,’ reform advocates exerted pressure on reluctant state legislators. Wainwright could not have anticipated how soon protests would erupt again.

On Monday February the 15<sup>th</sup> prisoners continued to voice their discontent by refusing to work in Raiford’s plants.<sup>75</sup> Even the 15-20 groups of prisoners sent out on highway jobs laid down their work.<sup>76</sup> These coordinated efforts speak to the highly organized character of the Raiford uprising. Tensions still ran high as another incident shows: Prisoners had gathered at the prison hospital to visit their injured Brothers and had taunted guards, who in response fired shots at the hospital.<sup>77</sup>

Prisoners in Raiford’s east wing grew more disgruntled and a fight broke out on Tuesday February the 16<sup>th</sup> when kitchen staff walked out during lunch. According to newspaper reports more than one hundred guards and members of Highway and Marine Patrol fought with prisoners. Ultimately they identified 22 black and white ‘ringleaders’ and separated them.<sup>78</sup> By beating these perceived leaders with clubs on “backs, buttocks, and thighs” in the isolation tract called “Flat-Top,” guards tried to re-assert their authority. Prisoner Joe Peel attested to this

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<sup>73</sup> “Rioting Subsides: Raiford Restive, but ‘Normal,’” *The Tampa Tribune-Times*, February 14, 1971, B1.

<sup>74</sup> Jack Gardner, “Parole Reform or Riots, Prisons Director Warns,” *Orlando Sentinel*, February 14, 1971, 1-2.

<sup>75</sup> On prison labor activism as part of labor history see: Heather Ann Thompson, ‘Rethinking Working-Class Struggle through the Lens of the Carceral State: Toward a Labor History of Inmates and Guards,’ *Labor* 8, no. 3 (2011): 15-45.

<sup>76</sup> “Gunfire, Gas Calm Raiford Prisoners,” *The Tampa Tribune*, February 16, 1971, A2, A4.

<sup>77</sup> “Raiford Still Seethes. Highway Patrol Squads Stand by for New Trouble,” *The Tampa Times*, February 16, 1971, 1 and House Select Committee on Crime, 342.

<sup>78</sup> “Prisoners in Battle,” *The Tampa Times*, February 17, 1971, 1, A6.

torture in *The Tampa Times*.<sup>79</sup> Ultimately prison guard Edward Roberts came out in an interview broadcasted on WJXT, a Jacksonville station. He confirmed that guards beat up eight prisoners during the Flat-Top incident. Roberts alleged that superintendent Donald Hassfurder, assistant warden Robert V. Turner, and head of prison security Major Ira Curtis McKenzie also witnessed the beating.<sup>80</sup> Captain Kenneth Johns was the officer in charge at the scene.<sup>81</sup> By Wednesday the toll of injured prisoners had risen to close to 80 when two additional prisoners were hurt after the tried to persuade laundry workers to strike.

First doubts about the alleged charge for the fence that triggered the Friday night shootout appeared in newspapers on February 19<sup>th</sup>. Journalists Kent Pollock and Jack Anderson questioned the official version of events. Anderson's involvement in particular triggered anxieties within official circles due to his widely known critical pieces. In his *Washington Post* article Anderson cited prisoners who challenged the official narrative. One prisoner stated: "At no time [...] did anyone move toward or rush the fence. It would be pure suicide to attempt to escape over these three fences."<sup>82</sup> Anderson's article also stated that the negotiating team had been locked up in the Flat-Top, that the men's testicles had been violated, and that higher caliber weapons than initially reported had been fired.

On Friday the 19<sup>th</sup>, a week after the protest broke out, the American Civil Liberties Union (ACLU) filed a lawsuit in Jacksonville to get the federal government to take over Raiford.<sup>83</sup> Lawyer Carol W. Scott got 36 prisoners to sign onto the suit, among them badly injured James

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<sup>79</sup> "Guard Brutality Charged," *The Tampa Times*, February 20, 1971, 1.

<sup>80</sup> "Convicts Beaten Guards Says," *The Tampa Times*, February 25, 1971, A14.

<sup>81</sup> Roberts and McKenzie would go on and testify in front of the House Select Committee on Crime in December that same year. House Select Committee on Crime, 345.

<sup>82</sup> Jack Anderson, "Fla. Convicts Call Shooting Wanton," *Washington Post*, February 19, 1971, D15.

<sup>83</sup> "Raiford Probes Ordered," *The Tampa Times*, February 19, 1971, A4. Suits by two groups of prisoners consisting of James Peoples, Alfred St. Laurent, and John Doe and Michael Miles Belsky, Fred Yokum, and Elester Samuel Roberts were consolidated into one case. Peoples v. Wainwright 325 F. Supp. 402 (U.S. District Court, M.D Fla. 1971).

Peoples. Scott called guards' conduct during the protest the "Raiford Massacre."<sup>84</sup> Black and white pictures taken after the protests had ended show blood on cell floors and furniture.<sup>85</sup>

Governor Askew ordered two separate investigations into events at Raiford.<sup>86</sup> State Attorney Ted Duncan headed the first, and Governor Askew's press secretary Don Pride and aide Hugh Mulligan took charge of the second, which journalists were allowed to accompany. Askew's aides drew on reports by Wainwright, Bax, State Attorney Duncan, and interviews with correctional officers.<sup>87</sup> Jack Anderson's article moved Assistant Attorney General Jerris Leonard to call on the FBI to investigate a week later.<sup>88</sup> Special prosecutor State Attorney T. Edward Austin investigated as well and presented his findings to a grand jury in Jacksonville.<sup>89</sup> Austin interviewed Martin Dyckman, showed him an aerial photograph of Raiford, and laid out a ruler to signal the line of the alleged charge for the fence. Dyckman affirmed that such a charge never had taken place and recounts: "The only thing I had seen was prisoners crawling around and crouching, once the gunfire started, they were trying to avoid it."<sup>90</sup>

The wide variety of investigations and reports into Raiford foreshadowed the slew of committees and inquiries conducted in Attica's aftermath. Unlike Attica guards, correctional officers at Raiford had to face consequences for their actions. Captain Kenneth C. Johns responsible for the Flat-Top incident was fired. Lieutenant Thomas L. Barton, Sergeant Guy H. Dyal, Sergeant Ferrell E. Manning, Sergeant Keith E. Albritton, Sergeant Donald F. Dobson,

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<sup>84</sup> "Guard Brutality Charged," *The Tampa Times*, February 20, 1971, 1.

<sup>85</sup> "Raiford Prison – Aftermath of 1971 Riot," floridamemory.com, Photographic Collection, N027346-52, 1971.

<sup>86</sup> "Raiford Probes Ordered," *The Tampa Times*, February 19, 1971, A4.

<sup>87</sup> Office of the Governor [Mulligan-Pride], *Raiford Prison Incident*.

<sup>88</sup> FBI, Jack Anderson Files, 8/11, February 23, 1971, 102-7, <https://vault.fbi.gov/jack-anderson/jack-anderson-part-08-of-11/view>, 102.

<sup>89</sup> Office of the Governor [Mulligan-Pride], *Raiford Prison Incident*, 1 and Martin A. Dyckman, *Reubin o'D. Askew and the Golden Age of Florida Politics* (Gainesville: University Press of Florida, 2011), 118. Brian Corrigan, the public information officer in Duval County's Clerk Office said during a phone call on March 10, 2020 that grand jury findings, if not published in a presentment, are confidential and not available for researchers. These records are usually destroyed after ten years, especially if no indictments were brought.

<sup>90</sup> Conversation between Martin Dyckman and the author, Zoom-call, May 29, 2020.

Officers Harry W. Tison, and Aubrey D. Thornton were suspended for ten days.<sup>91</sup> Wainwright reprimanded assistant warden Robert Turner and suspended Major Curtis McKenzie. The latter's suspension was later lifted.<sup>92</sup> McKenzie ultimately got promoted and worked as Florida's Correctional Security Coordinator. His experience at Raiford made him an expert on prison protests. A report credited him with assisting in the development of "Riot and Disorder Plans" for every Florida prison and with setting up "Control Force Teams."<sup>93</sup>

Raiford prisoner Donald L. Martin, who had been wounded by machine gun bullets remembered Lieutenant Tom Barton's actions vividly: "Lt. Barton asked me to show my wound, then hit me directly on the open gash with a leaded blackjack."<sup>94</sup> His conduct did not reflect badly on Barton, however, who went on to become superintendent of Florida State Prison in 1987. While he climbed the correctional career ladder, he used deadly force against four prisoners and physical force at least 42 times.<sup>95</sup>

Raiford prisoners engaged in protest forms well rehearsed during the 1960s. Banding together, retracting labor, and staging sit-ins would serve prisoners well in an attempt to address their grievances. They did so in a political environment ready to embrace a new radical vanguard – the organized prisoner. While George Jackson had laid the groundwork in Soledad and Attica prisoners would send a spark to prisons all across the country, Raiford prisoners, though regionally secluded, did their part to send off the prisoners' rights movement.

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<sup>91</sup> House Select Committee on Crime, 346. Initially the governor's office had called for 30 days for Johns and 20 for the others involved. Office of the Governor [Mulligan-Pride], *Raiford Prison Incident*, 13 and Martin Dyckman, "Raiford Shootings Outrage Jury," *St. Petersburg Times*, July 31, 1971, B1.

<sup>92</sup> House Select Committee on Crime, 345. State Representative Eugene Shaw, who represented the Raiford area and the employees working there, protested the suspensions and alleged, "a reprimand would have a direct effect on the morale of the institution." "A Plea For Raiford: Reaffirm Authority," *St. Petersburg Times*, May 7, 1971, B2.

<sup>93</sup> Oliver J. Keller, *Overcrowding. Florida Department of Corrections. Annual Report 1973-74* (Tallahassee: Department of Health and Rehabilitative Services, 1974), 30.

<sup>94</sup> "Inside Raiford-The Case Against Louie Lee Wainwright," *Both Sides Now*, September 1971, 21.

<sup>95</sup> Harry Straight, "Prison Chief Barton: Tough Guy, Tough Job," *Orlando Sentinel*, May 17, 1987, A1.

### Chapter Three: Fighting the Emerging Carceral State: Florida's Prison Activists

“I never witnessed any violence by inmates directed towards anybody. Neither other inmates nor the correctional personnel. The inmates were public relations conscious in this thing. It was simply a show for the State legislature.”<sup>96</sup> Former guard Edward Roberts’ testimony in front of the House Select Committee spoke to a critical component of prison organizing. Raiford Prisoners followed a strategy of non-violence to win over the public. To communicate their grievances prisoners only had a limited arsenal at their disposal. Banding together in a show of force and addressing their grievances via sit-ins or strikes represent the most elaborate forms of prison organizing, which, if done peacefully, would potentially garner support among the public. Other strategies like letter writing and filing individual complaints, known as “writ writing,” both within prison or via litigation, exemplify a more individualistic approach. Civil Rights activists had pioneered these tactics and the emerging Black Power movement perfected them. Historian Dan Berger speaks to this increase in collective organizing: “If Malcolm X had taught a generation that prison could be the site of personal transformation, the Black Panthers showed that it could also be a site of collective transformation.”<sup>97</sup> Taken together these tactics aimed to transgress the isolation to which prisoners were subjected. For Berger, “riots, writing, and collective rituals were the building blocks of prison radicalism.”<sup>98</sup>

Prisoners did not just write letters to loved ones or political supporters, they actively searched for pen pals in underground newspapers to correspond with. Robert Vezinat, a prisoner

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<sup>96</sup> House Select Committee on Crime, 302.

<sup>97</sup> Berger, *Captive Nation*, 66. For an overview on Black Power research see Peniel E. Joseph, ‘The Black Power Movement: A State of the Field,’ *Journal of American History* 96, no. 3 (2009): 751-76.

<sup>98</sup> Berger, *Captive Nation*, 6.

at Raiford, expressed the wish to talk to former prisoners in the Atlanta-based *The Great Speckled Bird*: “Brother in prison would like to correspond with brothers & sisters outside.”<sup>99</sup> Many prisoners, burdened with loneliness, sought pen pals for diversion or romance. Alonzo Harrell advertised in the *Berkley Barb*: “I’m a very lonely brother, 5’9”, 150lbs, single with no family or friends to correspond with.”<sup>100</sup> Including physical traits not only hinted at romantic intentions but also broke down prison’s visual isolation and enabled prisoners to forge bonds beyond prison walls. Marshall J. Hill called on sympathetic readers to temporarily distract him from his financial burdens: “All my mail is bills from outside! Can’t you write me?”<sup>101</sup> Some prisoners sought out pen pals together like P. C. Henley and Leslie Horton, who were looking “to hear from anyone female or male.”<sup>102</sup> So did Claude L. Robinson and Elwood LaMar Albright, who sought “Penned Pals” in the *Ann Arbor Sun*.<sup>103</sup> Being confined with limited opportunities to move and long stretches of isolation took a physical and psychological toll on prisoners. Staying actively engaged and seeking out strangers represented one of prisoners’ survival strategies.

Dan Berger finds that “prison may restrict physical mobility, but it is also based on movement.”<sup>104</sup> Prisoners circulated through various institutions during their time of incarceration, either due to administrative considerations, to protect, or to punish them.<sup>105</sup> By relocating prisoners, correctional officials also enabled the circulation of ideas. Prisoners brought their organizing experience and political convictions with them.

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<sup>99</sup> Robert Vezinat, “Personals,” *The Great Speckled Bird* 4, no. 40, October 4, 1971, 31.

<sup>100</sup> Alonzo Harrell, “Barb Classified A,” *Berkley Barb* 34, no. 19, November 19-24, 1976, A11.

<sup>101</sup> Marshall J. Hill, “Barb Classified A,” *Berkley Barb* 24, no. 10, September 17-23, 1976, A11.

<sup>102</sup> P.C. Henley, Leslie Horton, “Barb Classified A,” *Berkley Barb* 23, no. 7, February 27 - March 4, 1976, A12.

<sup>103</sup> Claude L. Robinson and Elwood LaMar Albright, “Penned Pals,” *Ann Arbor Sun* 3, no. 16, July 30, 1975, 14

<sup>104</sup> Berger, *Captive Nation*, 2.

<sup>105</sup> Felber identifies this practice as “drafts” which aimed at breaking “up gangs, separate associates in crime, and prevent disorder.” Felber, *Those Who Know Don’t Say*, 59.

During the 1970 Folsom State Prison strike a group of prisoners drew up demands that aimed at the prison population as a whole.<sup>106</sup> Prisoners destroyed their cells in the section known as Folsom, which belonged to the San Quentin prison complex. In doing so they forced their relocation to the main facility.<sup>107</sup> These seemingly random acts of vandalism served the purpose of being transferred and therefore being able to organize fellow prisoners. Similar reasons like the desire to overcome the separation between the main unit and the east wing might have motivated prisoners' acts of vandalism in Raiford. Garrett Felber, who published his book on the Nation of Islam (NOI) and its prison organizing efforts in 2020, put it this way: "Prison officials tried to stamp out Muslim practice and activism through transfers, solitary confinement, and loss of good time credit, and prisoners countered with hunger strikes, sit-ins, and litigation."<sup>108</sup>

If prisoners were to be successful in overcoming incarceration's perceived totality, people on the outside needed to show support. Activists, particularly those who had been incarcerated and knew how important continuous outside support was, disseminated this view among their peers. Activist-infused legal defense campaigns on behalf of Angela Davis, Huey Newton, and Eldridge Cleaver speak to the importance of outside support. Activists who faced trial and possibly imprisonment such as the Chicago Eight made a media frenzy out of their trials.<sup>109</sup> Jerry Rubin, sentenced to prison as one of the Chicago Eight, stressed the necessity for allies to organize outside: "For any rebellion within a jail to win, people on the outside must take an active part. Revolts within a jail must be matched by demonstrations outside."<sup>110</sup> Otherwise, the logic went, prison's isolation tactics would crush protests. Less than six months before the

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<sup>106</sup> Inmates of Folsom Prison, 'Folsom Manifesto, 1970,' in *Imprisoned in America*, ed. Cynthia Owen Philip (New York: Harper & Row, 1973), 167-70.

<sup>107</sup> Berger, *Captive Nation*, 2.

<sup>108</sup> Felber, *Those Who Know Don't Say*, 2.

<sup>109</sup> Other well known cases include the Camden 28, Harrisburg 8, Los Angeles 13, New York 21, Oakland 7, and Seattle 7. Berger, *Captive Nation*, 78.

<sup>110</sup> Jerry Rubin, *We Are Everywhere*, (New York: Harper & Row, 1971), 16.



Raiford protests, the Quincy Five stood in the spotlight: Five young black men were accused of and sentenced for killing a deputy sheriff in Quincy near Tallahassee. They were exonerated later in 1972. Members of their defense fund told their story and asked for contributions in *The Great Speckled Bird*.<sup>111</sup> In the Raiford case the support came from the ACLU and lawyer Carol W. Scott, who filed suit on behalf of 36 prisoners. Other organizations also spoke up on prisoners' behalf, like NAACP field director Marvin Davies who called on Wainwright to resign.<sup>112</sup>

Veteran Civil Rights organizations such as the Congress for Racial Equality (CORE), the Southern Christian Leadership Conference (SCLC), or the Student Nonviolent Coordinating Committee (SNCC) had experience organizing in Florida. Patricia and Priscilla Stephens, members of CORE and part of the Tallahassee sit-ins in February 1960, even went to jail for their convictions.<sup>113</sup> They pursued a fill-the-jails strategy that Civil Rights activists had developed to highlight the injustices within the court and prison system. Most prominently, Dr. Martin Luther King Jr. and Rev. Ralph Abernathy were arrested on June 11<sup>th</sup>, 1964 after a rally in St. Augustine, Florida.<sup>114</sup> Booking King proved to be a public relations disaster for involved officials. By refusing bail and staying in jail, King turned his incarceration into a tactical advantage.<sup>115</sup>

Dan Berger stresses that the ubiquity of Civil Rights advocates arrests' led them to transform jail and prison into political stages. King himself stated that "to the Negro, going to jail

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<sup>111</sup> Tom, Susan, and Dave, "Quincy Five," *The Great Speckled Bird* 4, no. 29, July 19, 1971, 9, 22. See Jeffrey Lickson, *David Charles; the Story of the Quincy Five* (Tallahassee: Mockingbird Press, 1974).

<sup>112</sup> "NAACP Field Director Marvin Davies calls for the removal of Louis Wainwright," *floridamemory.com*, Photographic Collection, PT02198, March 9, 1971.

<sup>113</sup> Ruth Rolen, "Sisters Jailed in Student Lunch Counter Protest Visit Here; Tell of Experiences," *The Philadelphia Tribune*, May 24, 1960, 20. See also Irvin D. S. Winsboro, ed., *Old South, New South, or down South? Florida and the Modern Civil Rights Movement* (Morgantown: West Virginia University Press, 2009).

<sup>114</sup> Justine Griffin, "King Was Arrested in St. Augustine," *St. Augustine Record*, January 17, 2011, <https://www.staugustine.com/article/20110117/NEWS/301179976>. See also Zoe A. Colley, *Ain't Scared of Your Jail: Arrest, Imprisonment, and the Civil Rights Movement* (Gainesville: University Press of Florida, 2012) and Dan R. Warren, *If It Takes All Summer: Martin Luther King, the KKK, and States' Rights in St. Augustine, 1964* (Tuscaloosa: University of Alabama Press, 2008).

<sup>115</sup> Schoenfeld, *Building the Prison State*, 50.

was no longer a disgrace but a badge of honor.”<sup>116</sup> Black Panthers picked up on the tradition of jails and prisons as places of organizing and theorizing. *Soul on Ice* by Eldridge Cleaver, George Jackson’s *Soledad Brother*, or Angela Davis’ *If They Come in the Morning: Voices of Resistance* summarized this thinking.<sup>117</sup>

Organizations like the Weather Underground, an offshoot of Students for a Democratic Society (SDS), coopted black radicals’ strategies and looked to Black Panthers for leadership and guidance. The majority white organization embraced prison activism and its tactics as an arena of political combat. Berger finds that “prison organizing during the civil rights era took on the political tone and style of black radicalism.”<sup>118</sup> Caring about prisoners’ rights became paramount for radicals and an expression of solidarity with Black Panthers. Weather leader Bernardine Dohrn expressed this sentiment when she responded to the death of George Jackson in 1971: “The history of Black people in this country has been one of passionate resistance to the slave masters. All too often they have had to wage that fight alone. Black and Brown people inside the jails are doing all they can- must they fight alone even now?” For Dohrn and other Weather members, solidarity with Panthers meant engaging a racist criminal justice system. “White people on the outside have a deep responsibility to enter the battle at every level. [...] We view our action [bombing of a New York City police station] as simply a first expression of our love and respect for George Jackson and the warriors of San Quentin.”<sup>119</sup>

Activists did not simply enlist in the fight for prisoners’ rights; their own incarceration yielded personal benefits within respective organizations as well. Cathy Wilkerson, another

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<sup>116</sup> Berger, *Captive Nation*, 38.

<sup>117</sup> Eldridge Cleaver, *Soul on Ice* (New York: Random House, 1968); Jackson, *Soledad Brother*; and Angela Y. Davis, *If They Come in the Morning: Voices of Resistance* (New York: Third Press, 1971).

<sup>118</sup> *Ibid.*, 7.

<sup>119</sup> Bernardine Dohrn, Bill Ayers, and Jeff Jones, eds., *Sing a Battle Song: The Revolutionary Poetry, Statements, and Communiqués of the Weather Underground 1970-1974* (New York: Seven Stories Press, 2006), 178.

Weather member, spoke to the promise that the status of a veteran of imprisonment entailed: “The idea of belonging to a vanguard was seductive, whether it was religious, corporate, or ideological. It felt good to be part of the elite, reassuring in an unsettled world.”<sup>120</sup> Historian Lee Bernstein found that “the prison culture of the 1970s demonstrated widespread hopes for collective liberation brought about by a revolutionary movement with incarcerated people among its vanguard.”<sup>121</sup> These activists, many with experiences of imprisonment themselves, went on to advocate for prisoners’ rights. Her prison time stayed with Wilkerson as she engaged in advocacy for and legal support of prisoners on lawyer Elizabeth Fink’s Attica team.<sup>122</sup> Frank Smith, an Attica Brother himself, advocated on behalf of his Brothers after he was released. Dan Berger, who writes extensively on the Weather Underground and prison organizing, states: “Black radicalism established the context in which the New Left and others raised critiques of imprisonment.”<sup>123</sup>

However, Heather Schoenfeld, who published the most recent study on Florida’s prison system, finds that “Florida lacked any prisoner rights organizations in either space [in or outside].”<sup>124</sup> No big rallies were held for Raiford prisoners and nothing like the Attica Brother Legal Defense (ABLD) was set up, although organizing efforts did exist.<sup>125</sup> This can partly be

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<sup>120</sup> Cathy Wilkerson, *Flying Close to the Sun: My Life and Times as a Weatherman* (New York: Seven Stories Press, 2007), 275. Kunzel establishes that “leftist credibility seemed to depend on radical prison activism.” Kunzel, *Criminal Intimacy*, 193.

<sup>121</sup> Bernstein, *America Is the Prison*, 7.

<sup>122</sup> Wilkerson, *Close to the Sun*, 388.

<sup>123</sup> Berger, *Captive Nation*, 51 and Dan Berger, *Outlaws of America: The Weather Underground and the Politics of Solidarity* (Oakland: AK Press, 2006).

<sup>124</sup> Schoenfeld, *Building the Prison State*, 76.

<sup>125</sup> In 1973 Vietnam Veterans Against the War organized a demonstration in solidarity with 14 black inmates who had been assaulted and stood trial on riot charges. “Repression and Rebellion Starke,” *Wintersoldier*, December 1, 1973, 15. The Gainesville chapter set up a defense fund for prisoners at Starke/Raiford. “Report from Gainesville,” *Wintersoldier*, November 22, 1973, 5. The Tallahassee based Malcolm X United Liberation Front founded by Robert Perkins, galvanized around ideas of Black Nationalism and adhered to Marxist-Leninist convictions. Malcolm X United Liberation Front, “What We Believe” (Roz Payne Sixties Archive, Center for Digital Research in the Humanities, University of Nebraska-Lincoln, 1969), <https://rozsixties.unl.edu/items/show/584> and “MXULF Conference,” *The Great Speckled Bird* 4, no. 47, November 22, 1971, 8.

explained by the lack of indictments. Without any prisoners who faced trial and judgment by a potentially unsympathetic jury, organizing effort ran aground. The lack of information on organizing efforts might also result from the character of the historical archive. Narratives that follow the authorities' viewpoint and media coverage less sympathetic to prisoners dominate historical record. Although liberal papers like the *St. Petersburg Times* portrayed the protests favorably and occasionally mentioned organizers' efforts, the overall coverage remained steadfast on prison authorities' side. Police repression and supervision of prisoners' potential allies serves as yet another explanation.

#### Intimidating Prison Organizers: The FBI and Florida Prisoners' Allies

The FBI's Counter Intelligence Program (COINTELPRO) established its own division for the supervision of black radical organizations early on. Field offices in Jacksonville, Miami, and Tampa frequently reported on organizations like the Nation of Islam (NOI). Agents plotted to sow mistrust between and within radical organizations.<sup>126</sup> By trying to create fissures in the NOI, federal agents actively influenced the public's perception of radical organizations as prone to conflict and strife.<sup>127</sup> Jumping on this narrative WCKT-TV, a Miami-based station, produced a documentary on the New Left and Black Nationalist organizations in Florida that aired in July of 1968. The FBI provided the producers with information and FBI officials deemed the outcome so favorable that headquarters encouraged other field offices to actively pursue similar

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<sup>126</sup> FBI, COINTELPRO, Black Nationalist-Hate Groups, Section 2, May 17, 1968, 140-1. The Tampa office might have been installed due to riots in June 11-14, 1967. Felber argues that COINTELPRO merely represents the tip of the iceberg of professional surveillance. Local law enforcement units like Bureau of Special Services (BOSS) in New York exemplify the collaboration between local and federal surveillance operations. Felber, *Those Who Know Don't Say*, 85, 154.

<sup>127</sup> "Black Muslims Split Linked to Finances," *Florida Sentinel Bulletin* 25, no. 10, January 18, 1972, 14.

projects.<sup>128</sup> In 1969 the Miami field office informed headquarters of yet another ‘cooperation:’ a documentary on the NOI that “could go a long way in bringing the activities of the NOI to the attention of the general public and in that manner drastically curtail their activities.”<sup>129</sup> To influence the public’s opinion on radical black organizations, the FBI not only criminalized political activism but also painted those accused of acting in a criminal manner as lazy. In September of 1969 agents suggested emphasizing the fact that fourteen activists who had been arrested also received funding from the Office of Economic Opportunities (OEO). By releasing this information the FBI discredited the welfare state and also proliferated the narrative of black welfare recipients turned criminals.<sup>130</sup>

Agents frequently monitored organizations like CORE, SCLC, SNCC, the Florida Black Front (FBF), Students for a Democratic Society (SDS), United Black Students (UBS), and the Junta of Militant Organizations (JOMO). The latter group formed on June 22<sup>nd</sup>, 1968. In November that same year the Tampa office requested permission to interview members to gather additional information.<sup>131</sup> Agents believed that the interviews could also be useful to achieve another goal: “It is felt that the interview will serve to harass and bewilder the other members of JOMO.”<sup>132</sup> These strategies also aimed at potential prison organizing efforts.

Newspapers like *The Tampa Tribune* jumped on the bandwagon and reported in sensationalist manner and warned their readers that the militant black organization was coming

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<sup>128</sup> FBI, COINTELPRO, Black Nationalist-Hate Groups, Section 3, July 15, 1968, 214-43 and FBI, COINTELPRO, Black Nationalist-Hate Groups, Section 3, August 8, 1968, 1479. Previous documentaries focused on the Ku Klux Klan and the National States Rights Party. FBI, COINTELPRO, Black Nationalist-Hate Groups, Section 6, January 22, 1969, 152.

<sup>129</sup> FBI, COINTELPRO, Black Nationalist-Hate Groups, Section 6, January 22, 1969, 152.

<sup>130</sup> FBI, COINTELPRO, Black Nationalist-Hate Groups, Section 12, September 16, 1969, 219-20. See also Robert Novak and Evans Rowland, “OEO Attorneys Help Leftist Lawbreakers,” *The Tampa Tribune*, May 7, 1971, A16.

<sup>131</sup> JOMO later merged with two other organizations into the African People’s Socialist Party. *The Burning Spear*, JOMO’s official newspaper, still exists today. “The Burning Spear Celebrates 50 Years,” *theweeklychallenger.com*, December 20, 2018, <http://theweeklychallenger.com/the-burning-spear-celebrates-50-years/>.

<sup>132</sup> FBI, COINTELPRO, Black Nationalist-Hate Groups, Section 5, November 19, 1968, 160.

to town. Omali Yeshitela, JOMO's national chair, planned to actively advocate for Connie Tucker's freedom. Tucker, JOMO's Florida chairperson, faced a prison sentence based on charges of drug possession.<sup>133</sup> In May 1971 five hundred protesters in Kentucky gathered to demand Tucker's freedom, activists set up the National Committee to Free Connie Tucker and a corresponding defense fund, and *The Great Speckled Bird* covered Tucker's story extensively.<sup>134</sup> By intimidating JOMO activists, the FBI also undermined concerted organizing efforts on prisoners' behalf.

Yeshitela had previously been active in Black Power contexts, among them a protest against the arrests of Jack Dawkins and Carol Thomas, two activists who organized the poor in Gainesville. Their arrest and treatment in jail led prisoners to protest in 1967. Levy Wilcox, founder of the Jacksonville SCLC, also participated in the protest, and students at the University of Florida provided much-needed financial support.<sup>135</sup> Black and Latinx organizations across the board joined together to critique the carceral state and the FBI worked to subvert their efforts.<sup>136</sup> FBI agents also used these already-proven tactics to inhibit the formation of a Black Panther

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<sup>133</sup> Yeshitela was known as Joe Waller back then. "Militants Come to Tampa," *The Tampa Times*, February 27, 1971, A4.

<sup>134</sup> Jomo Minister of Information, "JOMO," *The Great Speckled Bird* 4, no. 25, June 21, 1971, 12; National Committee to Free Connie Tucker, "Connie Tucker Convicted; Faces Five-Year Sentence," *The Southern Patriot*, Louisville, Southern Conference Educational Fund, April 1971; The Southern Conference Educational Fund, "Grass Bust in Fla... Jomo Leader Jailed," *The Great Speckled Bird* 4, no. 18, May 3, 1971, 9. Southern Conference Educational Fund worked closely with SNCC. Catherine Fosl, *Subversive Southerner: Anne Braden and the Struggle for Racial Justice in the Cold War South* (New York: Palgrave Macmillan, 2002). See also SNCC Legacy Project, <https://snccdigital.org>.

<sup>135</sup> Southern Patriot, "Gainesville:Dawkins:Freedom," *The Great Speckled Bird* 1, no. 7, June 7-20, 1968, 9. UF held the title Berkley of the South among activists. "Black Militants Jailed," *The Southern Patriot* 26, no. 6, July 15, 1968, 3. Another Florida University featured prominently in 1960s student activism. William Marshall and Stephen Parr refer to Florida State University as the Berkley of the South or East respectively. J. Stanley Marshall, *The Tumultuous Sixties: Campus Unrest and Student Life at a Southern University* (Tallahassee: Sentry Press, 2006) and Stephen Eugene Parr, 'The Forgotten Radicals: The New Left in the Deep South, Florida State University, 1960 to 1972' (Dissertation, Florida State University, 2000).

<sup>136</sup> The Young Lords Party's newspaper *Palante* featured the defense fund for JOMO member Albert Courtney, who received a one-year sentence in St. Petersburg. "Beat Is Gettin' Strong," *Palante Latin Revolutionary News Service* 3, no 4, March 5, 1971, 3.

chapter in the Miami area.<sup>137</sup> By intimidating activists through official FBI interviews, the federal agency actively tried to suppress prison-organizing efforts.

Federal investigators also spent considerable energy on derailing Elijah Muhammad's Nation of Islam. FBI agents frequently furthered allegations of corruption or misconduct within the organization by posing as concerned members. While NOI came under pressure on the outside, Muslim prisoners in Raiford organized and petitioned the governor under the banner of the Muslim Brother-Hood, the NOI's prison branch.<sup>138</sup> Raiford Muslims also maintained contact with Thomas X Howard in Lorton Reformatory in Virginia, who sent them a copy of *Black Muslims on the Move in Prisons*.<sup>139</sup>

Those eighteen Muslim prisoners signing the petition to Governor Askew called for fair treatment of prisoners, denounced racist prison guards, and proclaimed black and white unity.<sup>140</sup> By invoking Article Eight of the Universal Declaration of Human Rights and calling treatment they were subjected to "genocidal," prisoners invoked the language of Black Nationalism. The heritage of chattel slavery served as another reference point to critique their current incarceration. Berger finds that "through nationalism, prisoners identified their struggle with long-standing black resistance to slavery."<sup>141</sup> Since full citizenship though guaranteed by the Civil Rights Act did not mean an end to racism and discrimination, black radicals looked for

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<sup>137</sup> FBI, COINTELPRO, Black Nationalist-Hate Groups, Section 12, August 27, 1969, 208.

<sup>138</sup> Felber, *Those Who Know Don't Say*, 51.

<sup>139</sup> Edward E. Curtis, *Black Muslim Religion in the Nation of Islam, 1960-1975* (Chapel Hill: University of North Carolina Press, 2009), 145.

<sup>140</sup> Muslim Brother-Hood, "From the Raiford Muslims to Gov. Askew," *Both Sides Now*, April, 1971. Prison authorities did not document how many prisoners were Muslim. Although FDC counted more than nine Christian denominations and recorded 0.09 and 0.05 percent as Mormon in reports on 1970-72 and 1973-74, no category counted Muslims. In 1972 35 percent and in 1974 20 percent of prisoners were subsumed in the categories "none," "Other," or "Incomplete Data." Emmett S. Roberts, *Florida Department of Corrections. 8th Biennial Report 1970-72* (Tallahassee: Department of Health and Rehabilitative Services, 1972), 101 and Keller, *Overcrowding*, 61. Felber stresses that correctional officials did their best to shed doubt on black Muslims' faith and call their adherence to Islam orthodoxy into question. The American Correctional Association's resolution of 1962 derided NOI members as sectarian and denied them religious practices. Felber, *Those Who Know Don't Say*, 49.

<sup>141</sup> Berger, *Captive Nation*, 9.

alternative modes of association. According to Berger, Black prison organizers “described themselves as part of a captive nation to name their relation to the country [United States].”<sup>142</sup> Thinkers like Frantz Fanon, Lenin, and Jomo Kenyatta offered a meaningful framework of association other than a second-class citizenship or being incarcerated as a “slave of the state.” Since the term “genocide” describes atrocities against a national, ethnic, or religious group, black Muslim prisoners at Raiford voiced their resistance to incarceration by calling it genocidal and themselves a nation in captivity. They clearly built on a set of political arguments that had been voiced in the Civil Rights Congress’ 1951 petition to the UN titled “We Charge Genocide: The Crime of Government Against the Negro People.”

Utilizing the same logic, activists portrayed prisoners as prisoners of war: “Black people who are incarcerated by the fascists are P.O.W.’s. [sic] Some are not politically aware of the events that prompted them to be serving long prison stretches, but they realize that they were entangled in a vicious cycle created by the white man.”<sup>143</sup> While denouncing police and guards’ action as fascist clearly aimed to gain attention, the association with genocide and the entailing understanding of black people as a captive nation, formed the core of Black Nationalism that many black prison organizers adhered to.

Prisoner H. N. Lucas found Pan-Africanism a suitable framework to escape his incarceration experience. He attacked prisoners who did not concur with his analysis as traitors in a poem titled “mob of antiafrican niggers.” By calling black men on the in and outside “white washed” and denouncing them as collaborators who fell for “ameriklan trickeration,” Lucas

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<sup>142</sup> Ibid.

<sup>143</sup> “Area Black Militants Speak,” *Both Sides Now*, no. 13, February-March 1972, 13.



showcased fissures within the group of black prisoners.<sup>144</sup> Not all black prisoners endorsed Black Nationalism. In his poem “Dig-That,” prisoner Lamar Hill similarly criticized a “trick-baby with pale skin/white mask” who deceived himself by believing he would be “accepted by white folks.” Hill set out to school the “trick-baby” about proper blackness and how cozying up to white people by calling black women “hoes,” only reflected badly on him.<sup>145</sup> Black prisoners did not only establish what it means to belong to a captive nation in their poems but also what the proper gender roles within this nation should look like.

### Prison Writing: Alerting the Public and Combating Isolation

Individual prisoners and groups like Raiford’s Muslim Brother-Hood resorted to writing poems and petitions to sustain their activism. Prison writing provided an outlet to “both [those] incarcerated for their activism, such as [Martin Luther] King, and those whose activism arose from their incarceration” to engage the outside.<sup>146</sup> Petitions, poems, and articles allowed prisoners to voice their own opinions. In 1935 Raiford prisoners started to publish a magazine, the *Raiford Record*.<sup>147</sup> Although less political and no longer in circulation during the protests of 1971, prisoners had voiced their views on overcrowding, shared pieces of art, and promoted prison activities. Authors had to stay within the institutional lines drawn by prison administrators. If what prisoners deemed possible to say aligned with rehabilitative ideals, they

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<sup>144</sup> H. N. Lucas, Poem “mob of antiafrican niggers,” in *The Space Behind the Clock: Poems from Florida Prisons*, ed. Van K. Brock (Tallahassee: Anhinga Press, 1975), 47–48. These prisoners referred to Frantz Fanon’s study *Black Skin, White Mask*, published in 1952.

<sup>145</sup> Lamar Hill, Poem “Dig-That,” in *The Space Behind the Clock: Poems from Florida Prisons*, ed. Van K. Brock (Tallahassee: Anhinga Press, 1975), 46. Trick-Baby is also the title of a Blaxploitation film about a duo of black con artists who capitalize on one of the team members light complexion to successfully perform their scams. Larry Yust, *Trick-Baby* (Universal Pictures, 1972).

<sup>146</sup> Berger, *Captive Nation*, 36.

<sup>147</sup> James McGrath Morris, *Jailhouse Journalism: The Fourth Estate Behind Bars* (Jefferson: McFarland, 1998), 212.

did not encounter problems with those in control. Yet prisoners could consciously walk that thin line and transgress it occasionally via less ‘serious’ forms of texts, such as comics or poems that left just enough to the reader’s imagination as not to trigger a response by prison officials.<sup>148</sup> Just as prison administrators did not rule over “their” institution in a totalistic manner, they did not fully control and censor organs like the *Raiford Record*, which counted Robert E. O’Brien, Clyde Brown, and Gene Jones among its editors. The latter resigned his post as editor after he had filed a complaint protesting censorship. Jones later wrote for the *Penal/Prisoners’ Digest International*.<sup>149</sup> His resignation speaks to the control that prison authorities exerted over publications, which could also lead prisoners to internalize control by censoring themselves without the guards having to do so. Prisoners could also choose to avoid or subvert this form of censorship all together by producing clandestine newsletters and papers.<sup>150</sup>

Underground newspapers on the outside created the complementary forum to prisoners’ newspapers on the inside. By providing a platform for prisoners to voice their grievances and distributing information on prison activism, activists and organizers did their part to combat

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<sup>148</sup> John Leckey, “Overpopulation, a Greater Danger than Generally Realized,” *Raiford Record* 29, no. 2, 1968, 12-3. In 1963 the *Raiford Record* was awarded the “Maggie,” the best magazine award of the Florida Magazine Association. Russell N. Baird, *The Penal Press* (Evanston: Northwestern University Press, 1967), 13. The American Penal Press Contest awarded prizes for prison journalism beginning in 1965. The *Raiford Record* won the category Best Prison Magazine in 1966, which was introduced the same year. In 1967 John Leckey, who signed most of the *Raiford Record* volumes won the Charles C. Clayton Award for best single journalistic performance. Morris, *Jailhouse*, Appendix I. Selling prison art provided considerable financial resources to prisoners. At Leavenworth prisoners sold paintings worth 24,075\$. “Oddities in the News,” *Florida Police Journal* 16, no. 4, July-August 1969, 65. At Raiford Michael Callahan taught a small art class and 25-40 prisoners sold their art in an outlet in Gainesville. House Select Committee on Crime, 308.

<sup>149</sup> Letter of O’Brien to Jon Webb September 20, 1962. Jeff Weddle, *Bohemian New Orleans: The Story of The Outsider and Loujon Press*, (Jackson: University Press of Mississippi, 2007), 192; Baird, *The Penal Press*, 94; and Joseph W. Grant and Ken Wachsberger, *Stop the Presses! I Want to Get Off!: A Brief History of the Prisoners’ Digest International* (East Lansing: Michigan State University Press, 2012), 103. Gene Jones, “Letters to the Editor: Dear Joe...,” *Penal Digest International* 1, no. 3, August 1971, 4.

<sup>150</sup> Attica prisoners published the *The Iced Pig*, those in San Quentin wrote in *The Outlaw*, and Leavenworth’s newspaper was called *Aztlán*. Samuel Melville, *Letters from Attica* (New York: Morrow, 1972), 161-62, 167-68, 170-71 and Berger, *Captive Nation*, 66.

isolation.<sup>151</sup> *Both Sides Now*, a Jacksonville-based magazine, frequently reported on prison activism. When prisoners took hostages at the Miami Dade County jail in January of 1971, a prisoner laid out their reasons in *Both Sides Now*'s April issue: "We want to let the public know how we're abused in here. We knew if we didn't get some reporters, they would come again with their billy clubs and crash helmets and beat us."<sup>152</sup> The fear of not being taken seriously due to the status of being a criminal permeated prisoners' statements everywhere.

Mainstream newspapers like *The Tampa Times* and its editorial board regularly called Raiford prisoners' credibility into question: "We find it difficult to believe, as some contend, that professional prison guards and law enforcement officers would deliberately shoot peaceful prisoners."<sup>153</sup> Former guard Edward Roberts also attested to the unlikeliness of prisoners being taken seriously. "It is hard for a man in this day and age to believe brutality occurs in prison. When an inmate says he was beaten by an officer, it is a natural reaction for people not to believe this, to think that this man is either exaggerating or he is not telling the truth."<sup>154</sup> In this climate of suspicion, underground newspapers that reported prisoners' version of events were crucial to breaking down the barriers of isolation. Jerry Rubin, one of the Chicago Eight, put it bluntly: "Only people on the outside can get the media to focus in on jail conditions."<sup>155</sup>

Underground newspapers also picked up on reports sympathetic to prisoners and incorporated them into their pieces. *Muhammad Speaks*, the NOI's newspaper, established its own column "Prison News in Black" in August of 1972.<sup>156</sup> *Both Sides Now* reprinted and referenced Jack Anderson's, Martin Dyckman's, and Kent Pollock's initial reports of events at

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<sup>151</sup> Editors of the *Penal International Digest* even offered to pursue legal action to aid all those prisoners who ran into trouble subscribing to the paper. "Classified Ads," *Penal International Digest* 1, no 3, August 1971, 31.

<sup>152</sup> "Dade Snake Pit," *Both Sides Now*, April 1971, 15.

<sup>153</sup> Editorial, "Wait for the Facts on Raiford," *The Tampa Times*, February 22, 1971, A8.

<sup>154</sup> House Select Committee on Crime, 309.

<sup>155</sup> Rubin, *We Are Everywhere*, 16.

<sup>156</sup> Samuel 17X, "Prison News in Black," *Muhammad Speaks*, August 25, 1972, 25.

Raiford.<sup>157</sup> Prisoners received copies of these newspapers and passed them along. Al, imprisoned at Raiford, happily received “the fourth issue [of *The Great Speckled Bird*] so far, the other three are still making the rounds. All of us right-thinking people thank you.” Prisoners shared underground newspapers with each other and corresponded directly with activists on the outside.<sup>158</sup> Rodney E. Kruse, who identified himself as one of the protest leaders in Raiford, stressed, “how much a little news from the outside can help when one lives in a cage.”<sup>159</sup> Alby Bavero and Thomas Grogan, both “doing a nickel” – a five-year sentence – at Raiford, asked *The Yipster Times* to send in some copies of their paper by using a teacher as a courier.<sup>160</sup> Joseph Lobas, incarcerated in Raiford’s maximum-security wing, told the *NOLA Express* readership that reading the underground newspaper made his day “loveable” for the first time since three years and “pulled [him] out of the rut [he] was in.”<sup>161</sup> Gerry Skelton, incarcerated since 1969 for an armed robbery he committed in Tampa, faced a 13-year sentence and urged the paper to give him a subscription, since his friend who he had shared his copies with had been transferred.<sup>162</sup>

Besides reporting on prison organizing and printing prisoners’ poems, these papers also commented on prison policy. *Berkley Barb* author Mark Shwartz predicted that determinate sentencing laws, meant to ease anxieties over sentencing, would result in hikes in incarceration rates.<sup>163</sup> Papers also aided organizing efforts beyond providing space and information. The

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<sup>157</sup> Anderson, “Fla. Convicts Call Shooting Wanton;” Martin Dyckman, “Sickened by Beatings of Raiford Inmates, Guard Says,” *Miami Herald*, February 19, 1971, A26; and Kent Pollock, “Raiford Guard: Riot Squad Sweep a Nightmare,” *Palm Beach Post*, February 27, 1971 cited in “Inside Raiford-The Case Against Louie Lee Wainwright,” *Both Sides Now*, no. 12, September 1971, 21. The *Chicago Seed* and the *Berkley Tribe* also referenced Jack Anderson’s article. “Escape,” *Chicago Seed* 6, no. 9, March 1, 1971, 23 and “Shoot In,” *Berkley Tribe*, 26 March 1971, 4. All issues of the Berkley Tribe are accessible via Independent Voices, an open access research collective on the underground press, <https://voices.revealdigital.org/?a=cl&cl=CL1&sp=BFBJFGJ&ai=1&>.

<sup>158</sup> Al, “Letters,” *The Great Speckled Bird* 4, no. 1, January 4, 1971, 12.

<sup>159</sup> Rodney E. Kruse, “Dear Brothers and Sisters,” *The Great Speckled Bird* 4, no. 45, November 8, 1971, 17.

<sup>160</sup> Alby Bavero and Thomas Grogan, “Letters to the Yipster Times,” *The Yipster Times* 5, no. 3, May 1977, 24.

<sup>161</sup> “Escape,” *Chicago Seed* 6, no. 9, 1 March 1971, 23.

<sup>162</sup> Gerry Skelton, “Hallo Nola,” *NOLA Express*, no. 105, April 28, 1972, 17.

<sup>163</sup> Mark Shwartz, “Liberal ‘Reform’ Fills Prisons,” *Berkley Barb*, no. 683, September 15-21, 1978, 4. William S. Day published many poems in the *Joint Issue*. William S. Day, Poem “Like It Is,” *Joint Issue* 4, no. 9, 1970, 10;

Federal Prisoner Coalition, formed in 1972, assembled prisoners and advocates from all over the U.S. and railed against criminal justice initiatives like the Federal Bureau of Prisons' Special Treatment and Rehabilitative Training (START) program.<sup>164</sup> The Coalition was largely comprised of authors from the *Prisoners' International Digest*. Statewide organizing efforts manifested in the formation of prisoners' unions: the California based United Prisoners' Union, the Ohio Prisoners' Labor Union, the North Carolina Prisoners' Labor Union, and the New England-centered National Prison Reform Association all mushroomed during the 1970s.<sup>165</sup>

Prisoners actively engaged the carceral state by utilizing various strategies. Raiford prisoners banded together to protest their incarceration for a whole week. In their actions they followed the well-trodden path of prison organizing – engaging prison conditions individually and collectively. Prison writing offered the means to challenge ones' imprisonment in letters or poems, but also allowed for a greater audience to get a glimpse behind prison walls. Muslim prisoners' confidently chose a petition – a tool of civic engagement – to address Governor Askew. They did so in the spirit of Black Nationalism and actively defied prison's isolation strategy. Allies on the outside tried to aid prisoners in the face of FBI repression. Together they put prisoners' rights on the political agenda.

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William S. Day, Poem "Inside," *Joint Issue* 4, no. 7, 1970, 11; and William S. Day, Poem "Shakedown," *Joint Issue* 4, no. 13, 1970, 10. For a collection of prison poems from Florida see: Brock, *The Space Behind the Clock*.

<sup>164</sup> START aimed at modifying prisoners' behavior, which prisoners viewed as attempts of controlling their minds. Lanier A. Ramer, "Federal Coalition Protests Bureau's New START Program," *Prisoners' Digest International* 2, no.7, January 1973, 3. See Michelle S. Phelps, 'Rehabilitation in the Punitive Era: The Gap Between Rhetoric and Reality in U.S. Prison Programs,' *Law & Society Review* 45, no. 1 (2011): 33-68.

<sup>165</sup> Dan Berger and Toussaint Losier, *Rethinking the American Prison Movement* (New York: Routledge, 2018), 111-9 and Thompson, 'Rethinking Working-Class Struggle through the Lens of the Carceral State,' 23-25.

## Chapter Four: Investigating Raiford: Race, Sexuality, and Gender in Prison

While probes into the Attica uprising dragged on for decades due to the high number of people killed and considerable efforts by state officials to silence critics, Raiford's aftermath did not include large-scale judicial investigations. Probes into guards' conduct found that only the Flat-Top incident amounted to wrongful behavior. Since no guards were hurt, prisoners did not face criminal prosecution, so officials and attorneys alike closed the book on the legal aspect of the Raiford protests rather quickly. In July of 1971 the grand jury in Jacksonville decided not to indict any guards due to the expectation that "trial juries in the prison's rural district would not convict."<sup>166</sup> Washington lawmakers, however, opened an investigation into the political consequences of both uprisings in Raiford and Attica in December. A House Select Committee on Crime heard testimony for five days.<sup>167</sup> Over the course of these hearings, major players in Florida's prison politics testified. Their statements featured concerns and issues that would shape prison policies for decades to come. Race, gender, and sexuality in prison only made a brief appearance during those hearings. These glimpses form the starting point of my discussion of these three issues at Raiford.

The racial composition of Raiford's prison population rarely came up during congressional hearings, except when black freshman Representative Charles Rangel (D-NY) insisted on discussing race relations. Rangel only joined the House in 1971 after defeating incumbent Adam Clayton Powell. He co-founded the Congressional Black Caucus, and became the first black member of Congress to chair the Ways and Means Committee. After representing

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<sup>166</sup> Dyckman, Martin, "Raiford Shootings Outrage Jury," *St. Petersburg Times*, July 31, 1971, B1-2.

<sup>167</sup> "Prison Hearings to Open," *The New York Times*, November 28, 1971, 81.

New York's eighteenth district, largely covering Harlem, for forty-six years, Rangel retired in 2017.<sup>168</sup>

On the third day of the hearings Rangel questioned Florida Judge Richard Kelly, who had expressed sympathy for prisoners' rights. Kelly's views on how being black affected a person's chances in the criminal justice system occupied Rangel's mind. When Kelly claimed that most people who ended up in prison, regardless of their race, were defective, Rangel offered a forceful rebuttal. "But, certainly, in the system as we find it now, where minority groups, regardless of their color become the overwhelming majority in our prison institutions, I just cannot see how we can say that they are the ones who are defective."<sup>169</sup> Rangel's angry response united two aspects of the ongoing debate on prison reform: officials' and reformers' unwillingness to confront racial discrimination and the pathological understanding of criminals as defective. Both aspects point towards a field of frequently implied but rarely explicitly stated assumptions about prison life.

During the Select Committee hearings, prisoners and officials charged with investigating the protests testified. Arthur Adams and Tom Loyd represented the prisoners of Raiford. Edward Roberts and Ira Curtis McKenzie spoke on behalf of the correctional staff, supported by corrections union organizer William Blasford. Louie Wainwright and James Bax provided the prison professionals' point of view. Outside experts like vocational instructor Michael Callahan who taught classes at Raiford and Vernon Fox, chairman of the Department of Criminology at Florida State University, rounded out the group of testimonials. Like the issue of racial discrimination, anxieties over homosexuality in prison and prisoners' gender roles were largely

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<sup>168</sup> See Charles Rangel's entry on the House's History, Arts, and Archives website [https://history.house.gov/People/Listing/R/RANGEL,-Charles-B--\(R000053\)/#biography](https://history.house.gov/People/Listing/R/RANGEL,-Charles-B--(R000053)/#biography). Rangel's papers are held at the City College New York, <https://www.ccnycuny.edu/rangel/archives>.

<sup>169</sup> House Select Committee on Crime, *American Prisons in Turmoil* (Washington: U.S. Government Printing Office, 1972), 246.

absent in these deliberations. In this chapter I focus on these silences and underlying implications. Beneath the surface, race, homosexuality, and manhood featured prominently in testimonials and lawmakers' statements but the 'ethos of colorblindness' often obfuscated them.

### Race Riot at Raiford?

Most journalists who covered the Raiford protests did not pay attention to the racial composition of those engaged in the uprising. In initial reports published the day after prisoners started the strike, *The Tampa Tribune* quoted James Bax, Secretary of the Department of Health and Rehabilitative Services, who emphasized that both black and white prisoners had participated.<sup>170</sup> Prison administrators and the news media utilized the image of racial unrest to discredit prison protests. Florida prison scholar Heather Schoenfeld cites an American Justice Institute report that defined the Raiford protest as a "race riot."<sup>171</sup> Prisoners were acutely aware of how racial strife would hamper their chances of successfully organizing. A comic titled "Racial Disunity" and published in *Prisoners' Digest International* depicted a nefarious-looking guard-turned-puppeteer who pulls the strings on two puppets resembling a white and a black prisoner, who point knives at each other. Comic artist Drummond underwrote the scene with "Divide and Conquer..."<sup>172</sup> According to the artist, guards remained firmly in control as long as racial strife persisted. Only unity across racial lines would grant prisoners a chance of outmaneuvering guards and prison administrators.

Muslim prisoners' activism speaks to an explicitly multiracial protest culture at Raiford

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<sup>170</sup> "Prison Strike Emphasizes Grievances," *The Tampa Tribune*, February 12, 1971, A14.

<sup>171</sup> Howard Ohmart and Harold Bradley, *Overcrowding in the Florida Prison System: A Technical Assistance Report* (Washington: American Justice Institute, 1972), S19, box 123, A-1, Florida State Archives cited in Schoenfeld, *Building the Prison State*, 75.

<sup>172</sup> Drummond, Comic "Racial Disunity," *Prisoners' Digest International*, reprinted in Grant and Wachsberger, *Stop the Presses!*, 130.



and prisoners' awareness of the "divide and conquer" strategy guards banked on. By banding together under the banner of the Muslim Brother-Hood, Muslims petitioned Governor Askew in the name of black and white prisoners.<sup>173</sup> Finally the sheer number of people involved in the February protests, more than 1,800 out of 3,500 prisoners incarcerated in Raiford at the time, suggests a multiracial movement. Florida Department of Corrections (FDC) statistics show that black prisoners surpassed white prisoners in numbers in 1968. Black women represented the majority of all female prisoners incarcerated in Florida since the founding of the Sunshine State's prisons system. By 1971 53 percent of all men incarcerated were black, while black men only represented 15 percent of Florida's overall male population.<sup>174</sup>

Yet besides Representative Rangel's insistence, race did not play a significant role in the testimony given to Congress. After being pressured by Rangel, Judge Kelly stated: "I do not think that racial prejudice is a substantial basis for the disproportionate number of blacks in Florida's prisons."<sup>175</sup> If asked by the New York Congressman, most of the men testifying during the hearings answered reluctantly as not to associate themselves with a racist prison system. Reformers like Louie Wainwright reacted skittishly although he had worked hard to counter guards' racist sentiments. Other reformers like lawyer Tobias Simon and Judge Charles R. Scott also fought to bring an end to racial discrimination behind bars and overcrowding. In reformers' minds the latter naturally bred the former. Heather Schoenfeld finds that "the actions and critical decisions of the key players during this time period, including Toby Simon, Judge Scott, and Louie Wainwright, can be traced to the project to remedy racial inequality."<sup>176</sup> Simon counseled

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<sup>173</sup> Muslim Brother-Hood, "From the Raiford Muslims to Gov. Askew."

<sup>174</sup> Reports did not include the racial composition of single prisons. Keller, *Overcrowding*, 46 and Florida Census 1970, *Race by Sex 1900 to 1970*, Table 17, census.gov, [https://www2.census.gov/prod2/decennial/documents/1970a\\_fl1-02.pdf](https://www2.census.gov/prod2/decennial/documents/1970a_fl1-02.pdf).

<sup>175</sup> House Select Committee on Crime, 241.

<sup>176</sup> Schoenfeld, *Building the Prison State*, 87.

Dr. Martin Luther King Jr. during marches in Florida, argued against the death penalty, and represented Clarence Gideon, the plaintiff in *Gideon v. Wainwright*.<sup>177</sup> *Gideon* established the right to free legal counsel for every defendant. Inspired by Gideon, prisoners Michael Costello and Roberto Celestineo filed similar suits that landed on Judge Scott's desk. Scott passed them on to Tobias Simon who represented them.<sup>178</sup> This network of civil rights-oriented legal professionals demonstrated awareness for racial discrimination. Yet the prison systems' racialized character remained subsumed under the overall charge of overcrowding which prisoners decried as "cruel and unusual punishment" under the Eighth Amendment.

Reformers like Wainwright first and foremost interpreted racial unrest in prisons as a result of overcrowding. Accordingly a report on Florida prisons covering 1970-72 identified overcrowding as "the big story of the past biennium."<sup>179</sup> The subsequent report featured the key problem prominently on its cover. Titled "OVERCROWDING," the report stressed the challenges an increase in prisoners put onto an already overburdened system.<sup>180</sup> Prison officials' rational placed strenuous race relations and racist guards on the bottom end of the priority list, simply believing that once adequate resources had been allocated, these problems would disappear.<sup>181</sup> Following an 'enlightened,' data-driven, and seemingly colorblind approach, liberal reformers held on to a notion of social engineering. They firmly believed that prison staff can

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<sup>177</sup> Clarence Earl Gideon, 'Petition for a Writ of Certiorari, 1961,' in *Imprisoned in America*, ed. Cynthia Owen Philip (New York: Harper & Row, 1973), 156–58. Rich Oppel, "Death Penalty: 'A Time For Serious Self-Analysis,'" *St. Petersburg Times*, May 10, 1971, B2. Simon however did not endorse gay marriage while on the debate stage in 1974. The Advocates, 'Should Marriage Between Homosexuals Be Permitted?' (WGBH, May 2, 1974), [http://openvault.wgbh.org/catalog/V\\_57993D38129A433AAD10C7B04D019EF6#at\\_63.976\\_s](http://openvault.wgbh.org/catalog/V_57993D38129A433AAD10C7B04D019EF6#at_63.976_s).

<sup>178</sup> Schoenfeld, *Building the Prison State*, 71.

<sup>179</sup> Emmett S. Roberts, *Florida Department of Corrections. 8th Biennial Report 1970-72* (Tallahassee: Department of Health and Rehabilitative Services, 1972), 11.

<sup>180</sup> Keller, *Overcrowding*.

<sup>181</sup> According to Mirpuri prisoners identified the "ideological division between 'reform' and 'security'" as a ruse dressed in the rhetoric of rehabilitation. Anoop Mirpuri, 'Mass Incarceration, Prisoner Rights, and the Legacy of the Radical Prison Movement,' in *The Punitive Turn: New Approaches to Race and Incarceration*, ed. Deborah E. McDowell, Claudrena N. Harold, and Juan Battle (Charlottesville: University of Virginia Press, 2013), 131–55, 133–4.

“assist inmates in correcting personal deficiencies so that they can function more effectively upon their return to society.”<sup>182</sup> By locating criminal behavior inside the criminal and viewing prisons as ‘charitable’ institutions, simply working to benefit the prisoner, prison officials refused to acknowledge their involvement in racist practices.

According to scholar Naomi Murakawa, the era’s liberals viewed racial violence as an administrative deficiency that would subside with adequate training and sufficient funding.<sup>183</sup> Journalists and newspaper editors shared this view. *The Tampa Tribune*’s editorial board called for additional funds to prevent prisons from becoming “merely a training school for professional criminals.” The editorial board displayed an economic reasoning that informed their advocacy for prison reform: “Money spent to convert a lawbreaker into a law observer eventually saves tax dollars.”<sup>184</sup> The liberal *St. Petersburg Times* saw “enormous momentum and opportunity” for change on the horizon and declared 1971 a “Year of Action” in the realm of prison reform. Yet in the minds of these journalists, all could be lost due to legislative inaction. They feared that the “prison system will remain overcrowded schools for crime, ripe for renewed strife.”<sup>185</sup>

This political environment explains why Wainwright tried to distance himself from Rangel’s questions. Wainwright envisioned himself as the reformer these editorials desperately called for. He planned to push professionalization of Florida’s “correctional institutions” and he would succeed, if only sufficient funds were to be directed his way.<sup>186</sup> Denouncing him or the institutions in his care as racist seemed absurd, since he adhered to findings of social scientists

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<sup>182</sup> Keller, *Overcrowding*, 41.

<sup>183</sup> Murakawa, *The First Civil Right*, 17-20.

<sup>184</sup> Editorial, “Our Prisons: Blame Enough to Share,” *The Tampa Tribune*, May 6, 1971, A20.

<sup>185</sup> Editorial, “Prison Reform: The Year for Action,” *St. Petersburg Times*, May 7, 1971, A22.

<sup>186</sup> A comic, published in the *Ann Arbor Sun*, made fun of the rebranding of prisons as “Correctional Institutions.” The comic depicts a young prisoner, obviously intimidated by an older prisoner. The latter states: “Just be thankful yer in a ‘Correctional Institution’ instead of some old prison!” Comic, *Ann Arbor Sun*, no. 43, November 17, 1972, 13.

and distanced himself from the practices of the Jim Crow South.<sup>187</sup> Like Governor Askew, who can be counted among a group of progressive governors made up of Terry Sanford in North Carolina, Georgia Governors Carl Sanders and Jimmy Carter, and Albert Brewer in Alabama, Wainwright viewed himself as part of the New South.<sup>188</sup> These men prided themselves with doing away with conventional racism, being free of racialized thinking, and adhering to data-driven policies of colorblindness. Judge Kelly emphasized how fragile this image was and that reformers' rhetoric was just that – a rhetorical exercise. In front of the Select Committee Kelly stated: “Public officials and those people charged with the responsibility for correction authorities are telling the prisoners and telling the public they are making rehabilitative efforts and they have rehabilitative programs when, in fact, they do not.”<sup>189</sup> Kelly argued that the gap between rehabilitative rhetoric and lack of true reforms only added to prisoners' frustration.

An “Inmate Profile” demonstrates the ethos of colorblindness and the data-driven approach to policies of rehabilitation manifested within FDC's administrative procedures. This profile, included in an annual report, listed all the traits of the “typical adult offender admitted to the Division of Corrections during Fiscal Year 1973-74.” According to this list, the offender was 24 years old or younger, single, and a Florida resident. Furthermore he had no previous military experience, an I.Q. of 100, an average tested grade of 5.5, and had not committed prior felonies. The person in question claimed to be Baptist, possessing a tenth grade education, and likely came from a ‘broken home.’ The meticulous list, which concluded with the top three crimes and the average time prisoners were convicted for, originated from demographic data series included in the report. Although the racial composition of Florida's prison population made it into the

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<sup>187</sup> Roberts, *8th Biennial Report 1970-72*, 10.

<sup>188</sup> Henry Grady termed the New South to distinguish the post-Civil War South from the Old South. C. Vann Woodward, *Origins of the New South, 1877-1913* (Baton Rouge: Louisiana State University Press, 1951).

<sup>189</sup> House Select Committee on Crime, 244.

report just four pages prior to the “Inmate Profile,” race remained curiously absent from a profile meant to describe the average prisoner. The ‘logic of colorblindness’ prohibited the inclusion of race into the profile.<sup>190</sup>

Just as administrative procedures obfuscated obvious racial discrimination, so did criminal justice professionals like Judge Kelly play down the impact that race had on prisoners’ chances for attaining fair treatment. Rangel pointed to the intertwined relationship of race and class when questioning Kelly: “What do you believe is the quality of criminal justice in the court system as it relates to poor defendants?” In his response, Kelly pointed out that “poor people do not get anything that is as good as rich people, except maybe their mother’s love.” Rangel pressed on: “The fact exists that black people are considered in many areas to be included among the majority of the poor. And if they are poor because of racial prejudice don’t you believe this would be a real factor related to how they got to jail in the first place?” Judge Kelly replied: “Yes; but it is related to their being poor, not related to their being black.”<sup>191</sup> Discrimination based on economic inequality or class seemed comprehensible to Kelly, while discrimination based on race was not.

Kelly did not deny that a defendant’s race impacted their chances, when asked again. He explicitly stated that race did not play a role in his courtroom, a federal courtroom. By distancing himself from his bigoted colleagues, Kelly boasted a seemingly colorblind analysis of the court system just as Wainwright did for the prison system. Later in their exchange in front of the Select Committee Rangel asked Kelly if “poor people should accept the fact that they cannot obtain the same quality of justice as someone in a high economic level?” Kelly’s response of, “I am an American and I believe in America. Americans do not accept anything unfair,” illustrated the

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<sup>190</sup> The laudatory character of these reports that mostly celebrated the FDC’s achievements and left out short comings to avoid political fall out also explains why race did not make the list. Keller, *Overcrowding*, 50.

<sup>191</sup> House Select Committee on Crime, 241-2.

adherence to a court system that was imperfect while insisting that the lack of fairness should not be tolerated.<sup>192</sup> Challenging these unfair conditions in turn could be quite expensive, which leads back to Rangel's initial question about black defendants' limited chances for fair treatment within the criminal justice system – a problem still rampant in present day courts and prisons.

Select Committee members themselves exhibited racialized views on prisoners in subtle ways. Kansas Congressman Larry Winn hinted at frustration and radicalism when he asked black prisoner Arthur Adams if he was an “appreciative young man” who had been given another chance or a “bitter young man.”<sup>193</sup> Adams affirmed the first and negated the second question. Winn's colleague Rangel did not miss the cue. He raised the issue again and stressed that he believed Adams not to be bitter. The New Yorker went on to suggest to Adams that he should not even act as if he was bitter because this behavior would not sit well with this hearing's audience. Rangel ended his advice with, “You understand, don't you?”<sup>194</sup> Adams readily affirmed that he knew exactly what the Congressman was talking about: Conservatives attributed bitterness to black men who exhibited frustration and could become radicalized. The understandable bitterness many felt in the face of prolonged racial discrimination provided Republican Winn with the coded language he needed to confirm his views: That embittered black man turned into criminals or radicals and that black man were unappreciative of the chances that society awarded them.

During another exchange Congressman Winn inquired if Adams had ever been abused. At first Adams incredulously asked if Winn wanted him to answer. Winn encouraged him: “Yes, Sir.” Adams replied still baffled: “Seriously?” After Winn affirmed again that he wanted an

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<sup>192</sup> House Select Committee on Crime, 242.

<sup>193</sup> House Select Committee on Crime, 271. The Larry Winn Congressional papers are held at the Kenneth Spencer Research Library of the University of Kansas. <http://etext.ku.edu/view?docId=ksrlead/ksrl.kc.winnlarry.xml>

<sup>194</sup> House Select Committee on Crime, 273.

answer, Adams stated: “I was beaten by probably more than 20 people in February, during the time you had the disturbance in Raiford.”<sup>195</sup> By raising a question on abuse, Winn shone light on the situation of black prisoners unintentionally.

That prisons still adhered to segregationist practices, most of them banned on the outside, became obvious during the discussion of prisoners’ employment opportunities.<sup>196</sup> Rangel addressed segregation in prison head on when he questioned former prisoner Tom Loyd: “So when we talk about prison systems, in order to accurately know what we are talking about, we really have to distinguish between the white inmate and the black inmate; don’t we?”<sup>197</sup> Loyd affirmed and noted that segregation was part of his prison experience during the 1960s. Similarly, Arthur Adams stated that when it came to vocational training, “there were a lot of things blacks can’t do and whites can do.” By describing Raiford as “a very white institution,” Adams reminded the committee members of his previous call for an increase in black personnel and the structural deficits the prison still faced.<sup>198</sup>

On the issue of training and who should conduct it, former prisoner and job facilitator Loyd stated that prisoners preferred outside personnel, because of trust issues between guards and prisoners. Congressman Winn jumped in on the question and asked for reasons for the lack of trust, “because really, some of those guards are darn good guys.” By speculating that the level of suspicion and hatred “is just a built in thing,” Loyd offered Winn a soothing explanation. Prisoners simply hated guards because they were charged with prisoners’ incarceration – a natural order that just cannot be remedied. Fellow prisoner Adams contradicted Loyd: “I don’t

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<sup>195</sup> House Select Committee on Crime, 270.

<sup>196</sup> Wainwright formally requested to desegregate Florida prisons in 1964. By 1966 Sumter, Apalachee, Glades, and Lowell prisons had been integrated, Santa Fe Correctional Farm, Lake Butler, and Avon Park followed in 1967. Miller, ‘Whatever Happened to the Southern Chain Gang?: Reinventing the Road Prison in Sunbelt Florida,’ 223.

<sup>197</sup> House Select Committee on Crime, 273.

<sup>198</sup> House Select Committee on Crime, 267.

agree with what he said about it being a built-in hate of guards. I don't think that is true at all, especially for blacks." Curious for his reasoning, Winn asked Adams to elaborate. In Adam's opinion, prisoners developed resentment for guards when they realized that guards view prisoners as less than human beings and treated them as such.<sup>199</sup> Adams cited his treatment during the protest as an explanation of how prisoners develop hatred towards their captors. "I was one of the first people stripped of all clothes, stood up in the cold, 30-degree weather, poked in the side with rifles and shotguns, hit in the side with butts, taken to a place on a flat top and beaten later on by 20 men."<sup>200</sup>

Muslim prisoners, many of them black, had another form of discrimination to grapple with. Guards frequently ignored or ridiculed their religious convictions. To shed light on their situation prisoners petitioned Governor Askew: "These officers that are uneducated seem to develop a complex toward the black inmates who have an education." Muslim prisoners, known for their patience and discipline, stressed that, "the black men with self awareness and love for self and kind are the most persecuted because of their efforts to elevate their black brother who are in the mire of socialality [sic], especially the members of the Islamic faith, known to you as 'Black Moslems.'"<sup>201</sup> By asserting that guards felt intimidated by well-organized black prisoners, the Muslim Brother-Hood showed how influential the era's black radicalism had become.<sup>202</sup>

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<sup>199</sup> House Select Committee on Crime, 279.

<sup>200</sup> House Select Committee on Crime, 270.

<sup>201</sup> Muslim Brother-Hood, "From the Raiford Muslims to Gov. Askew."

<sup>202</sup> Robert Chase and other authors call Chicano involvement in prison activism into the forefront. Prisons like San Quentin in California or Texas prisons with high number of prisoners, who identify as Chicano, saw distinct organizing efforts among this ethnic group. Chase, *We Are Not Slaves*, 184-215; Edward J. Escobar, 'The Unintended Consequences of the Carceral State: Chicana/o Political Mobilization in Post-World War II America,' *Journal of American History* 102, no. 1 (2015): 174-84; and R. Theodore Davidson, *Chicano Prisoners: The Key to San Quentin* (Prospect Heights: Waveland Press, 1983). Members of the Puerto Rican Young Lords Party were involved in the New York City jail uprisings in 1970. *Palante*, the YLP's newspaper, extensively featured prison activism. See Orisanmi, 'Organized Disorder: The New York City Jail Rebellion of 1970,' 28-42; Juanita Diaz-Cotto, *Gender, Ethnicity, and the State: Latina and Latino Prison Politics* (Albany: SUNY Press, 1996); and *Palante* 2, no. 10-15, August-November 1970.



## Prison and the ‘Homosexual Problem’

Prison organizers embraced the rhetoric and tactics of Black Power to remodel prisons from places of isolation and fear into arenas for prisoners’ rights. Nationalism and Power on the outside and radical prison activism on the inside must be understood as communicating vessels that influenced other liberation movements. Black Power activists drew from experiences of the Civil Rights movement, as Dan Berger argues. These activists influenced each other and utilized what had worked before to attain new rights. Historian Robert Self shows that various liberation movements, driven by activists who fought for gay, lesbian, and women’s rights, drew heavily from the black freedom struggle.<sup>203</sup> In a story titled “Gay Prisoners Complain,” *LA Free Press* authors argued: “Just as prisoners as a whole have been influenced by current political movements on the outside, so have gay prisoners.”<sup>204</sup> The emerging gay movement left its mark on prisons and gay prisoners, who voiced their concerns within an institution that many officials viewed as having a ‘homosexual problem.’<sup>205</sup>

Officials’ and the public’s anxiety about homosexuality in prisons dates back to the reformation of proto-prisons into modern ones at the beginning of the nineteenth century.<sup>206</sup> Historian Jen Manion demonstrates how reformers confronted homosexuality in prisons: “The fact that men engaged in ‘unnatural’ intimacies with each other in prison [dorms] came to

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<sup>203</sup> Robert O. Self, *All in the Family. The Realignment of American Democracy since the 1960s* (New York: Hill and Wang, 2012), 167. Timothy Stewart-Winter similarly argues that the gay rights movement learned from the black liberation movement. They found common ground in their campaigns against repression and police violence. Timothy Stewart-Winter, ‘Queer Law and Order: Sex, Criminality, and Policing in the Late Twentieth-Century United States,’ *Journal of American History* 102, no. 1 (2015): 61-72, 61.

<sup>204</sup> “Gay Prisoners Complain,” *Los Angeles Free Press*, August 25, 1972, 11.

<sup>205</sup> Prisoners did blur the line between male and female. Hefner shows the pitfalls of the binary conception of homo and heterosexual. M. Kristen Hefner, ‘Queering Prison Masculinity: Exploring the Organization of Gender and Sexuality within Men’s Prison,’ *Men and Masculinities* 21, no. 2 (2018): 230-53.

<sup>206</sup> Ashley T. Rubin, ‘Early US Prison History Beyond Rothman: Revisiting The Discovery of the Asylum | Annual Review of Law and Social Science,’ *Annual Review of Law and Social Science* 15 (2019): 137-54, 143-4.

represent everything that was wrong with the penitentiary, leaving solitary confinement as the only solution.”<sup>207</sup> Manion hints at a dichotomy that prison reformers encountered again during the 1960s and 70s. In a society that viewed homosexuality as a vice, mental illness, or criminal, prisons were prone to be filled with those who exhibited ‘homosexual behavior.’ Putting ‘homosexual deviants,’ either viewed as womanly fairies or oversexed predators, in prison did not resolve reformers’ anxiety about future homosexual activity. After all, prisons, segregated by sex, invited precisely those ‘detestable practices’ that brought gay men behind bars in the first place. Manion also establishes that the regulation of sexuality in prison served to solidify desirable sexual behavior on the outside. “Restriction of sexual intimacies and desires became a crucial part of reformative incarceration, as deviant forms of heterosexuality [homosexuality was merely understood as a slip in ‘normal’ heterosexual behavior] were used to bolster and stabilize more desirable forms.”<sup>208</sup> What occupied prison reformers during the 1820s still bugged correctional officials in 1971. Louie Wainwright proved to be a case in point.

During the Raiford protests, some of which took place at the prison’s yard, guards and prison officials decided to ‘disperse’ the prisoners with weapons fire. Wainwright saw dispersing them as a pressing matter because of security concerns. Congressman Rangel confronted Wainwright with this explanation: “Well, while the men were in the field, there did come a time when it was decided by either you or Mr. Hassfurther [superintendent] that something should be done about the situation?” After Wainwright concurred, Rangel went on: “If I understand your testimony correctly, what bothered you the most were the sexual assaults that were being committed on the prisoners; is that correct?” Wainwright listed sexual assaults, the possibility of mass escape, and the destruction of state property as concerns that led to the decision of firing

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<sup>207</sup> Jen Manion, *Liberty’s Prisoners: Carceral Culture in Early America* (Philadelphia: University of Pennsylvania Press, 2015), 154.

<sup>208</sup> Manion, *Liberty’s Prisoners*, 160.

into the crowd of prisoners. Rangel called on Wainwright to clarify: “Now, on the athletic field, with the exception of destruction of the sports equipment, which I understand is purchased from prisoners’ funds, had you seen any sexual assaults taking place?” Wainwright had to admit that he had not. After being pressed by Rangel about past instances of sexual assaults taking place on an athletic field, Wainwright negated again. Dismissive of the lack of evidence Wainwright insisted: “If I had, I would have attempted to stop them. But they had taken place in many other similar situations throughout this country.” Ultimately Wainwright told the committee that he had attended a lecture by Fred Wilson, Assistant Director of the Federal Bureau of Prisons, who had referred to such instances.<sup>209</sup>

Louie Wainwright, widely respected correctional professional and advocate of data-driven prison reform, served as an example of how anxieties over homosexuality and sexual assault coalesced in Raiford’s yard. This is not to imply that assaults and sexual violence did not happen in 1970s prisons. Just one week before the protests in Raiford erupted, a 17-year-old prisoner at Miami Dade County jail had been sexually assaulted during a hostage situation, which prisoners had staged to critique overcrowding.<sup>210</sup> Tumultuous events like prison protests often provide cover for assaults.<sup>211</sup> A report from 1980 documented assaults on guards by prisoners and instances of violence between prisoners. For 1970-72 the report counted 22 assaults on guards and 148 on prisoners at Raiford. Figures might have been much higher due to power dynamics within prison and systematic underreporting. But justifying a shoot out with the threat of hundreds of prisoners engaging in sexual assault on an open air athletic field lacked any footing in reality, as Congressman Rangel exemplified for the official record.

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<sup>209</sup> House Select Committee on Crime, 341.

<sup>210</sup> Margaret Carroll, “Guards Missed Cue to Violence, Prisoner Says,” *Miami Herald*, February 11, 1971, D2.

<sup>211</sup> Louie L. Wainwright, *Response to Allegations Concerning the Management of the Department of Corrections Presented to Gov. Bob Graham* (Tallahassee: Florida Department of Corrections, April 28, 1980), 65.

Violence between prisoners and forced homosexual acts represented a common trope in political and popular culture to signal what was wrong with the prison system. Warnings of what might happen if one drops a soap bar in a prison shower exemplify this anxiety.<sup>212</sup> Raiford guard James H. Dunn counted homosexuality next to selling of medical supplies and lay-ins as illegal activities prisoners engaged in back in 1958.<sup>213</sup> Florida Representative Don Hazelton’s statement about prison rape contributed to the commonly associated link between homosexuality and violence. “It was not unusual. Guys are screaming Hail Marys while someone is lining up to rape them.”<sup>214</sup>

Not only prison outsiders condemned homosexuality in prison. Raiford’s Muslims feared that “young black and white inmates, ranging from age 17 to 20, who are very decent when they arrive at Raiford” faced the ‘danger’ of being corrupted “through the use of Cigaretts [sic] and candies and other commodities.” These worldly vices would lead them to engage in “immoral acts of homosexuality.”<sup>215</sup> In 1980 allegations of drug abuse and “homosexual slavery” surfaced again. But prison officials insisted: “All homosexual activities are actively discouraged and at a minimum, disciplinary actions are taken on all inmates who are apprehended while engaging in such activities.” “Apprehending” someone clearly pointed to the criminalized view on homosexuality that should motivate vigilant guards to catch immoral perpetrators. Officials also pointed to consequences for ‘homosexual activities’ among guards, who had been fired for such ‘transgressions.’<sup>216</sup>

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<sup>212</sup> Michael A. Smyth, *Prison Rape: Law, Media, and Meaning*, Criminal Justice: Recent Scholarship (El Paso: LFB Scholarly Publishing, 2011), 35.

<sup>213</sup> Miller, *Hard Labor and Hard Time*, 283.

<sup>214</sup> Schoenfeld, *Building the Prison State*, 77.

<sup>215</sup> Muslim Brother-Hood, “From the Raiford Muslims to Gov. Askew.”

<sup>216</sup> Wainwright, *Response to Allegations*, 19.

In part due to this hysteria and in part due to a new sensitivity for sexual violence, scholars and policymakers increasingly invested in researching and curbing “prison rape.” In 2003 Congress passed the Prison Rape Elimination Act, which also established the National Prison Rape Elimination Commission, charged with studying rape in prison.<sup>217</sup> Scholar Michael Smyth finds that the blame for rape occurring in prison shifted from homosexual prisoners to prisoners who used sexual violence to dominate others. The image of homosexual prisoners as perpetrators disappeared at the close of the 1970s as the black prisoner emerged as the new archetypal predator.<sup>218</sup> Cross-racial rape and the rape of juveniles occupied a central place in the minds of worried reformers. Besides painting homosexual prisoners as dangerous and condemning sexual violence, Smyth finds that news media coverage mostly identified institutional failures like overcrowding as an explanation for rape in prison.<sup>219</sup> This viewpoint explains Wainwright’s insistence that sexual assaults were taking place during the protests: The presence of these deplorable conditions bolstered his claim for desperately needed reforms.

While the news media, reformers, and the public paid much attention to “prison rape,” protective, nurturing, and meaningful relationships between men in prison remained beyond their sphere of interest.<sup>220</sup> Harlan Hagan, a 38-year old prisoner at Miami Dade County jail, told a judge that he had allowed a juvenile to live under his bunk for protection during the hostage

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<sup>217</sup> Smyth, *Prison Rape*; Mark S. Fleisher and Jessie L. Krienert, *The Myth of Prison Rape: Sexual Culture in American Prisons* (Lanham: Rowman & Littlefield, 2009); Joanne Mariner and Human Rights Watch, eds., *No Escape: Male Rape in U.S. Prisons* (New York: Human Rights Watch, 2001); and Anthony M. Scacco, *Rape in Prison*, American Lecture Series, no. 971 (Springfield: C. C. Thomas, 1975).

<sup>218</sup> Smyth, *Prison Rape*, 37.

<sup>219</sup> Smyth, *Prison Rape*, 163. *Prisoners’ Digest International* reprinted a *Fortune News* story by David Rothenberg on the rape of a prisoner in New Jersey’s State Prison in Trenton. The victim Michael Chaytor commented on the consequences of reporting the crime and potential retaliation. “Prison has made them [the perpetrators] homosexual rapists and now they have more reason to be angry. I would - then be labeled a prison rat...and the most important thing of all is that nothing would be changed. They are in prison, and so am I the conditions remain the same.” David Rothenberg and Michael Chaytor, “Breaking Taboos on the Prison Rape,” *Prisoners’ Digest International* 2, no. 4, Sept-Oct 1972, 3, 18, 21.

<sup>220</sup> Matthew Maycock, ‘Introduction: New Perspectives on Prison Masculinities,’ in *New Perspectives on Prison Masculinities*, ed. Kate Hunt and Matthew Maycock (Cham: Palgrave Macmillan, 2018), 1-16, 2.

taking.<sup>221</sup> Mainstream media mostly focused on sensationalist gore-stories or pieces that depicted prisons as a paradise for homosexuals due to the lack of female ‘competition’ or viable alternatives to male company.<sup>222</sup> A special supplement in the *St. Petersburg Times* titled “Crime of Punishment” presented the notable exception. Journalist Michael Marzella reported on challenges that heterosexual couples faced during long spans of separation due to one partner’s incarceration. The liberal paper advocated for conjugal visits to ease sexual urges of both partners. Yet the author only saw slim chances for this measure since the United States remained one of the “most moralistic places.” Even the pro-prisoner *St. Petersburg Times* did not approach the contested topic of homosexuality inside prison. By focusing on women’s needs on the outside the authors portrayed the challenge separation and sex segregation posed.<sup>223</sup> In an editorial titled “Human Zookeepers” the *St. Petersburg Times* decried the limited furlough opportunities granted to prisoners. According to reformers and journalists, furloughs should “keep convicts in touch with the outside world, [...] improve their morale, and reduce homosexuality.”<sup>224</sup>

Underground newspapers were more attuned to the nuances of gay relationships in prison. *The Great Speckled Bird* authors reviewed James Blake’s book *The Joint*, which recounts his life in Florida prisons.<sup>225</sup> Blake described his time in Raiford as a succession of protective-abusive relationships.<sup>226</sup> By highlighting a part of Raiford as a “notorious den” where “overt

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<sup>221</sup> “Youth Lived Under Cot for Protection in Cell,” *Orlando Sentinel*, February 11, 1971, B3.

<sup>222</sup> Kunzel, *Criminal Intimacy*, 200.

<sup>223</sup> Michael Marzella, “The Battle to Remain Faithful,” *St. Petersburg Times*, August 1969, Crime of Punishment Supplement.

<sup>224</sup> Editorial, “Human Zookeepers,” *St. Petersburg Times*, July 28, 1971, A18.

<sup>225</sup> Steve Abbott, Smokey Kaufman, “Review: The Joint by James Blake,” *The Great Speckled Bird* 4, no. 23, June 7, 1971, 6.

<sup>226</sup> James Blake, *The Joint* (Garden City: Doubleday, 1971). On different perceptions of ‘prison rape’ see Mina Ratkalkar’s thesis. Mina Ratkalkar, ‘Can I Ask for Help? The Relationship among Incarcerated Males’ Sexual Orientation, Incarceration History, and Perceptions of Rape in Prison.’ (Master’s thesis, Florida Atlantic University, 2016).

homosexuals lived in perfumed, screaming lurid celebrity, wearing earrings, their faces garishly painted,” Blake recounted how gay prisoners configured their separated spheres.<sup>227</sup> Historian Regina Kunzel finds that although gay culture permeated through prison walls, prisoners on the inside often struggled to adopt gay subcultures from the outside. Prisons’ “sexual culture could be more capacious, heterogeneous, and troubling in its queerness than could be easily accommodated by an emerging gay rights politics.”<sup>228</sup>

Prevalent homophobia also manifested in legislative action in the state of Florida. Led by Charley Johns, the Legislative Investigation Committee, initially geared towards the detection of communists, increasingly focused on the persecution of homosexuals.<sup>229</sup> According to Robert Self, the Johns Committee “represented an increasingly common phenomenon in the South: ‘Opposition to desegregation evolved into opposition to alleged moral subversion of all sort.’<sup>230</sup> Homosexuals made the top of the list of moral subversions.

After homosexuals had been purged from public service during the Lavender Scare, the ‘homosexual threat’ to society as a whole had to be tackled.<sup>231</sup> The committee published a report titled “Homosexuality and Citizenship in Florida,” also known as the “purple pamphlet.” The authors suggested that homosexual men targeted young children for recruitment into a ‘hideous gay sect.’ By arguing “that the closet door must be thrown open and the light of public understanding cast upon sexuality in its relationship to the responsibilities of sound citizenship,”

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<sup>227</sup> Blake, *Joint*, 66-7 cited in Kunzel, *Criminal Intimacy*, 81.

<sup>228</sup> Kunzel, *Criminal Intimacy*, 209, 223.

<sup>229</sup> Stacy Braukman and Stacy Lorraine Braukman, *Communists and Perverts Under the Palms: The Johns Committee in Florida, 1956-1965* (Gainesville: University Press of Florida, 2012) and Fred Fejes, ‘Murder, Perversion, and Moral Panic: The 1954 Media Campaign against Miami’s Homosexuals and the Discourse of Civic Betterment,’ *Journal of the History of Sexuality* 9, no. 3 (2000): 305-47. For a history of pre-war queer Miami see: Julio Capó, *Welcome to Fairyland: Queer Miami before 1940* (Chapel Hill: University of North Carolina Press, 2017).

<sup>230</sup> Self, *All in the Family*, 79.

<sup>231</sup> David K. Johnson, *The Lavender Scare: The Cold War Persecution of Gays and Lesbians in the Federal Government* (Chicago: University of Chicago Press, 2006).

the committee took the same path as gay and lesbian activists – into the public – but with opposite goals.<sup>232</sup>

While politicians bemoaned the moral decay, “psychiatrists commonly diagnosed gay men and lesbians as psychotic and subjected them to aversion therapy, including shock treatment.”<sup>233</sup> Historian Garrett Felber finds that homosexual prisoners at Attica and Clinton had been separated in different blocks together with mentally ill prisoners.<sup>234</sup> Prison administrators painted the separation of homosexual prisoners as a protective measure. However, Kunzel establishes that ‘protective’ isolation of homosexual prisoners and punitive solitary confinement did not differ from each other.<sup>235</sup> To challenge their pathologization, gay and lesbian activists strove to make ‘private’ sexuality public and to end their double lives.

Gay prisoners resorted to similar tactics. Attuned to public sentiment, they took it upon themselves to challenge widely held prejudice against gay men, and gay prisoners in particular. They protested their segregation and fought for their right to receive literature and magazines. Floyd J. Morgan petitioned the state to admit gay books and publications to Raiford’s library. Morgan bemoaned that *The Playboy* was made readily available but prison authorities had banned *The Advocate*, a gay magazine. Another Raiford prisoner, William Dorman, filed a complaint due to harassment by correctional officers in May of 1972.<sup>236</sup> Gay prisoners regularly faced the threat of prolonged sentences or “the routine denial and revocation of parole on the

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<sup>232</sup> Richard O. Mitchell, *Homosexuality and Citizenship in Florida. A Report of The Legislative Investigation Committee* (Tallahassee: The Legislative Investigation Committee, 1964), <https://archive.org/details/ReportJan1964/page/n1/mode/2up>.

<sup>233</sup> Self, *All in the Family*, 81.

<sup>234</sup> Felber, *Those Who Know Don’t Say*, 62, 212.

<sup>235</sup> Kunzel also establishes that HIV positive prisoners faced “Protective Custody” (PC) just as homosexual prisoners. Kunzel, *Criminal Intimacy*, 203, 230-1.

<sup>236</sup> Bill Cutler, “The Edge of Knife. Psychosurgery Comes to Michigan ... and Florida?” *The Gay Liberator* reprint of *The Great Speckled Bird* and *Rough Times*, no. 24, February 1973, 4–5.



basis of homosexuality.”<sup>237</sup> Gay prisoners much like their straight Brothers wrote to underground newspapers to seek pen pals and romantic relationships. Raiford prisoner Bobby Clard ran an ad in *The Gay Liberator* seeking someone to write to: “I have no one that cares enough to write.”<sup>238</sup> In a 1984 issue of the Boston-based *Gay Community News* five Florida prisoners from Lowell, Raiford, Jay, and Arcadia prison also sought companionship.<sup>239</sup>

Prisoner Joel Starkey campaigned against the Florida Research and Treatment Center for Sex Offenders, which he suspected of performing mental health experiments on homosexual prisoners. *The Gay Liberator* author expanded on the ongoing pathologizing of gays and the threat of lobotomies and other invasive procedures to ‘heal’ gay men. Skepticism and hostility toward efforts of exerting ‘behavioral’ control permeated many articles.<sup>240</sup> Confronting prejudices head on proved difficult outside of prison, but calling attention to potentially harmful trials on gay men within the isolation-prone prison took even more courage. In an institution bent on rectifying perceived moral failures the shift from rehabilitative ideal, to pathologizing, and onward to declaring ‘criminal behavior’ as rooted in mental illness could happen quickly.<sup>241</sup> The deviant criminal and amoral sodomite coalesced in the image of the predatory homosexual who had to be incarcerated. Sending gay men to prison in turn fed into the existing scare about gay activity in prison.

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<sup>237</sup> Kunzel, *Criminal Intimacy*, 205.

<sup>238</sup> Bobby Clard, “Free Ads,” *The Gay Liberator*, no. 46, Fall 1975, 14.

<sup>239</sup> “Prisoners Seeking Friends,” *Gay Community News* 11, no. 25, January 14, 1984, 19.

<sup>240</sup> Cutler, “The Edge of Knife. Psychosurgery Comes to Michigan ... and Florida?” and Lanier A. Ramer, “The Day Has Come,” *Prisoners’ Digest International* 3, no. 2, July 1973, 9–11. In 1973 prisoners alleged that Wainwright ordered the use of the drug Prolixin to punish prisoners in his care. “What’s Happening - Florida Prison Colonies,” *Prisoners’ Digest International* 3, no. 7, December 1973, 4.

<sup>241</sup> Felber demonstrates how medical professionals helped to frame black Muslims’ activism as an expression of schizophrenia and their critique of constant surveillance as paranoia. Felber, *Those Who Know Don’t Say*, 76.

## Imprisoned Manhood

While the scare of homosexuality in prison mainly surrounded relationships between prisoners, notions of manhood remained at the core of the strenuous relationship between guard and prisoner. The Flat-Top incident, during which guards ‘reasserted’ their authority after the protests, demonstrated how conflict laden and sexualized this relationship could become. Multiple prisoners recalled violent behavior of guards, who had devoted particular attention to male sexual organs. Stripping prisoners naked and brutalizing their buttocks and genitalia shows how white guards established control over black bodies.<sup>242</sup> Lieutenant Tom Barton, who became superintendent later in his career, said on his role during the Raiford protests: “We shot their ass up fine -- looked like a covey of quail. That is what they looked like. I ain’t had so much fun in my whole life.”<sup>243</sup> His statement not only showed his disgust for prisoners by degrading them to the status of animals that serve as prey, but he also expressed joy from the act of hurting prisoners, especially while they were naked.

Attica Brother Frank Smith had to endure similar treatment when guards retook the prison in September of 1971. Smith, known as “Big Black,” headed security during the Attica uprising and occupied a widely visible role on Attica’s yard where the protests took place. State troopers and correctional officers, charged with retaking the prison, displayed Smith naked on a table, threatened castration, tortured, and abused him. Smith endured the humiliation but carried

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<sup>242</sup> Pictures of Abu Ghraib come to mind. Melinda Plastas and Eve Allegra Raimon, ‘Brutality and Brotherhood: James Baldwin and Prison Sexuality,’ *African American Review* 46, no. 4 (2013): 687-99, 697.

<sup>243</sup> Straight, “Prison Chief Barton: Tough Guy, Tough Job.”

major trauma with him for the rest of his life.<sup>244</sup> This episode shows how white authorities not only reestablished ‘order’ in prison but also buttressed racial hierarchies. Another Attica prisoner put it bluntly: “Manhood at Attica is intimidated 24 hours a day, 365 days a year.”<sup>245</sup>

Raiford prisoner William Day discussed guards’ behavior that aimed at dehumanizing prisoners in his poems. While incarcerated, Day wrote a series of poems, which were published in *Speak Out Mag* and reprinted in *Joint Issue*. In a poem titled “shakedown,” Day named “angering humiliation” and “emasculating nakedness” as tactics used by correctional officers, who he dubbed “guards gestapo” and “storm-troopers.” Eliciting fear, the recurring theme of his poems, formed the core of these tactics. Ultra-masculine and exclusively male military or police formations like the Gestapo served as a metaphor to describe the vulnerability prisoners found themselves in. To signal their total control, guards not only humiliated prisoners and questioned their sexual integrity, but also intruded into their most intimate sphere, their bunks. Day attested to this intrusion in the line: “sheets torn from a lumpy mattress.”<sup>246</sup> Accordingly legal scholar James B. Jacobs posits that prison guards developed less punitive but more intrusive methods of control during the 1960s and 70s.<sup>247</sup>

To defy his captors, Day’s repertoire of responses remained limited. Besides calling guards “fascist” and “pigs,” Day cursed them in another poem: “I spit on you – god damn the Man.”<sup>248</sup> Unable to insult guards physically, Day resorted to verbal degradation and spit to show his contempt. Day juxtaposed the harsh reality of prison and the constant challenge to his

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<sup>244</sup> Thompson, *Blood in the Water*, 485-92. In 2020 Boom! published a graphic novel on Frank Smith’s life and his involvement in the Attic protest. Frank Smith, and Jared Reinmuth, *Big Black: Stand at Attica* (Los Angeles: Boom!, 2020).

<sup>245</sup> Alexandria Symonds, “Overlooked No More: Martin Sostre, Who Reformed America’s Prisons From His Cell,” *The New York Times*, April 24, 2019, sec. Obituaries.

<sup>246</sup> William S. Day, Poem “shakedown,” *Joint Issue*, September 1970, 10.

<sup>247</sup> James B. Jacobs, ‘The Prisoners’ Rights Movement and Its Impacts, 1960-80,’ *Crime and Justice* 2 (1980): 429-70, 462.

<sup>248</sup> William S. Day, Poem “Like It Is,” *Joint Issue*, May 1970, 10.

manhood with an imagined life outside. Watchtowers and barbed wire distanced Day from life prior to his time in prison: “Memories pass ... of slim blond Judy, laughing Donald, and motherly Marie...”<sup>249</sup> Day clearly voiced his desire to be united with who presumably represented either his own children and wife or siblings. The desire of being reunited with one’s family in a restored and adequately gendered setting that situates the man at his ‘rightful’ place – at the head of the family – permeated these poems.

In a society that in large parts adhered to and believed in the ideal of the male breadwinner, men who served prison sentences seemed to be abandoning their families.<sup>250</sup> The fact that many juveniles and men from destitute backgrounds got caught up in the criminal justice system while trying to do just that – providing for their families – did not matter to contemporaries. The male criminal became a pathological deviant, who acted out a personal vice rather than responding to economic deprivation. Social scientists like Daniel Patrick Moynihan furthered this image. In his notorious report “The Negro Family: The Case for National Action,” Moynihan alleged that black households suffered from absent fathers and an overwhelmingly matriarchal influence.<sup>251</sup> Regardless of the fact that the ideal of the male breadwinner never represented the way of life for the majority of U.S. citizens, its promise, utilized by both liberals and conservatives, exerted considerable clout and still does, as Robert Self shows. The women’s, lesbian, and gay liberation movements as well as veterans returning from Vietnam with a new sense of manhood in mind, challenged this powerful ideal, yet they only managed to chip away little by little at this constitutive element of traditional manhood.<sup>252</sup>

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<sup>249</sup> William S. Day, Poem “Inside,” *Joint Issue*, April 1973, 11.

<sup>250</sup> Self, *All in the Family*, 17-46.

<sup>251</sup> Hinton, *From the War on Poverty to the War on Crime*, 58-61 and Self, *All in the Family*, 26.

<sup>252</sup> Self, *All in the Family*, chapters two, three, and four.

Men incarcerated at Raiford surely felt the burden they put on their families who struggled being deprived of additional income. The connection between manhood and employment received yet another blow if we consider the low payment prisoners received for their labor. Robert Edwards' testimony in front of the Select Committee shows the inadequacy of the prison's work programs: Meaningful employment was not available to the majority of prisoners.<sup>253</sup> The lack of skilled jobs and low or altogether absent wages called prisoners' manhood into question. Employment schemes for prisoners, like the one run by Tom Loyd who supported former prisoners in finding a job, became hard to sustain in rural areas like Raiford.<sup>254</sup> Judge Kelly also attested to the lack of rehabilitative opportunities due to the rural location and suggested a solution: "I would not be a bit surprised if the Raiford-type institution was located in close proximity to Miami or Jacksonville, that there could be a real vocational rehabilitation system developed on volunteer help such as welders, and carpenters, and that kind of people."<sup>255</sup> While the rehabilitative ideal that reformers put high hopes in was closely tied to vocational training to assure a positive reentry into society, the reality of Raiford's programming and location did not live up to these goals. The mainstream conception of manhood, geared towards providing for a family with a single income, was clearly out of reach for Raiford prisoners.

Since liberals saw "racial discrimination as unnatural and harmful and sex discrimination as natural," the ideal of the male breadwinner applied to men of all races.<sup>256</sup> Self even views the

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<sup>253</sup> House Select Committee on Crime, 303. Prisoners at Raiford put out 5.5 Mio license tags, worked in carpeting mostly producing and repairing furniture, and tended to livestock. For the industrial scale of prison labor at Raiford see Roberts, *8th Biennial Report 1970-72*, 77.

<sup>254</sup> House Select Committee on Crime, 280. On the challenges rural prisons face and how they impact the communities they are situated in see. John M. Eason, *Big House on the Prairie: Rise of the Rural Ghetto and Prison Proliferation* (Chicago: University of Chicago Press, 2017).

<sup>255</sup> House Select Committee on Crime, 247. Responding to the lack of job and training opportunities, Florida DC planned to locate all of the six new prisons included in the Six Year Master Plan in the vicinity of big urban areas, five of them near Miami in Brevard, Broward, Dade and Indian River County, and one in Hillsborough County near Tampa. Keller, *Overcrowding*, 16, 43.

<sup>256</sup> Self, *All in the Family*, 26.

family at the core of post-WWII politics and asserts that conservatives coopted the liberal breadwinner ideal and interpreted it in increasingly exclusive ways.<sup>257</sup> Embracing and buttressing the breadwinner ideal with religious conceptions of the family life, white and black men situated themselves at the head of patriarchal household. The accusation of broken families and racism's persistent footing in society called on black men in particular to forcefully respond. Proponents of Black Power from Stokely Carmichael to Malcolm X and George Jackson epitomized these strong male roles.<sup>258</sup> Under the auspices of self-help and defense, the hyper-masculine Black Panther emerged, armed with radical rhetoric and militaristic posture. Nationalism, race, and gender coalesced into an ideology of liberation. Anticolonial thought that formed the core of many prison organizers' politics was thoroughly gendered as well. By viewing black men and women as members of a 'captive nation' held by constraints of racism in and outside of prison, thinkers like Jackson envisioned a revolutionary male vanguard to liberate all people of color and restore male dominance.<sup>259</sup> Dan Berger finds that Jackson's radical critique of American political economy did not obfuscate his own allegiance to a conservative, patriarchal notion of respectability."<sup>260</sup>

We can contrast the seemingly total antagonism between guards and prisoners over manhood and control with the care work prisoners invested in and the social relationships they fostered among each other. Dan Berger stresses that in an institution primed on isolation, "collectivity itself was a vital tool of resistance that prisoners employed to preserve their physical

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<sup>257</sup> Self, *All in the Family*, 276-308.

<sup>258</sup> Self, *All in the Family*, 32. Self argues that the merge of manhood and nationalism can also be found within the Chicano liberation movement. Due to the Vietnam War and the ruptures it created, 'new' forms of Black and Chicano masculinity emerged. Self, *All in the Family*, 54, 69.

<sup>259</sup> Berger, *Captive Nation*, 72, 83, 150.

<sup>260</sup> Berger, *Captive Nation*, 113. On the impact of these notions of protection see Kali Nicole Gross, 'African American Women, Mass Incarceration, and the Politics of Protection,' *Journal of American History* 102, no. 1 (2015): 25-33.

safety, increase their collective capacities, and expand their social and intellectual horizons.”<sup>261</sup>

Looking out for each other drove activists like Jackson, whose “macho posturing—an example of prison’s exaggerated masculinity, [...] obscured the cooperative, nurturing elements of his praxis, including giving the proceeds of his writings to his comrades in prison.”<sup>262</sup>

Since only men were incarcerated in Raiford, I focus on their struggles, yet scholar Kali Nicole Gross rightfully stresses that female prisoners remain a “tangential afterthought in discussions about the carceral experience of black men.” This assertion gains even more urgency in face of the continuous rise of women’s incarceration rates.<sup>263</sup> In 1971 FDC incarcerated 380 women at Florida Correctional Institution in Lowell, north of Ocala.<sup>264</sup> Today FDC runs two Receptions Centers for female prisoners and incarcerates 6,658 women in four major institutions across the state – 65 percent of them white, 28 percent black, and six percent Latinx.<sup>265</sup> Female prisoners organized just like their male counterparts and voiced their critique of the carceral state. Most prominently Angela Davis organized female prisoners at the “House D” in New York City, which closed down later due to charges of sexual abuse by a doctor.<sup>266</sup> Carol W. Thomas, a black activist from Gainesville, called attention to sexual violence in Florida City jail during her trial in 1969.<sup>267</sup> In February of 1975 more than one hundred female prisoners at Florida

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<sup>261</sup> Berger, *Captive Nation*, 168.

<sup>262</sup> Berger, *Captive Nation*, 96.

<sup>263</sup> Gross, ‘African American Women, Mass Incarceration, and the Politics of Protection,’ 26.

<sup>264</sup> Housing and sanitary conditions and female homosexuality feature prominently in an article about Lowell from 1971. “Humanity Isn’t Enough,” *St. Petersburg Times*, Crime of Punishment Supplement.

<sup>265</sup> Florida Department of Corrections, *Annual Report: Fiscal Year 2017-18* (Tallahassee: Florida Department of Corrections, 2018), 17.

<sup>266</sup> Orisanmi, ‘Organized Disorder: The New York City Jail Rebellion of 1970,’ 31; Simon Jeffery, “Feminist Icon Andrea Dworkin Dies,” *The Guardian*, April 11, 2005, <https://www.theguardian.com/world/2005/apr/11/books.booksnews>. Joan Little’s 1974 case in North Carolina serves as another example of women asserting their rights and fighting sexual abuse in prison. Kunzel, *Criminal Intimacy*, 202. For female prisoners perspective in Florida prisons between 1889 and 1919 see Miller, *Crime, Sexual Violence, and Clemency*, 41.

<sup>267</sup> *Thomas v. Crevasse*, 415 F.2d 550 (U.S. Court of Appeals, Fifth Circuit 1969); the D.C. based underground newspaper *off our backs* frequently reported on female prison protests all over the country and offered free

Correctional Institution in Lowell protested abuse at the hands of guards and raised similar grievances like their Raiford Brothers in 1971. Judith Sikes, one of the prisoners involved, stated in *off our backs*, an underground newspaper: “There are still those of us who dare to fight for changes in our de-humanizing penal system, despite whatever retaliations are sure to be forthcoming. The era has passed in which the woman prisoner remains the silent, passive minority.” Protests in other prisons had lifted their spirit: “Through the unity and support of all the brothers and sisters who have found and recognize their obligation for solidarity we have the strength to be heard.”<sup>268</sup> Female prisoners wrote in and to underground newspapers just like their Brothers. Lowell prisoners Helen Louis Hunter and Debby McNabb, for example, sought pen pals through *The Great Speckled Bird*.<sup>269</sup> Scholars have recently considered women’s ‘entry’ into the carceral system, turned to queer viewpoints and critiques of prisons, and an equally wide range of activists organizes on their behalf.<sup>270</sup>

Although reformers repeatedly affirmed that male and female prisoners deserved their compassion and consideration as human being, the public often viewed prisoners as deplorable and prisons as sinful. Judge Kelly, who testified in front of the Select Committee in December of 1971, had made a name for himself partly by visiting prisons in person. By mingling with

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subscription to female prisoners. Mariett Wickes, “Tear Down the Walls! Interview with Marge Melville,” *off our backs* 1, no. 20, April 15, 1971, 2 and “Letter From Prison,” *off our backs* 2, no. 2, October 1971, 38.

<sup>268</sup> “Prison Florida,” *off our backs* 6, no. 3, May 1976, 12, 21.

<sup>269</sup> Debby McNabb and Helen Louise Hunter, “Prisoner List,” *The Great Speckled Bird* 9, no. 4, May 1976, 31.

<sup>270</sup> Pippa Holloway, “‘They Are All She Had:’ Formerly Incarcerated Women and the Right to Vote, 1890–1945,” in *Caging Borders and Carceral States*, ed. Chase, Incarcerations, Immigration Detentions, and Resistance, 186–210; Talitha L. LeFlouria, ‘Menacing (Re)Production: The Commodification and De-Commodification of Incarcerated Black Women’s Wombs and Work,’ in *Caging Borders and Carceral States*, ed. Robert T. Chase, Incarcerations, Immigration Detentions, and Resistance, 173–85; Stephen Dillon, *Fugitive Life: The Queer Politics of the Prison State* (Durham: Duke University Press, 2018); Eric A. Stanley and Nat Smith, eds., *Captive Genders: Trans Embodiment and the Prison Industrial Complex* (Oakland: AK Press, 2015); Elias Vitulli, ‘Queering the Carceral: Intersecting Queer/Trans Studies and Critical Prison Studies,’ *GLQ: A Journal of Lesbian and Gay Studies* 19 (2013): 111–23; Beth E. Richie, *Arrested Justice: Black Women, Violence, and America’s Prison Nation* (New York: NYU Press, 2012); and Diaz-Cotto, *Gender, Ethnicity, and the State*. California Coalition for Women Prisoners, “CCWP – Together, Fearless and Unified,” [womenprisoners.org](http://www.nclrights.org) and National Center for Lesbian Rights, [nclrights.org](http://www.nclrights.org), <http://www.nclrights.org/cases-and-policy/cases-and-advocacy/lgbt-prisoner-advocacy/>.



prisoners, observing and participating in administrative procedures such as registration, food distribution, and ‘free time,’ Kelly set out to get an understanding of prisons’ workings. In December of 1970 he spent one night and half a day in Raiford’s east wing and another day at the main unit. In his prepared statement for the Select Committee Kelly argued: “Prisons exist to serve society. They must conform to the law, basic decency, and morality. They must operate at the least possible cost – for the value received.”<sup>271</sup> According to Kelly, a sort of reality check and financial constraints limited prison reform’s scope. Pragmatism, not rehabilitation of all prisoners, needed to be considered. Besides prisons’ monetary costs, Kelly stressed that the carceral system also produces costs by fostering “racial tensions, class hatred, and disrespect for authority and the government.” Conforming to the law, respect for order, and adherence to morality are unsurprising demands uttered by a judge. After addressing specific ills and possible solutions for state and federal lawmakers, Kelly pointed out that most of them boil down to overcrowding and understaffing. The latter, according to Kelly, led “to a multitude of ills including homosexuality in all its forms including perverted prostitution and rape, the latter usually blacks attacking whites.”<sup>272</sup> Kelly’s insights stem from his visits to prisons and his work as a Florida judge. While members of the Select Committee lauded Kelly’s effort for engaging prisoners on their turf, his assumptions about race, gender, and sexuality were clearly his own. Homosexuality, prostitution, and black prisoners as rape perpetrators represented prejudices about prison life he could not have encountered during his anthropologically inspired fact-finding missions. Yet these powerful images mixed well with his adherence to reformist ideology, as he believed overcrowding to be the root cause, and prisoners to be “human beings and salvageable.” If only the overcrowding issue could be solved, other problems would surely

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<sup>271</sup> Select Committee on Crime, 255.

<sup>272</sup> Select Committee on Crime, 257.

disappear, but “until there is an enlightened decision to really help the prisoners and supply the people and money to get the job done, the emphasis should be on cleanliness, decency, and integrity.”<sup>273</sup>

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<sup>273</sup> Select Committee on Crime, 258.

## Chapter Five: Engaging the Courts – Prison Litigation in Florida

Just as the Civil Rights, women's, and gay liberation movements increasingly called on courts to protect them, so did prisoners. They engaged in legal battles to assert their rights and gain protection from abuse. All these movements demanded negative rights – the absence of persecution and discrimination. For black Muslim prisoners this meant protection from being sent to solitary confinement due to their adherence to Islam. Florida prisoners also called for positive rights to protect their 'way of living.' These positive rights should establish them as equals by granting access to Muslim or gay literature.<sup>274</sup> Prisoners rallied behind issues of race, sexuality, censorship, and religion to plead for their rights, and in doing so they embraced tactics and strategies mastered by other political groups.

Resorting to a dual strategy of appealing to their constitutional rights as prisoners and direct action protests, prisoners engaged the carceral state on two distinct levels.<sup>275</sup> Historians Dan Berger, Garrett Felber, and Heather Thompson establish that prisoners made use of both the prison and the courtroom to fight for their rights. Scholarly work on prison organizing usually centers on crucial court cases that furthered prisoners' rights. Raiford prisoners did engage in legal fights just as their Brothers all across the United States had done. Similar to their organizing efforts that spanned from coast to coast, legal battles took place in courtrooms in every state on various judicial levels. By petitioning the courts in the protests' aftermath, Raiford prisoners set out to secure their right to legal counsel and fair trial procedures which guards

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<sup>274</sup> Self, *All in the Family*, 11-2 and Heather Schoenfeld, 'Mass Incarceration and the Paradox of Prison Conditions Litigation,' *Law & Society Review* 44, no. 3/4 (2010): 731-67, 735.

<sup>275</sup> Felber, *Those Who Know Don't Say*, 53.

seriously infringed upon by violating the privacy of their correspondence. The right to privacy and due process remained precarious in an environment that clearly built on power dynamics that benefit guards over prisoners. Prisons seldom adhered to democratic forms of participation and guards firmly exerted control over grievance procedures.

Besides seeking relief to overcrowding and better medical care through litigation, prisoners also fought and won limited prisoner governance inside of prisons. Both the newly established internal grievance procedures and litigation in courts yielded unintended consequences – an increase in carceral capacity instead of relieving overcrowded prisons. The flood of litigation that prisoners set in motion posed a serious challenge to court systems all across the U.S. Partly due to prisoners’ success, prison administrators, state, and federal governments set out to block prisoners’ path to the courts. Besides expanding the sheer caseload, prisoners won new rights that altered prison life fundamentally. Decisions originating in Florida like *Gideon v. Wainwright* and *Costello v. Wainwright* represented such key victories for prisoners. Bolstered by similar decisions all across the country, prisoners’ gains started to worry lawmakers and prison administrators, who fully embraced more punitive prisons by the early 1980s. New rights for prisoners and prison policies geared towards punishment instead of rehabilitation did not square easily, so lawmakers set out to impede on prisoners’ second pillar of organizing – their litigation efforts. Over the course of this chapter I discuss Raiford prisoners’ appeal to the judiciary and the two key decisions *Gideon* and *Costello*. In a second step I highlight state and federal efforts aimed at putting a cap on prison litigation.

## Raiford's Legal Aftermath and Two Landmark Cases

Prisoners at Raiford filed suit against Director of Corrections Wainwright in the aftermath of the 1971 protests. They felt that procedures were severely impaired by censorship: Guards opened and read prisoners' mail. Suits filed by two groups of prisoners consisting of James Peoples, Alfred St. Laurent, and John Doe, and Michael Miles Belsky, Fred Yokum, and Elester Samuel Roberts were consolidated into one case to stop guards from interfering in the legal process.<sup>276</sup> Lawyers James M. Russ, Carol Wild Scott, and Philip Jay Hirschkop represented them. The latter had played an instrumental role in integrating Virginia prisons in the 1960s and in declaring treatment of prisoners in Virginia's penal institutions as "cruel and unusual punishment" in November 1971.<sup>277</sup> In March 1971 Florida's Middle District Court ordered prison officials to refrain from opening prisoners' legal documents.<sup>278</sup> Ultimately, the grand jury tasked with investigating potentially criminal behavior at Raiford refrained from indicting guards for their actions during the 1971 uprising.

While prisoners often pursued legal change with their allied lawyers, protest often left them with other forms of grievance solution. Negotiations during the Raiford hunger strike resulted in the installation of an "inmate council."<sup>279</sup> These mechanisms of internal conflict solving frequently made it onto prisoners' lists of demands and many prisons subsequently installed some form of council. In Dade County jail prisoners nominated a liaison team to

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<sup>276</sup> Frederick Yokom born on February 11, 1946, served a life sentence for first-degree murder, briefly escaped from Raiford in 1969 and died in 2015. I could find no records for the other prisoners in the FDC's database, <http://www.dc.state.fl.us/offendersearch/>.

<sup>277</sup> Phil Hirschkop, *Immigrant Alexandria: Past, Present and Future*, Oral History Interview by Dan Lee, May 22, 2019, <https://www.alexandriava.gov/uploadedFiles/historic/info/history/OralHistoryHirschkopPhil2019.pdf>.

<sup>278</sup> *Peoples v. Wainwright*, 325 F. Supp. 402, (U.S. District Court, M.D. Fla. 1971).

<sup>279</sup> Dyckman, Martin, "Askew Suspends 10 Raiford Officers, Guards," *St. Petersburg Times*, May 6, 1971, A1, 19.

communicate with prison administrators in the aftermath of protests that addressed overcrowding in January of 1971.<sup>280</sup>

Prisoners increasingly pressed administrators to extend the same protections of due process granted in courts to grievance processes in prison. Black Raiford prisoner John A. Sands called for due process in disciplinary hearings in *Sands v. Wainwright*. Sands alleged that he had not received a fair hearing in front of an all white disciplinary commission. *Prisoners' Digest International* reported on the trial in great detail in 1973. Sands succeeded and had the 120 extra days he had received unjustly stricken from his record.<sup>281</sup> Many prisoners felt that grievance processes might alleviate some of the tensions inside of prison. *Prisoners' Digest International* associate editor Joseph Harry Brown decried that “instead of taking a constructive approach such as establishing inmate councils, encouraging prisoner-community social groups, permitting an institutional newspaper, i.e. giving prisoners a modicum of responsibility, officials do none of this.” According to Brown this omission created the “frustrating and suppressive conditions, which will most likely bring about the riots and strikes they [prison officials] so ardently desire and need to perpetuate the myth of prisoner dangerousness.”<sup>282</sup>

Reformers and prisoners alike hailed prisoner councils as an easy way to establish rapport and communication, yet these grievance processes, much like litigation in courts, entailed some unintended consequences or proved toothless all together. A comic published in the *Prisoners' Digest International* hinted at the cosmetic character of grievance processes. The comic depicts a prison warden and his secretary going through a stack of suggestions to improve prison. The secretary quips to the warden: “There aren't any suggestions at all, but there are 1,146 very

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<sup>280</sup> Carroll, “Guards Missed Cue to Violence, Prisoner Says.”

<sup>281</sup> “Important Ruling on Due Process in Disciplinary Action,” *Prisoners' Digest International* 2, no. 9-11, March 1973, 11-14; April 1973, 5-6; and May 1973, 5-6.

<sup>282</sup> Joseph Harry Brown, “News from Leavenworth,” *Prisoners' Digest International* 2, no. 8, February 1973, 6.

interesting propositions.” Both agree on ignoring prisoners’ grievances since they were mere propositions.<sup>283</sup>

Either during fights for due process in internal grievance procedures or overall prison conditions, courtrooms proved to be more hospitable to prisoners and their allies during the 1960s and 70s. Although Raiford guards had avoided indictments, other courts increasingly showed interest in prison conditions, launched investigations, and served indictments.<sup>284</sup> Prison litigation remained a key strategy among prisoners across the United States, and Felber finds that during the 1960s courts shifted their attitude toward more involvement in regulating correctional affairs. Previously, prison officials had enjoyed great impunity in their handling and applying of sentences, since courts rarely intervened.<sup>285</sup> Judges and lawyers of a more activist coinage, who asserted a role for the judiciary in the treatment of prisoners, did away with the hands-off approach. These legal professionals increasingly sided with prisoners, in most cases referring to prison conditions as “cruel and unusual punishment” under the Eight Amendment or invoking the Fourteenth Amendment’s Equal Protection and Due Process Clauses. The Florida landmark suits brought by Clarence Gideon and Michael Costello, who lent their names to two cases against Wainwright, illustrate this shift.

Clarence Earl Gideon, a drifter who had several encounters with Florida law enforcement and was in and out of Florida prisons, came in front of a judge once more on charges of theft in August 1961. Without any means for hiring an attorney and of poor education, Gideon petitioned

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<sup>283</sup> The secretary’s ‘ignorance’ also corresponds to widely held assumptions about female prison workers being simple-minded and naïve, typists without any grasp of prison policies. Comic by DuRain, *Prisoners’ Digest International* 2, no. 4, September-October 1972, 14.

<sup>284</sup> For 1971 a report mentions investigations into Caddo Correctional Institute in Louisiana, violence and neglect at Indiana State Reformatory resulted in 15 indictments of prison employees, an investigation into Parchman prison farm in Mississippi, and a private suit against the Alabama mental hospital system. Departments of State, Justice and Commerce, *Hearings before the Subcommittee of the Committee of Appropriations, 92nd Congress, Part 1* (Washington: U.S. Government Printing Office, 1972), 556.

<sup>285</sup> Felber, *Those Who Know Don’t Say*, 51.

the court to grant him legal representation. At the time defendants were only eligible for free counsel when they stood accused of capital crimes. The court sentenced Gideon to five years but he insisted that his rights had been violated. Basing his argument on the Fourteenth Amendment and articles five and six of the Bill of Rights, Gideon successfully moved the Supreme Court to consider his request. The liberal-leaning Supreme Court under Chief Justice Earl Warren established that every person facing a severe sentence has the right to free legal counsel in 1963. More than 2,000 Florida prisoners gained their freedom in the decision's aftermath, because they had been convicted without legal counsel present. *Gideon v. Wainwright* can undoubtedly be considered Florida's landmark prison litigation case. The decision even inspired filmmakers and journalist Anthony Lewis wrote a book about Gideon.<sup>286</sup> A comic in *Prisoners' International Digest* referenced the decision and voiced subtle critique. Four prisoners in a cell are greeted by a scruffy looking lawyer who introduces himself as their court appointed attorney. One prisoner incredulously looks at the lawyer and two others reminisce: "Remember when they didn't give us poor folks free lawyers? Yeah, those were the good old days." The fourth prisoner teases the lawyer: "He kinda makes you wonder why they need prosecutors."<sup>287</sup> Although *Gideon* established the right to publicly funded counsel, prisoners remained skeptical of the quality of legal advice they might receive.

While Gideon achieved free legal counsel for prisoners all across the country, Michael Costello tackled overcrowding in his case against Wainwright, which ultimately brought

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<sup>286</sup> Gideon, 'Petition for a Writ of Certiorari, 1961.' Anthony Lewis, a New York Times journalist covering deliberations in *Gideon v. Wainwright*, summed up the proceedings in his book *Gideon's Trumpet*. Anthony Lewis, *Gideon's Trumpet* (New York: Vintage Books, 1966); Bruce R. Jacob, '50 Years Later: Memories of Gideon v. Wainwright,' *The Florida Bar Journal* 87, no. 3 (2013); and Bruce R. Jacob, 'Memories of and Reflections about Gideon v. Wainwright,' *Stetson Law Review* 33 (2003): 181-298. In 1980 Henry Fonda played Gideon in the CBS production named after the landmark case. Robert Collins, *Gideon's Trumpet* (CBS-TV, 1980). On the fiftieth anniversary of the Supreme Court decision, the Constitution Project financed a documentary titled *Defending Gideon: A Documentary* narrated by Martin Sheen. Rebecca Richman Cohen, *Defending Gideon: A Documentary*, 2013, <https://archive.constitutionproject.org/publications-resources/defending-gideon/>.

<sup>287</sup> Comic by Giacalone, *Prisoners' Digest International* 2, no. 9, March 1973, 11.



Florida's prison system under federal court order. Similar cases that addressed overcrowding such as the Texas decision of *Ruiz v. Estelle* led federal courts to rule against eight out of eleven Southern prison systems in "totality of condition cases." These court orders held that the overall quality of care in a state's prison system did not live up to humane standards. Michael Costello and Roberto Celestineo, two Florida prisoners, petitioned the court in 1972 to remedy deplorable conditions like overcrowding and medical neglect.<sup>288</sup> Costello, born in 1950, served a life sentence for murder and was initially represented by Tobias Simon.

Costello called on the state to invest less in prison building and more in food services and health care, and his case established Florida's court-ordered prison population limits. Once the maximum capacity of 133 percent had been reached, prison administrators had to release prisoners or face being held in contempt. Costello reversed his position on reducing overcrowding by releasing prisoners later on, citing fear for his daughter's safety. Just like Costello's point of view so had the public sentiment shifted away from concern for prisoners to alarmist notions about the dangers of releasing prisoners. The *Orlando Sentinel's* condemnation of the population cap as the "early release machinery" illustrates this shift. The case ultimately dragged on until 1992 when Judge Susan Black closed it for good.<sup>289</sup>

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<sup>288</sup> Federal prisoner Richard Franklin Miller brought another case concerned with overcrowding in Duval County jails in front of Judge Scott in 1974, who decided that the jail's conditions amounted to cruel and unusual punishment. *Miller v. Carson*, 563 F.2d 757 (U.S. Court of Appeals, Fifth Circuit 1977). The case was finally closed in 1994. William J. Sheppard, 'Early Jail and Prison Conditions Litigation in the Middle District Court,' *The Florida Historical Quarterly* 92, no. 2 (2013): 419-25, 423.

<sup>289</sup> Chase, *We Are Not Slaves*, 391; Sheppard, 'Early Jail and Prison Conditions Litigation in the Middle District Court,' 422; Jean Bail, "17 Years Later, No End in Sight to Prison Lawsuit," *sun-sentinel.com*, June 26, 1989, <https://www.sun-sentinel.com/news/fl-xpm-1989-06-26-8902010745-story.html> and *Costello v. Wainwright*, 525 F.2d 1239 (U.S. Court of Appeals, Fifth Circuit, 1976) Civil Rights Litigation Clearinghouse, University of Michigan Law School, <https://www.clearinghouse.net/chDocs/public/PC-FL-0001-0008.pdf>.

## Deemed Too Successful: Putting a Cap on Prisoners' Litigation Efforts

*Gideon* and *Costello* represent typical cases of the era's prison litigation efforts. Prisoners all across the United States took to the courtrooms and built on progress that their Brothers had fought for in other states. A Michigan prisoner named Hull fought for prisoners' access to courts in *Ex parte Hull*. The 1941 decision established that prison administrators were not permitted to intercept writs of habeas corpus.<sup>290</sup> The Supreme Court's decisions in *Jones v. Cunningham*, originating in Virginia, and *Cooper v. Pate*, initially filed in Illinois, granted prisoners the ability to challenge the legality of their punishment and the right to sue the federal government.<sup>291</sup> Legal scholar James B. Jacobs even compares *Cooper v. Pate* to *Brown v. Board* in regards to the decision's importance to the respective movements fighting for civil and prisoners' rights.<sup>292</sup>

Scholars view Muslim prisoners as those who spearheaded litigation efforts.<sup>293</sup> Attica's Muslims breached prison walls and religious intolerance in *SaMarion v. McGinnis*. The decision forced prison authorities to view Islam as equal to other faiths.<sup>294</sup> In 1969 Muslim prisoner Henry Mason alleged that Florida "prison authorities discriminate against and harass him and those of his faith." Mason also claimed he possessed "the right to exercise his religion, to receive literature pertaining to his faith, and to correspond with Elijah Mohammed." According to Mason, prison authorities placed "him in maximum security solely because of his religious

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<sup>290</sup> *Ex parte Hull*, 312 U.S. 546 (U.S. Supreme Court 1941).

<sup>291</sup> Sheppard, 'Early Jail and Prison Conditions Litigation in the Middle District Court,' 419.

<sup>292</sup> Jacobs, 'The Prisoners' Rights Movement and Its Impacts, 1960-80,' 440.

<sup>293</sup> Felber, *Those Who Know Don't Say* and Smith, 'Black Muslims and the Development of Prisoners' Rights.'

<sup>294</sup> Felber, *Those Who Know Don't Say*, 50-52.

beliefs.”<sup>295</sup> The court dismissed his claims based on a chaplain’s affidavit that stated: Mason “has never indicated to any prison personnel his preference for the Black Muslim religion.”<sup>296</sup>

Multiple decisions originating in New York prisons and spearheaded by prison organizing icon Martin Sostre brought about a great leap forward for prisoners’ rights. Sostre, himself a victim of COINTELPRO’s fabricated charges, had considerable prison time under his belt when he challenged the constitutionality of solitary confinement in *Sostre v. McGinnis* and fought against arbitrary punishment for engaging in legal aid in *Sostre v. Rockefeller*.<sup>297</sup>

Censorship, a rampant problem in prisons both because guards frequently opened prisoners’ mail and banned certain publications, presented the key issue in *Sostre v. Otis*.<sup>298</sup> Tackling censorship and attaining the right to receive all magazines appeared as minor issues in comparison to a Mississippi-based decision. In 1974 *Gates v. Collier* ended the Mississippi “trustee system” under which guards had outsourced policing and punishment to a select group of prisoners.<sup>299</sup> A similar system had been in place in Florida’s prisons. Correctional officer James Dunn stated in 1958: “Most of the officers were and still are content to turn their duties over to the inmates and let them run the prison. The officials may have physical possession of the place via the electric charged fences and guard towers but the prisoners have control of and to a very large degree run the place.”<sup>300</sup>

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<sup>295</sup> *Mason v. Wainwright*, 417 F.2d 769 (U.S. Court of Appeals, Fifth Circuit 1969). Elijah Mohammed founded and led the Nation of Islam.

<sup>296</sup> *Ibid.*

<sup>297</sup> Alexandria Symonds, “Overlooked No More: Martin Sostre, Who Reformed America’s Prisons From His Cell,” *The New York Times*, April 24, 2019.

<sup>298</sup> *Sostre v. McGinnis*, 442 F.2d 178 (U.S. Court of Appeals, Second Circuit 1971); ‘Prisoner’s Constitutional Rights: Segregated Confinement As Cruel and Unusual Punishment, *Sostre v. McGinnis*, 442 F.2d 178 (2d Cir. 1971),’ *Washington University Law Review*, no. 2 (1972): 347-53; *Sostre v. Rockefeller*, 312 F. Supp. 863 (U.S. District Court, S.D. N.Y. 1970); and *Sostre v. Otis*, 330 F. Supp. 941 (U.S. District Court, S.D. N.Y. 1971).

<sup>299</sup> *Gates v. Collier*, 501 F.2d 1291 (U.S. Court of Appeals, Fifth Circuit 1974).

<sup>300</sup> Miller, *Hard Labor and Hard Time*, 283.

Just as prisoners flooded courts with petitions from New York to Mississippi and Florida to Michigan, Felber cites an increase in California from 814 petitions in 1957 to almost 5,000 in 1965. Prison officials tried to rein in prisoners with considerable legal knowledge, so-called jailhouse lawyers. In 1971 Florida prisoners filed 300 suits solely in the Middle District of Florida, Raiford's judicial district.<sup>301</sup> Attica officials tried to put a lid on litigation efforts by barring jailhouse lawyers from offering legal assistance to their peers.<sup>302</sup> Drawing inspiration from their Northern counterparts, Florida prison administrators also aimed at quashing jailhouse lawyering. Raiford prisoner Ester Roberts recalled how a guard reacted when he found out that Roberts provided legal assistance: "He said, 'Nigger lawyer, you been writing writs on your captain, but now I want you to know that your captain right here is your God, judge and jury.'"<sup>303</sup> Besides the guard's obvious hatred for black prisoners the account is also telling in the way the correctional officer envisions justice and his captain's omnipotent role within the prison hierarchy.

Judge William A. McRae decided on concerted attempts to hinder peer-to-peer legal assistance in *Coonts v. Wainwright*. Willis G. Coonts, a prisoner and jailhouse lawyer at Doctor's Inlet Road Prison in Nassau County, had been transferred to Raiford for allegedly aiding other prisoners in their legal claims, a practice banned by prison authorities in May 1966.<sup>304</sup> Coonts won his case when Judge McRae held that the ban on jailhouse lawyering "effectively denied those individuals access to state and federal courts, in violation of the Due Process Clause of the Fourteenth Amendment."<sup>305</sup> Similar restrictions in Tennessee brought the issue in front of the

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<sup>301</sup> "Important Ruling on Due Process in Disciplinary Action," *Prisoners' Digest International* 2, no. 9, March 1973, 11.

<sup>302</sup> Felber, *Those Who Know Don't Say*, 66-7.

<sup>303</sup> "Inside Raiford-The Case Against Louie Lee Wainwright," *Both Sides Now*, September 1971, 21.

<sup>304</sup> *Coonts v. Wainwright*, 282 F. Supp. 893 (U.S. District Court, M.D. Fla. 1968).

<sup>305</sup> Sheppard, 'Early Jail and Prison Conditions Litigation in the Middle District Court,' 421.

U.S. Supreme Court. In *Johnson v. Avery* justices established that legal assistance by jailhouse lawyers could not be banned.<sup>306</sup>

Florida prisoners gained better access to law materials in 1972. Prisoner Harold Raymond Hooks incarcerated at Avon Park had asked the Clerk of Florida's Supreme Court to send him legal material that might aid his appeal in the possession of controlled substances charges he faced. The Clerk replied that a copy could only be fashioned if Hooks paid a five-dollar fee. This payment, Hooks argued, represented a serious roadblock to his access to the court. In a second complaint Hooks petitioned Wainwright to grant him access to the law library and a typewriter. Hooks' writ of habeas corpus had been denied and in a desperate appeal to Judge McRae he asked: "What am I supposed to do now. The order does not give me the slightest indication why the petition was denied. There is no record for appeal, so therefore only grounds for appeal would be mere conjecture on my part." Clearly frustrated and intimidated he went on: "I don't even know if I can appeal the order. If I can appeal it, how do I do it? How much time do I have? To what Court?"<sup>307</sup> Hooks' struggle bore fruit when Judge Scott answered the question, "Does the state have an affirmative federal constitutional duty to furnish prison inmates with expensive law libraries or to provide inmates with professional or quasi-professional legal assistance?" with a resounding Yes.<sup>308</sup> While prisoners resorted to litigation to protest their confinement conditions and roadblocks to legal aid, underground newspaper *Prisoners' Digest International* supported their efforts by reprinting manuals for jailhouse lawyers devised by a San Francisco-based law collective.<sup>309</sup>

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<sup>306</sup> *Johnson v. Avery*, 393 U.S. 483 (U.S. Supreme Court 1969) and 'Habeas Corpus: Right of Prisoners to Assistance of "Jail-House Lawyers,"' *Columbia Law Review* 66, no. 8 (1966): 1542-46.

<sup>307</sup> *Hooks v. Wainwright*, 536 F. Supp. 1330 (U.S. District Court, M.D. Fla. 1982).

<sup>308</sup> *Hooks v. Wainwright*, 352 F. Supp. 163 (U.S. District Court, M.D. Fla. 1972).

<sup>309</sup> Brian Glick and San Francisco Prison Law Collective, "The Jail House Lawyers' Manual. How to Bring a Federal Suit Against Abuses in Prison," *Prisoners' Digest International* 3, no. 4-7, September-December 1973.

Prisoners' litigation efforts did spark responses by state correctional officials who laid the blame on their subordinates. Willie M. Arias, incarcerated in Plantation Key substation in Monroe County jail, and eight other plaintiffs filed a suit against Wainwright alleging deplorable conditions in Florida's jails.<sup>310</sup> The plaintiffs listed overcrowding, lack of rehabilitative programming and medical care, unsanitary conditions, and the absence of written disciplinary rules as unacceptable. Wainwright in turn deferred to officials in Monroe County as those responsible for jail conditions. The suit identified Sheriff William Freeman and all county commissioners as defendants and those in charge of maintaining Monroe County jails.<sup>311</sup> *Arias v. Wainwright* established similar standards for jails as *Costello v. Wainwright* had done for prisons.<sup>312</sup>

Scholars working on prison litigation attribute these successes largely to a shift in judicial policy that made prison conditions a suitable target for claims under the Eighth and Fourteenth Amendment. The liberal Warren Court furthered this prisoner-friendly approach. During the term of Chief Justice Warren Burger, Warren's successor, many rulings held, yet the court shifted markedly to the right. The Civil Rights of Institutionalized Persons Act of 1980 (CRIPA) that allowed the Department of Justice to investigate possible violations of prisoners' civil rights presented the final outpouring of concern for prisoners' rights. Through their litigation efforts prisoners had successfully appealed the courts that in turn had ordered legislators to move on prison reform. More conservative judges, appointed by presidents Nixon, Ford, and Reagan,

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<sup>310</sup> Robert Lee Brown awaited his trial in Brevard County jail. Edna M. Diamond and Jay A. Diamond were held in Hendry County jail before their trials, as was Franklin Lee Fowler, another plaintiff. James Moore and Daniel Osborn were incarcerated at Glades County and Gadsden County jails respectively. Walter H. Thompson and Otis Walker did time in Monroe County and Lee County jail. 'Complaint for Declaratory and Injunctive Relief (Class Action), March 23, 1979,' in *Arias v. Wainwright*, TCA 79-0792, (U.S. District Court, N.D. Fla. 1979) Civil Rights Litigation Clearinghouse, University of Michigan Law School, <https://www.clearinghouse.net/chDocs/public/JC-FL-0001-0002.pdf>, 3-4.

<sup>311</sup> Curtis Blair, George Dolezal, Wilhelmina Harvey, Jerry Hernandez, and Ken Sorensen served as County Commissioners at the time. 'Complaint, March 23, 1979,' in *Arias v. Wainwright*, <https://www.clearinghouse.net/chDocs/public/JC-FL-0001-0001.pdf>, 1-2.

<sup>312</sup> Mark Dykstra, 'Apart from the Crowd: Florida's New Prison Release System,' *Florida State University Law Review* 14, no. 3 (1986): 779-810, 794-5.

slowly did away with the courts' hands-on mentality in the late 1970s, and prisoners' allies like the National Association for the Advancement of Colored People (NAACP) and the American Civil Liberties Union (ACLU) lost interest or ran out of money to pursue these cases.<sup>313</sup>

Responsibility for prison conditions shifted back to state legislators and correctional officials – where it had been all along – as federal lawmakers fundamentally challenged the possibility of prison litigation. Florida's Attorney General Robert Shevin stated as early as 1971 that he remained optimistic that the courts would start “getting fed up with the avalanche of cases they are asked to consider from criminals.”<sup>314</sup> And lawmakers got to work.

Heather Schoenfeld argues that prison litigation entailed some unintentional and unwanted consequences: By engaging prison conditions in court, prisoners and lawyers pressed state officials to remedy overcrowding. While lawyer Tobias Simon had banked on hesitant and fiscally conservative lawmakers to opt for the cheap solution of releasing prisoners, they ultimately chose prison construction.<sup>315</sup> Schoenfeld stresses that litigation opened the door for the state to increase its capacity to incarcerate. As litigators challenged prison conditions they had no influence on how lawmakers would translate their suits and courts' subsequent decisions into prison policy. Schoenfeld asserts that, as “reformist correction bureaucrats used court orders to demand more resources” and signed on to lawsuits, prisoners' interests were not on their minds.<sup>316</sup>

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<sup>313</sup> Richard T. Boylan and Naci Mocan, ‘Intended and Unintended Consequences of Prison Reform,’ *Journal of Law, Economics, & Organization* 30, no. 3 (2014): 558-86, 560 and Jacobs, ‘The Prisoners’ Rights Movement and Its Impacts, 1960-80,’ 439.

<sup>314</sup> Robert Shevin, “Shevin’s Optimistic,” *The Sheriff’s Star* 15, no. 9, November 1971.

<sup>315</sup> Judges had ordered releases before e.g. Judge James Kehoe ordered 300 prisoners to be released from Dade County jail in 1971 to ease overcrowding. Richard Wallace and Carroll, Margaret, “Get 300 Out of Jail, Judge Orders,” *Miami Herald*, February 12, 1971, A1. In the immediate aftermath of the Raiford protests officials transferred more than 400 prisoners. “Raiford Transfers 400 Prisoners,” *St. Petersburg Times*, July 28, 1971, B3. Under the later devised framework of prison capacity releases had to be granted when prisons reached 98 percent of their capacity. Dykstra, ‘Apart from the Crowd: Florida’s New Prison Release System,’ 779.

<sup>316</sup> Schoenfeld, *Building the Prison State*, 68.

Judges like Charles Scott offered Florida state officials multiple avenues to solve the overcrowding issue in *Costello*. Long litigation processes during which political majorities and public sentiment shifted considerably, liberal judges retired or died, and the state's stalling tactics resulted in paradoxical outcomes. Schoenfeld argues that, "the temporal separation between the translation of a problem into a lawsuit on the front end and the translation of the court order into public policy on the back end creates the possibility that legal outcomes will diverge from legal activists' original intentions."<sup>317</sup> This time lag and the pressure to reduce overcrowding forced lawmakers to reevaluate other policy fields. Scholars Richard T. Boylan and Naci Mocan find that prison litigation resulted in the unintended consequences of a reduction in welfare benefits. Faced with limited budgetary options, lawmakers tended to cut welfare funding to finance the increase in carceral capacity.<sup>318</sup> Scholars Joshua Guetzkow and Eric Schoon reach similar conclusions: Instead of reducing prisoner numbers by releasing them, or slowing down admissions, overcrowding litigation led to an increase in spending and carceral capacity.<sup>319</sup> Prison litigation proved to be a double edged sword: "By promoting the comforting idea of the 'lawful prison' the litigation movement may have smoothed the way for ever harsher sentences and criminal policies."<sup>320</sup>

On top of these unintended consequences, prison officials increasingly avoided the threat that litigation posed to their authority by implementing internal grievance processes, as sociologist Van Swearingen finds. Euphemistically these processes aimed at 'negotiating' life in prison between guards and prisoners and at resolving disputes before 'bothering' the courts. By

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<sup>317</sup> Schoenfeld, 'Mass Incarceration and the Paradox of Prison Conditions Litigation,' 758 and Mariko K. Shitama, 'A Pioneer in Prison Reform: *Costello v. Wainwright* and Its Paradoxical Legacy in Florida Prisons: *Costello v. Wainwright*, 397 F. Supp. 20 (M.D. Fla. 1975),' *The Florida Historical Quarterly* 92, no. 2 (2013): 381-96, 384, 387.

<sup>318</sup> Boylan and Mocan, 'Intended and Unintended Consequences of Prison Reform,' 571.

<sup>319</sup> Joshua Guetzkow and Eric Schoon, 'If You Build It, They Will Fill It.'

<sup>320</sup> Margo Schlanger cited in Schoenfeld, *Building the Prison State*, 67.



erecting grievance processes under the guise of prisoner involvement, the 1980 Civil Rights of Institutionalized Persons Act (CRIPA) functioned as a bottleneck to prisoners' lawsuits. Although prisoners gained a potential weapon in DOJ investigations mandated by the CRIPA, the same law also put prisoners on a path to exhausting internal grievance processes before appealing the courts. Swearingen points out that power dynamics and the lack of legal protection during grievance processes rendered them useless.<sup>321</sup>

A Raiford prisoner in solitary confinement explained why investigators, once they arrived at prisons, frequently left without any complaints: "When I was in there [in solitary confinement], the investigator would come and ask how I was doing. So the guard officer is right there – and you're not going to say anything because you're afraid they'll leave you in longer."<sup>322</sup> Grievance processes' goals – the reduction of guards' misconduct, torture, and neglect – did not materialize. Swearingen even calls these procedures elaborate forms of window dressing which enforced strict timeframes and three strike rules that prohibit a prisoner from filing another complaint if three previously submitted complaints had been found to be unwarranted.<sup>323</sup> Scholars agree that impartial outside mediators or ombudsman/woman would remedy many of the grievance procedures' weaknesses.<sup>324</sup>

While the CRIPA had simultaneously offered prisoners the potential to call on the DOJ to investigate and bound them to "administrative remedies," the 1990s would see the emergence of another attempt to curb prison litigation.<sup>325</sup> In 1995 Senator Orrin Hatch (R-UT) bemoaned the influx in prisoner litigation: "Jailhouse lawyers with little else to do are tying our courts in knots

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<sup>321</sup> Van Swearingen, 'Imprisoning Rights: The Failure of Negotiated Governance in the Prison Inmate Grievance Process,' *California Law Review* 96, no. 5 (2008): 1353-82, 1370

<sup>322</sup> "Solitary," *St. Petersburg Times*, August 1969, Crime of Punishment Supplement.

<sup>323</sup> Swearingen, 'Imprisoning Rights: The Failure of Negotiated Governance in the Prison Inmate Grievance Process,' 1362.

<sup>324</sup> Dirk van Zyl Smit, 'Regulation of Prison Conditions,' *Crime and Justice* 39, no. 1 (2010): 503-63.

<sup>325</sup> Civil Rights of Institutionalized Persons Act of 1980, 42 U.S.C. § 1997e, <https://www.justice.gov/crt/civil-rights-institutionalized-persons#%C3%AF%C2%BD%C2%A7%201997e>

with an endless flood of frivolous litigation.”<sup>326</sup> Instead of curbing prisoners’ ability to file suits on the local level by barring jailhouse lawyers like Willis Coonts from aiding fellow prisoners, federal lawmakers introduced a way to silence prisoners’ grievances on the federal level. Under the Prison Litigation Reform Act (PLRA) prisoners are required to exhaust all internal grievance procedures before appealing any court. The PLRA also burdened prisoners with filing fees and limited prisoners’ damages and attorneys’ fees. Florida Representatives Charles T. Canady and Bill McCollum proposed H.R. 2354 known as the Prison Litigation Relief Act that preceded the PLRA. The proposed act aimed at curbing ‘intrusions’ of federal courts into matters of local jail and prison administration and made it into the PLRA.<sup>327</sup> Lawmakers achieved what they set out to do: Legal scholar Margo Schlanger finds that the total number of filed suits dropped from 40,000 in 1995 to 22,800 in 2001– a reduction of forty-three percent. The number of prisoners rose by twenty-three percent during that same period.<sup>328</sup> Because the Prison Litigation Reform Act forces prisoners to exhaust all grievance options before addressing the courts, federal lawmakers had significantly thwarted prisoners’ abilities to engage in one of the two arenas they started fighting in during the 1960s. The combination of these two measures – increasing toothless grievance procedures and the PLRA – infringed on prisoners’ ability to successfully appeal the courts and incapacitated the judicial arm of prison organizing.

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<sup>326</sup> Margo Schlanger, ‘Inmate Litigation,’ *Harvard Law Review* 116, no. 6 (2003): 1555-706, 1565.

<sup>327</sup> Charles T. Canady and Bill McCollum, ‘Prison Litigation Relief Act,’ H.R. 2354, (1993), <https://www.congress.gov/bill/103rd-congress/house-bill/2354?s=1&r=65> and Schoenfeld, ‘Mass Incarceration and the Paradox of Prison Conditions Litigation,’ 755.

<sup>328</sup> Schlanger, ‘Inmate Litigation,’ 1559-60.

## Chapter Six: Conclusion

During the Select Committee hearings in December of 1971 lawmakers discussed the political implications of protests in Raiford and Attica. Chairman Claude Pepper summed up lawmakers' fears: "There are many Attica-like explosions within the prisons of the country. No State is immune. Overcrowding, rural isolation, custodial oriented budgets and limited staffs working in the field of treatment and rehabilitation make more Attica-like disturbances nearly a certainty."<sup>329</sup> Legislators understood prisoners' protests as a call to action. They even shared some of their concerns. Oddly enough, correctional professionals eager to step out of the police force's shadow and claim a rightful place in the criminal justice hierarchy capitalized on prisoners' demands to bolster their own. These professionals often looked favorably upon prisoners' litigation efforts to ensure fair conditions – after all this would mean a better working environment for them too. Radical prison organizers and the underground press worked hard to voice a more fundamental critique, that reforms would in the end only perpetuate an oppressive and racist system – and they were right. By the end of the 1970s, prisons, stacked with young and black prisoners, were well on their way to becoming institutions of mass incarceration, a regime dubbed the New Jim Crow by scholar Michelle Alexander.<sup>330</sup>

Prisoners identified non-transparent and unjust rules for parole, arbitrary punishment and overall brutality by guards, lack of medical care, appropriate food and recreational facilities, few black correctional officers, and insufficient vocational training as the prison system's key failures. Guard Edward Roberts spoke of vocational training during his testimony in front of the

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<sup>329</sup> House Select Committee on Crime, 226.

<sup>330</sup> Michelle Alexander, *The New Jim Crow: Mass Incarceration in the Age of Colorblindness* (New York: The New Press, 2010).

Select Committee: “I can’t by any stretch of the imagination think it [vocational training] is adequate. The thing about it is you might have 20 inmates working or in a shop learning a good trade, and at the same time 100 inmates working out on the farm cleaning out ditches.”<sup>331</sup> The rehabilitative ideal, often evoked by reformers, did not pass the reality check. On the issue of hiring a 1980 report painted an equally dire picture. In 1974 prison administrators had set a goal to increase the meager six percent of black guards to sixteen percent by 1975. Authors of the report expressed the hope that affirmative action “will pay rich dividends by reducing racial tensions prevalent among the inmate population.”<sup>332</sup> By 1980 hiring of black guards still lagged behind the 1975 goal – only 14.4 percent of employees had ‘minority’ background.<sup>333</sup>

Prisoners voiced their opinions individually and collectively by engaging in prison writing or banding together in protest. They actively tried to transgress prison’s isolation strategy by drawing the public’s attention to the conditions they had to endure. Muslim prisoners organized to petition Governor Askew, while others took it upon themselves to smuggle information on prison conditions to journalists like Martin Dyckman and Jack Anderson. Prisoners resorted to tactics like sit-ins, hunger strikes, and destruction of property to get their message out. Organizations like the ALCU supported prisoners’ organizing efforts and engaged in litigation to secure fair treatment. However, federal agents, under the auspices of the Counter Intelligence Program, actively subverted organizing efforts and targeted black radical organizations as prisoners’ potential allies. The FBI identified the Nation of Islam and the Junta of Militant Organizations as major targets. Operations in Florida included intimidating individual members and public relations stunts like documentaries meant to spark fear within the public.

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<sup>331</sup> House Select Committee on Crime, 303.

<sup>332</sup> Keller, *Overcrowding*, 9.

<sup>333</sup> Wainwright, *Response to Allegations*, 55.

Raiford prisoners acted in a climate increasingly sympathetic to prisoners' fates. Inspired by George Jackson's protests in Soledad, California, prisoners all over the country began to organize. Prior to their own protest, Attica prisoners commemorated Jackson's death. Both Jackson's example and Attica became iconic reference points for prison organizers. Whereas Raiford prisoners made a considerable splash in activist circles in 1971, their impact on later prison organizing efforts remained marginal. Prisoners' strategies elicited similar response by guards' in Attica and Raiford – brutal retaliation in the protests' aftermaths. In both cases the news media got involved from the start. Journalists played a crucial role in reporting and witnessing events on the ground. However, journalists did not reach the level of involvement going as far as actively mediating between conflict parties in Raiford, as their colleagues did in Attica a few months later. Louie Wainwright and his New York counterpart Russell Oswald can be considered prison reformers, who agreed with many of the prisoners' demands and both were active within the American Correctional Association. Both agreed to negotiate with prisoners, yet in the Attica case, the fact that prisoners had taken hostages complicated these negotiations from the moment they took off. Martin Dyckman, who covered Raiford extensively, concluded that aside from the obvious difference that no one died at Raiford, while Attica resulted in over forty deaths, the major distinguishing characteristic was the way the two governors handled the respective crisis. While Nelson Rockefeller had been governor of New York for more than ten years, Askew had just assumed office when protests at Raiford erupted. Additionally the political climate had changed considerably, with the death of George Jackson looming largely above activist circles. According to Dyckman, Askew did not care for being seen as tough on crime, while Rockefeller's political ambition surely played a role in his handling of Attica. Being tough on crime did not clash with his reputation as a liberal Republican. Following Naomi Murakawa's

argument, that liberals embraced law and order as complementary policies to their efforts of strengthening the welfare state, Rockefeller's response made sense: Precisely because he was considered fairly liberal in some policy fields, Rockefeller's crack down on Attica protesters provided the fitting response.<sup>334</sup> It is doubtful that Askew would have stuck to his laid back approach, if he had been confronted with the death of a prison guard during the protests, like Rockefeller was. Ultimately, Raiford prisoners followed similar strategies, employed well-honed tactics, and articulated their demands in the tradition of radical rhetoric common among 1960s and 70s activists. These similarities and the relatively uneventful ending and aftermath contributed to the Raiford protests' marginal standing in the canon of prison uprising from Soledad to Attica. Raiford can be seen as a typical rather than extraordinary example of prison organizing. In the following years activists in and outside would take the fight for justice to prisons during many such instances.

Whereas justice meant defending existing rights and asserting new ones for prisoners, prison reformers grew increasingly uneasy in face of an excessive outpour of prisoners' rights-consciousness. They were ready to embrace some demands to make prison life more humane, yet simultaneously adhered to prejudice about prisoners, the subjects of their vehemently pursued reform efforts. Prison reformers viewed issues of race, sexuality, and gender as annoying appendices to a question of prison capacity. Without openly admitting it, the nexus of race, sexuality, and gender occupied reformers minds and informed prison policies. The deviant black man served both as an archetype of the criminal and the perpetrator of "prison rape." Louie Wainwright's enlightened and data-driven approach inhibited him from confronting his own prejudices. A sanitized, reformed, and fair prison system would only incarcerate those deserving of punishment, and if this process resulted in an overwhelmingly black prison population, prison

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<sup>334</sup> Murakawa, *The First Civil Right*, 29-34.

administrators could not be held accountable. Prison organizers vehemently disagreed and clearly named the prison system's inherent racism. Lawmakers like Charles Rangel of New York also tried to tease out underlying racial assumptions about prisoners during the Select Committee hearings in December of 1971.

Anxieties about homosexuality in prison and the threat of creating droves of gay men through prolonged stretches of incarceration featured prominently in policy debates about prisons. Gay prisoners took it upon themselves to counteract these assumptions. After forming a "gay collective," Raiford prisoner Henry Lucas declared that it was time "for us gay people to realize what we are oppressed people."<sup>335</sup> Gay prisoners fought for their rights via protests and litigation. In 1980 a successful lawsuit forced the Federal Bureau of Prisons to announce that "gay publications 'of a news or informational nature, gay literary publications, and publications of gay religious groups' could be admitted to prisons."<sup>336</sup> Raiford prisoners also battled their pathologization and claimed a space outside the closet, while still being incarcerated behind prison walls.

Conceptions of manhood and male gender traits played a prominent role in prison. The powerful notion of the male head of household and breadwinner did not halt at prison gates. Prison labor as well as sexuality served as important markers of manhood in prison. Historian Regina Kunzel stresses that: "Sex in prison was also a useful proxy for wider-ranging anxieties." Among them she highlights "male violence, male vulnerability and male intimacy" and "interracial animosity, black anger, and the politicization of African Americans."<sup>337</sup> How fragile notions of manhood were and how violently these notions had to be asserted in a thoroughly

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<sup>335</sup> Henry Lucas, "We Must Unify," Northeastern University Archives and Special Collections, Bromfield Street Educational Foundation, box 12, fol. 37 cited in Kunzel, *Criminal Intimacy*, 213.

<sup>336</sup> Kunzel, *Criminal Intimacy*, 207.

<sup>337</sup> Kunzel, *Criminal Intimacy*, 226.

racialized setting became clear during the Flat-Top incident. White guards brutalized and degraded black male prisoners – a well rehearsed model of ‘establishing’ racial and gendered hierarchies. Race, gender, and sexuality coalesced during such incidents.

Prisoners, aware of racial discrimination and the issue of overcrowding, invested in litigation to seek remedies to those obvious ills and justice for abuse suffered during prison protests. Prisoners enjoyed considerable clout in courtrooms when the hands-off era that saw prisons as unsuitable for judicial intervention came to a close. By pursuing positive and negative rights in courts, other movements boasted a new rights-consciousness that set an example and inspired prison organizers. During the 1960s and early 70s Muslim prisoners utilized the courts’ willingness to regulate prison conditions and others followed suit. Litigation, the second pillar of prison organizing, yielded considerable gains for prisoners, from their right to practice Islam to due process in internal grievance processes and proper medical treatment. Florida landmark cases like *Gideon v. Wainwright* secured access to legal representation for all prisoners in the United States and *Costello v. Wainwright* put Florida’s penal system under federal court order. While prison administrators saw racism and the prison system’s other flaws as rooted in overcrowding, prisoners and their allied lawyers challenged discrimination directly.

Reform-oriented judicial and correctional officials had offered an open ear to prisoners’ demands; by the end of the decade more punitive approaches replaced the rehabilitative ideal. Lieutenant Tom Barton’s rise epitomizes this turn. Involved in the beating of prisoners at Raiford in 1971 and suspended for ten days, Barton moved on to head Florida State Prison and boasted of using force against prisoners 42 times. Just as “tough guy” Barton enjoyed a shift of public sentiment to more punitive prison policies, prisoners’ saw their achievements, gained through direct action and litigation, undercut during the 1980s. *Prisoners’ Digest International* author



Joseph Brown called the punitive approach a “Nixon, Rockefeller and Reagan ‘middle-ages’ electric chair-gas chamber-hanging-life sentence mentality.”<sup>338</sup> Prison litigation, intended to relieve overcrowding, might have contributed to the prison building boom taking off during Reagan’s presidency. Since courts only ordered correctional officials to solve the problem but remained vague on suitable paths for doing so, legislators, contrary to prisoners’ intentions, translated the court orders into policies that relied on an increase of carceral capacity.

Conditions that triggered the protests in Raiford in 1956 and 1971 continued to foster anger.<sup>339</sup> On November 28<sup>th</sup>, 1971, prisoners’ protests rocked Raiford again. In 1973 similar grievances came up once more. Florida’s prison system witnessed protests of 300 prisoners at Sumter Correctional Institution in October 1981; at Cross City Correctional Institution 857 prisoners voiced their frustration in January 1983 and again in 1989. During hot summers tensions still run high in Florida prisons.<sup>340</sup>

Deplorable treatment and lack of vocational training drove prisoners to organize. They called for proper medical facilities and meaningful employment and job opportunities to prepare them for reintegration into society. Yet sentencing and time in prison entailed long lasting consequences such as discrimination on the job market due to their criminal record. To add to these inhibiting factors, most states practice continuing surveillance through parole and probation, which may be accompanied by prolonged or indefinite disenfranchisement.<sup>341</sup> Even if former prisoners regain their franchise – in 2018 Florida voters approved Amendment Four to

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<sup>338</sup> Joseph Harry Brown, “News from Leavenworth,” *Prisoners’ Digest International* 2, no. 8, February 1973, 6.

<sup>339</sup> Schoenfeld, *Building the Prison State*, 38.

<sup>340</sup> Julia Brown, “2 Florida Prisons on Lockdown on Day of National ‘Strike,’” *Miami Herald*, September 9, 2016, <https://www.miamiherald.com/news/local/community/miami-dade/article100874582.html> and Julia Brown, “Florida Prisons — All of Them — on Lockdown,” *Miami Herald*, August 17, 2017, <https://www.miamiherald.com/news/local/community/miami-dade/article167756842.html>.

<sup>341</sup> Reuben Jonathan Miller and Amanda Alexander, ‘Surveillance, and Social Welfare Policy in an Age of Carceral Expansion,’ *Michigan Journal of Race and Law* 21, no. 2 (2016): 291-311 and Traci Burch, *Trading Democracy for Justice. Criminal Convictions and the Decline of Neighborhood Political Participation* (Chicago: University of Chicago Press, 2013).

the State's constitution by 64.55 percent, which would reinstate voting rights to 1.4 million former prisoners – chances are high that participation in democracy remains low.<sup>342</sup> By ordering prisoners to pay back all court-ordered fees, Governor Ron DeSantis erected new hurdles to slow down the process of restoring prisoners' voting rights.<sup>343</sup> Similar to his predecessors in the governor's mansion and the legislative branch, DeSantis chose to stall prisoners' rights. A federal judge recently thwarted his efforts by overruling the poll taxes.<sup>344</sup> Although change came through a ballot initiative rather than the courts, the translation of the will of the people into legislation may still differ from lawyers' and activists' original intentions. Just as prison litigation efforts resulted in unwanted and paradox outcomes – an increase in carceral capacity – largely due to lawmakers embracing punitive policies, DeSantis tries to bend activists' hard fought victory into policy more to his liking.

James Bax, the first official to comment on the Raiford uprising in February of 1971, also testified in front of the Select Committee. By commenting on the role that prison protests play within a system that is geared toward isolation and secrecy, Bax ascertained that protests provide to “the public a flash picture of prison life.” The former secretary in charge of Florida's prisons continued: “In one brief episode it brings to light the latent resentment, the repeated confrontations, the meaningless demands, the arbitrary responses, and the human degradation which are part of this institution we call ‘prison.’”<sup>345</sup> Bax, who had left his post to work in Washington after a blowout with Wainwright over the handling of Raiford, clearly identified the

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<sup>342</sup> Alan Gomez, “Floridians Allowed Them to Vote but Felons May Be Shut out of Election,” *USA Today*, March 16, 2020, <https://www.usatoday.com/story/news/politics/elections/2020/03/16/1-4-million-floridians-unsure-whether-they-can-vote-in-november-electoin/4722829002/>.

<sup>343</sup> Lawrence Mower, “Federal Judge Expands Ruling to Include All Florida Felons,” *Tampa Bay Times*, April 8, 2020, <https://www.tampabay.com/florida-politics/buzz/2020/04/08/federal-judge-expands-ruling-to-include-all-florida-felons/>.

<sup>344</sup> Matt Stieb, “Federal Judge Overrules GOP Poll Tax for Ex-Felons in Florida,” *New York Magazine*, May 25, 2020, <https://nymag.com/intelligencer/2020/05/judge-overrules-gop-poll-tax-for-ex-felons-in-florida.html>.

<sup>345</sup> House Select Committee on Crime, 353.

twofold dynamics of prison organizing: “What is important is not so much what we see during this brief instant in a prison’s life, but the very fact that this is the only time that the public, sees into the prison at all.”<sup>346</sup> Prisoners and their allies worked hard to raise awareness for prison conditions and provide glimpses behind prison walls; they did so most effectively when organizing and protesting together.

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<sup>346</sup> Ibid.

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*Ann Arbor Sun, Berkley Barb, Berkley Tribe, Both Sides Now, Chicago Seed, Gay Community News, The Gay Liberator, The Great Speckled Bird, Joint Issue, Los Angeles Free Press, Muhammad Speaks, NOLA Express, off our backs, Palante, Penal/Prisoners' Digest International, Raiford Record, The Southern Patriot, Wintersoldier, The Yipster Times.*

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