

“‘Whisper to a Scream’: The Collateral Consequences of Parental Incarceration”⁵³

Luis F. Nuño

William Paterson University

“We have seen that, in penal justice, the prison transformed the punitive procedure into a penitentiary technique; the carceral archipelago transported this technique from the penal institution to the entire social body.” Michel Foucault, *Discipline & Punish* (1977: 198)

Introduction

My father died two weeks before my college graduation. Two weeks before I was to see him in a suit and tie for the first time in my life, he died from a massive heart attack in the agricultural fields of the Imperial Valley where he’d spent almost his entire life working. I remember going to class the day that my father died to inform my professors that I would be missing the final week of the semester so that I can attend my father’s funeral. I promised I would be back for finals. It was too soon to realize that any children I would have in the future would grow up never having met their grandfather. I evolved a sixth sense that allowed me to absorb life’s jolts by sidestepping past emotional highs and lows. I had grown accustomed to uncertainty. In a way, I was too slow to realize that, this time, this goodbye would be a permanent exit. On the morning of May 6, 1998, I received the phone call from my oldest sister breaking the news that my father had passed away from a severe heart attack only a couple hours earlier. Everything was fine. We shared a very ordinary conversation. We talked like rational adults. We spoke of death now, reassured each that everything would turn out okay, with a reminder that the obligatory funeral would be later in the week. It was a very matter-of-fact conversation. Minutes later, the phone rings. This time my mother is on the other line. This time emotions poured over tears in the barely decipherable words of our native tongue. To hell with the English-speaking world is what we cried.

The story of my father’s death goes back to a common passage my mother and I had traveled through seven years earlier. Together, my mother and I confronted my father’s arrest, visited him in jail, and attended his trial hearings. We shared a carceral bond. In a way, we had been through this ceremony of death before. The last time we went through this, however, life was too busy for a pause, we missed the opportunity to cry. We experienced my father’s *social death* together; as a family unit, we were witness to and participants in a *successful degradation ceremony*. Social death is the symbolic process describing the condition of exclusion whereby one’s identity is replaced by a dehumanizing official government label, in this case, the felon. While there is emerging research literature on the school-to-prison pipeline understood as the process by which the zero tolerance discipline in the school precedes and prepares minority youth for punishment in the criminal justice system, what I write about here is something slightly different (see Children’s Defense Fund 2013). I’ve written in other places about how zero tolerance policies and support for community policing strategies function as mechanisms reinforcing the structures of hyperincarceration (Nuño 2013). In what follows, I narrate a mirroring extra-penal process: how parental incarceration is a secondary prisonization for the families of convicted men. The “pains of imprisonment” extend beyond the prison walls.

This essay is composed in three sections. First, I describe the ordinariness of social suffering in a household with an incarcerated family member. Next, I apply sociological and criminological theory to the circumstances surrounding the extension of carceral detention beyond the physical architecture of the modern penitentiary. Last, I review the literature on reentry in light of my family’s role in reintegration following my father’s release from prison. In an effort to shed light upon an angle of the cradle-to-prison pipeline, this essay offers examples from my own life navigating the free world in the shadows of an invasive hyperincarceration social order.

53. “Whisper to a Scream” is the title of a song by the Icicle Works, “(Birds Fly) Whisper to a Scream” (1983).

Confronting a new ordinary

“Children who are present for an arrest at the very least experience an abrupt removal of a parent, most likely with no explanation beyond the general assertion that their mother or father has done something wrong.” (Comfort 2007: 276)

It was a normal October evening in 1991. “They’re here for my dad. Do you know where his shoes are? He needs some shoes.” These are the words my younger sister uttered through my bedroom door. Sure enough, as walk out to the living room I see my father standing outside the front door, in handcuffs, with police officer standing on either side. He wasn’t wearing any shoes. The plain white t-shirt was thrown on after his hands were shackled behind his back leaving it draping over his neck. The police explained that my father asked if he could at least put on some shoes. The officers advised that we should meet with an attorney.

What were the immediate day-to-day consequences of having a parent arrested, detained in jail awaiting trial? In the weeks following my father’s arrest, I visited as many attorneys’ offices as I could. Really, I only visited those that offered free advice. Most of these trips resulted in recognizing that our family was unable to afford a private attorney. We learned immediately that bail was not an option. Bail was set at one hundred thousand dollars. There was no way we could come up with that amount of money, or even the ten percent bail amount that we could post if we had one hundred thousand dollars of property as collateral. We were too poor to defend ourselves and too weak to confront the humbling power of the state.

It was left up to me to relay to my father’s employer the news of our situation. Then we had to figure out how we’d handle work, making money to pay the bills from that point forward. What were my mother, younger sister and I going to do now? I had just dropped out of community college. The bills never stopped coming. I kept my job as a day laborer in the agricultural fields of the Imperial Valley. Within a month I turned to delivering pizzas. These jobs served as a temporary reprieve from the ordinary, everyday world shattering all around. When I wasn’t at work, I had to confront the obvious suffering my mother was experiencing. Moreover, since my mother never learned to drive, it fell upon me to drive her to visit the county jail to visit my father. Nonetheless, the doubly low status and low pay worlds of agricultural labor and pizza delivery offered sanctuary from the insecurity of the world crumbling all around our family.

Trips to the country jail were never easy, either on our souls or within our own daily schedules. Megan Comfort vividly describes the secondary prisonization extended to visitors of incarcerated men at San Quentin prison in California (2008). Although local county jails hold detainees awaiting trial or serving short sentences, these spaces also function as domains of “contested personhood, an intermediary zone where visitors continually define and defend their social and physical integrity against the degradation of self (Garfinkel, 1956) required by the prison as a routine condition for visiting” (Comfort, 2008, p. 22). Those of us visiting the detainees had to sign up for visitations a full two hours prior to the visitation hour. Nobody was allowed to sign up for visits in the hour before visiting hour began. If the visitation list filled up before the one-hour cutoff time for visitation, visitors would be turned away. This means that we would sit in a cold bland room of the county jail alongside other lost souls waiting for two hours to be shuttled down a long corridor with many twists and turns en route to the visitation room with the plexiglass and phones on either side and jail guard eavesdropping on our conversations.

Beyond the immediate, day-to-day issues that my family had to confront at the time of my father’s detention at the county jail, there were also the long-term realities that were not going to go away. Where would we sleep when we inevitably lost our home? Where would we live? How much longer could we withstand the daily anguish of not only struggling with finances, but the enormous emotional burden of trying to stand up to the criminal justice system? Alas, the present was merely a placeholder for the inescapable future that would be, unlike the past, a future where I would forever be the son of a convicted felon. The present was simply a turning point marking the transition towards the new segregation of the hyperincarceration social order. Oftentimes my mother would ask out loud if maybe the shock of a sudden death was preferable to the slow, daily torture of confronting the unknown in the months after my father’s arrest. Approximately three months after my father’s arrest, following countless trips to criminal defense attorneys’ offices, the public defender’s office, and visits to the county jail, my father pled no contest to the charges before him. He was sentenced to seven-years incarceration in a California state prison.

On Degradation Ceremonies, Social Death, and Secondary Prisonization

My father immigrated to the United States as part of the *bracero* program in 1954. His education level was minimal, having gone to school only as far as the third grade. A consistent finding in hyperincarceration literature is that low level of formal schooling is a strong predictor of the lifetime likelihood of incarceration (Western, 2006). In the years since his migration to the U.S., he learned to speak, read, and write English. One of the lasting words forever burned in my memory was this advice he offered as I shared with him my anxiety at moving away to a four-year university after transferring out of community college, “At least you know the language.” In these few words, I was reminded of my privileged status in American society prior to my father’s prison sentence. The transformation of my public life from the privileged-American-born-son-of-Mexican-immigrants to the dishonored-son-of-a-convicted-felon shook my core essence, forced me to replace my private identity with a new state-sanctified soiled identity. In the sections that follow, I summarize theoretical works that bear upon the post-release condition of incarcerated men and their families.

The meaning of ritual destruction. Garfinkel’s (1956) essay on status degradation ceremonies painstakingly encapsulates the process and functions of our law courts, as well as the essence of what it means to transform personal, private lives into formal, public inanimate labels. There are three concepts in the classic sociology on imprisonment that apply to the secondary prisonization of the families of incarcerated men. Below I discuss the concept of rituals, mortified self, and status degradation to shed light on the consequence of hyperincarceration to penalize families of incarcerated men.

For Durkheim, “a society is to its members what god is to its faithful” (Durkheim, 1912, p. 208). Society reproduces itself through the minds of the individuals that make up society. Like all religious life, one of the fundamental means by which society stamps the values of the moral community is through the ritual. The courts and the rule of law are a passage through which we can witness the values of the moral community at work. What are these values? Who is the moral community expressed in the discourse of America’s courts?

Growing up a child of Mexican immigrants in the borderlands of the Southwestern United States shaped my distinctive orientation to American life. Our family was one divided by an international border. Uncles, aunts, cousins, and grandparents all still lived in Mexico. The Anglo-world was the world we lived in, but not the moral community that shaped the core of our collective identity. Social outcasts from Mexican life, not fully integrated into American society; neither good enough for Mexico nor accepted in the United States. Through ritual of my father’s arrest to his detention, sentencing and incarceration we found our legal and quasi-legal status in American society. The prison transformed the identity of my father from agricultural laborer to ex-felon, “mortified self” (Goffman, 1961), as well as my mother’s and my new public label as quasi-convicts.

Degradation ceremonies are rituals concerned with “the alteration of total identities” (Garfinkel, 1956, p. 420). The public denunciation of our family from the neighborhood to the individual, private transformation of our social selves, the sociology of moral indignation captures the feelings of shame, guilt, and identity transformation in a family traveling through the police, courts, and prisons in a hyperincarceration social order. Garfinkel lays out three conditions to a successful degradation ceremony. First is the necessity of a total identity transformation in a total institution. Second is the function of shame that results from the public denunciation of the accused. Third, the new identity shapes the future new normal, which must be seen in light of a social calculus that represents “the former identity as accidental: the new identity is the ‘basic reality.’ What he is now is what, ‘after all,’ he was all along” (Garfinkel, 1956, p. 422). In short, the successful degradation ceremony marked our baptism into American society. We learned how to *be American* by accepting our new soiled identity as markers of our status in the social hierarchy. We are forever wedded to the modern prison. Wacquant (2000) and Alexander (2010) describe this hyperincarceration social order as America’s new ‘peculiar institution’ or the *new Jim Crow*.

Social death and the pains of imprisonment.

“The individual is no doubt the fictitious atom of an ideological representation of society; but he is also a reality fabricated by this specific technology of power that I have called ‘discipline’. . . In fact, power produces; it produces domains of objects and rituals of truth. The individual and the knowledge that may be gained of him belong to this process.” (Foucault, 1977, p. 194)

Two concepts extend upon Garfinkel’s “degradation ceremony” for making sense of the transformation of public self. First, the idea of social death communicates the mechanism by which persons are deprived of their full humanity in the existing social and legal order. Slavery is the clearest illustration whereby people are denied their essential humanness. I argue that, as an extension of the peculiar institution, hyperincarceration functions as a symbol of social death for those touched by the professionals in the law, courts, and prisons. The society of captives is now no longer exclusively that population of men warehoused in America’s prisons. Today, the society of captives extends to the partners and children of the incarcerated population. Gresham Sykes summarizes “the pains of imprisonment” in his book, *The Society of Captives* (2007 [1958]), outlining the conditions flowing from the loss of freedom inside the prison walls. Below, I explain how these pains of imprisonment reach out and extend to the families of people doing time in America’s prisons.

Rios shows us how social death results from the criminalization and punishment of black and Latino boys in the streets of Oakland, California in the contemporary hyperincarceration era. He argues that

Social incapacitation is the process by which punitive social control becomes an instrument which prevents marginalized populations from functioning, thriving, and feeling a sense of dignity and humanity in their daily interactions with institutional forces (Rios, 2011, p. 160).

Similarly, parental incarceration greets children of men doing time as little more, not-quite-fully-human beings trapped in a penal web of social suffering. “The impact of incarceration on families ranges from lost income and help with child care to diminished relationships and social isolation” (Braman, 2002, p. 117-118). Having an incarcerated parent creates what Braman refers to as *prison worries* (p. 119-120). Prison worries range from the day-to-day dynamics of trying to figure out how to provide for loved ones behind the prison walls in the form of money for the commissary and planning for trips to the prison for visits to the daily anxiety and emotional toil of handwritten correspondence. Social death is the process of social negation. Here the concept applies to families of incarcerated men as a way of describing a life that is marked by the paradox of nonbeing, a life filled with constant struggle to only be marked as indelibly defective (Patterson, 1982, p. 38).

Gresham Sykes examination of the society of captives penetrates the walls of a New Jersey maximum security state prison to relay the pains of imprisonment. The pains of imprisonment, for Sykes (2007), are “the punishments which the free community deliberately inflicts on the offender for violating the law” (p. 64). Sykes describes the deprivations of liberty, goods and services, heterosexual relationships, autonomy, and security as only the official pains of imprisonment. The suffering that attacks the prisoner’s psyche are the more profound pains of imprisonment. The individuals caught up in the penal archipelago of the hyperincarceration social order retreat into the world of fantasy as a strategy to confront state power. Prison letters can be a means by which incarcerated men and their loved one withdraw “into a fantasy based on fondled memories of the past or imaginary dreams of life after release” (Sykes, 2007, p. 80). For those on the outside, confronting the pains of imprisonment can mean a withdrawal into the realm of fantasy through abusing recreational drugs or falling into a forlorn depression. The pains of imprisonments then become a vicious cycle of punishment, degradation, and depression, followed by escape into the world of recreational drugs. Recreational drug use is often a symptom and not the cause of social isolation, structural dislocation, and angst. Yet, the war on drugs grants the police license to target recreational drug users, whereby the criminal justice system captures the loved ones of people doing time, processing entire communities through the penal state. The tragedy of hyperincarceration becomes a farce through the persistent war on drugs

Secondary prisonization. Data on parental incarceration is scant. The clearest estimates suggest that as many as 2.3 million children have a parent in prison, and for 90% of these children the incarcerated parents are fathers (Comfort, 2007, p. 274). In *Doing Time Together* (2008), Comfort meticulously describes the secondary prisonization of women whose partners are doing time in San Quentin prison in California. She shows us that “women with incarcerated partners undergo a secondary prisonization,” (Comfort, 2008, p. 15) understood as developing a subcultural worldview that mimics that of incarcerated men; in essence the women in Comfort’s study become “quasi-inmates.” Below, I use my family’s experience to argue that children, as well as the female partners of incarcerated men undergo a secondary prisonization.

In her study of prisoner reentry, Petersilia (2003) observes that “male prisoners who maintain strong family relationships during imprisonment have higher rates of post-release success” (p. 41). Yet, not much is made in *When Prisoners Come Home* of the emotional, financial, and overall social strains that are required of families to maintain strong relationships during imprisonment. Petersilia points out that “prison phone calls are very expensive” (p. 45). Since these calls must be collect calls, the costs falls on the backs of families whose primary breadwinner is the one serving his prison sentence. In my own experience, collect calls from the state prison resulted in my phone service being shut off. I worked the graveyard shift earning a little over minimum wage. My telephone service was an expense that I could no longer afford. Letter writing became the only means of communication between my father and I during his incarceration. The pictures below are Christmas cards my father sent from prison.



In his description of the typical pattern of daily life inside a modern American prison, Norval Morris recounts the nonsensical boredom that is prison life. “Day in, day out, life is the same, unless there is a ‘lockdown.’ And during lockdown is even more the same” (Morris, 1998, p. 202). Television shows and news media all-too-often fail to capture the “deadening sameness” that is prison life. Our letters to each other were our best effort to escape the daily pattern of socially wasting life away in the modern panopticon, one of us inside the prison, the other in the free society.

Although I was not old enough to buy alcohol, I always managed to secure booze when I craved it. In the years during my father’s incarceration, my life became more reclusive and detached from mainstream society. Working on the graveyard shift I was exposed to a wide variety of stimulants. Cocaine and methamphetamine were a part of life in the graveyard shift. Work and recreation would lapse into one. Those of us in the graveyard shift become accustomed to rarely ever seeing the normal world. Co-workers would stop coming in. Rumors were that they’d turned toward rehab or tested positive during a random drug test or been arrested. Work turnover was high.

One of my closest friends during the period of my father’s incarceration was a fellow co-worker who had recently completed his prison sentence. We can call him Dave. He was the only one of my co-workers who’d stay away from drugs and would drink alcohol only in moderation. While in prison he had tattooed his kids’ names around his neck. He was quite a bit older. I was only twenty years old then, living in a world among fathers whose children were only about five years younger than me. Maybe Dave symbolized a deeper understanding of penal degradation than I had known up to that point. Dave would silently offer commentary about the drugs and excessive drinking in the world around us. He’d often point out that I had to find a new group of friends, that the work on the graveyard shift was a road to nowhere, that my life was still ahead of me. As I wallowed in my own self-pity, the only voice that offered useful advice was that of an ex-felon. Perhaps Dave saw the tentacles of the penal state wrapping itself around me. Perhaps Dave saw me in need of personal guide through the maze of obscurity in the suburbs of hyperincarceration Los Angeles.

Post-incarceration/reentry

My father was released from prison early, after serving half of his seven-year sentence. My sisters and I helped to find a place for my mother and father to live upon his release. Since he’d be out on parole, there would be restrictions on his movement, as well as residency restrictions upon his reentry to society. My oldest sister and her husband purchased a lawnmower and other equipment so that my father could work mowing lawns for business office complexes that had sprung up around the eastern suburbs of Los Angeles. For a few months, I held on to my job working the graveyard shift at night and helping mow lawns in the mornings. I’d then go home around noon to sleep about seven hours before returning to work at eleven at night to start the process all over again.

While working with my father, we talked about what my future would be like. I was twenty-one years of age now. Soon after my father’s release, I would spend weekends at the home my parents were renting. It was nice being able to spend some time with my family after all we’d been through. My parents would try to talk me into going to school to learn how to become a truck driver. They’d talk to me about joining the army or navy. We all felt that where I was at the time needed to change. In their eyes, I was still *doing time*.

It wasn’t long after my father’s release that I quit my job working the graveyard shift. My parents invited me to live with them on the condition that I give community college another try and help my father with his lawn mowing when I wasn’t in school. For the next two years, I attended community college. Being back at school after nearly four years of life in the shadow of the penitentiary, I felt at ease. My mother and father were living under one roof again. My father had to meet with his parole officer at first every week, then eventually once a month. He’d always come home a little on the edge. He was having trouble accepting his “stigmatized self” in a free society. All these years his penal habitus had been confined, hidden behind prison walls. Now, among free society where souls were ranked in a hierarchy of value, the ex-felon label didn’t come easy.

Prisoner reentry is often examined as if it’s a process only ex-felons go through. This criminological focus is too narrow. Most successful reentry is predicated upon strong or stable connections to family. Family members

reenter mainstream society together with the ex-felon, although in the private sphere of the family home. Of course, I did not know that these years would be our last together. These final two years together were spent with me commuting to the community college, helping my father mow lawns when I wasn't in the classroom, and mending relationships that were broken through my father's incarceration. In some respects, these may have been the greatest years of our lives.

Concluding Remarks

The last time I saw my father alive was the day before I left to live in the dorms at the University of California at Berkeley. Not even two years after I left for college, I received that morbid phone call we all know is bound to happen, but never fully accept. It seems reasonable to look back and conclude that the prison has been an unfortunate, yet “happy accident” in my Mexican life. Growing up, my parents always threatened to move the family back to Mexico if their children became too American. I never knew what to make of that threat, beyond understanding that it was, in fact, possible for my parents to move us back to Mexico. As first generation immigrants, our home was neither in Mexico nor in the United States. The trappings of the penal archipelago changed that. There was no turning back. We were here to stay.

Merton describes serendipity as a process of self-discovery, as kind of a “happy accident.” In the introduction to *The Travels and Adventures of Serendipity*, we are told “serendipity can be about finding something of value while seeking something entirely different” (Merton & Barber, 2004, p. xiv). It's been nearly twenty years since my father's release from prison. It's been almost fifteen years since his passing. In the time since, all or most of my energies have been directed at drawing light upon this dark era in American history. In their study of lives of delinquent boys at age seventy, Laub & Sampson (2003) point out that desistance is always marked by turning points in life – “changes in situational and structural life circumstances like a good marriage and a stable job” (p. 278). They found that men who desisted from crime were men who were embedded in healthy structures of informal social control. Men that were able to disentangle themselves from the webs of the criminal justice system were the men who had wives and children who loved them, employers who cared about them, and neighbors who counted on them. Something as simple as a meaningful social bond is what Laub and Sampson (2003) found to be missing from the men who were lifetime persisters (p. 278-282). Our hyperincarceration social order is historically unprecedented, as well as unusually harsh. At the same time, the carceral archipelago connects all the souls who share in the suffering of the contemporary penal state. The social solidarity among community activists, engaged scholars, and others who recognize the failings of the harsh discipline and penal suffering inflicted upon our current generation offers hope for a future social movement wedded to chipping away at the hyperincarceration social order.

We are in the depths of a hyperincarceration society. There are three prisons within ten miles from my home. Friends that I went to high school with have found steady careers either in law enforcement or as corrections officers in one of California's prisons. Many small towns throughout the state depend on the presence of the prison in their backyard. Our schools' harsh discipline policies are mimicking the culture of policing predicated on the war on drugs where a militarized language sees the world in stark binaries of good and evil. Such is the current state of the world we have come to inherit in the post-segregation era United States. Yet, there is reason to be hopeful. There are spaces to resist the pressures of conforming to the logic of the penal state in our everyday life. Teachers, principals, counselors, and educators must be granted discretion to weigh the influence of intervening variables contributing to kids' misbehavior. Schools must resist the pornography of law and order; police officers belong out in public space not in school hallways. Administrators need to continue the education, or, at minimum, be open to the idea that they've succumbed to the perversion of the law and order pornography, which fetishizes zero tolerance discipline at the expense of healthy social interaction built on negotiation and peace-making conflict resolution. We must all work together to resist the temptation of punishment for punishment's sake.

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