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## **DOCTOR OF PHILOSOPHY**

### **Men of a thousand days : death-sentenced inmates at Utah State Prison**

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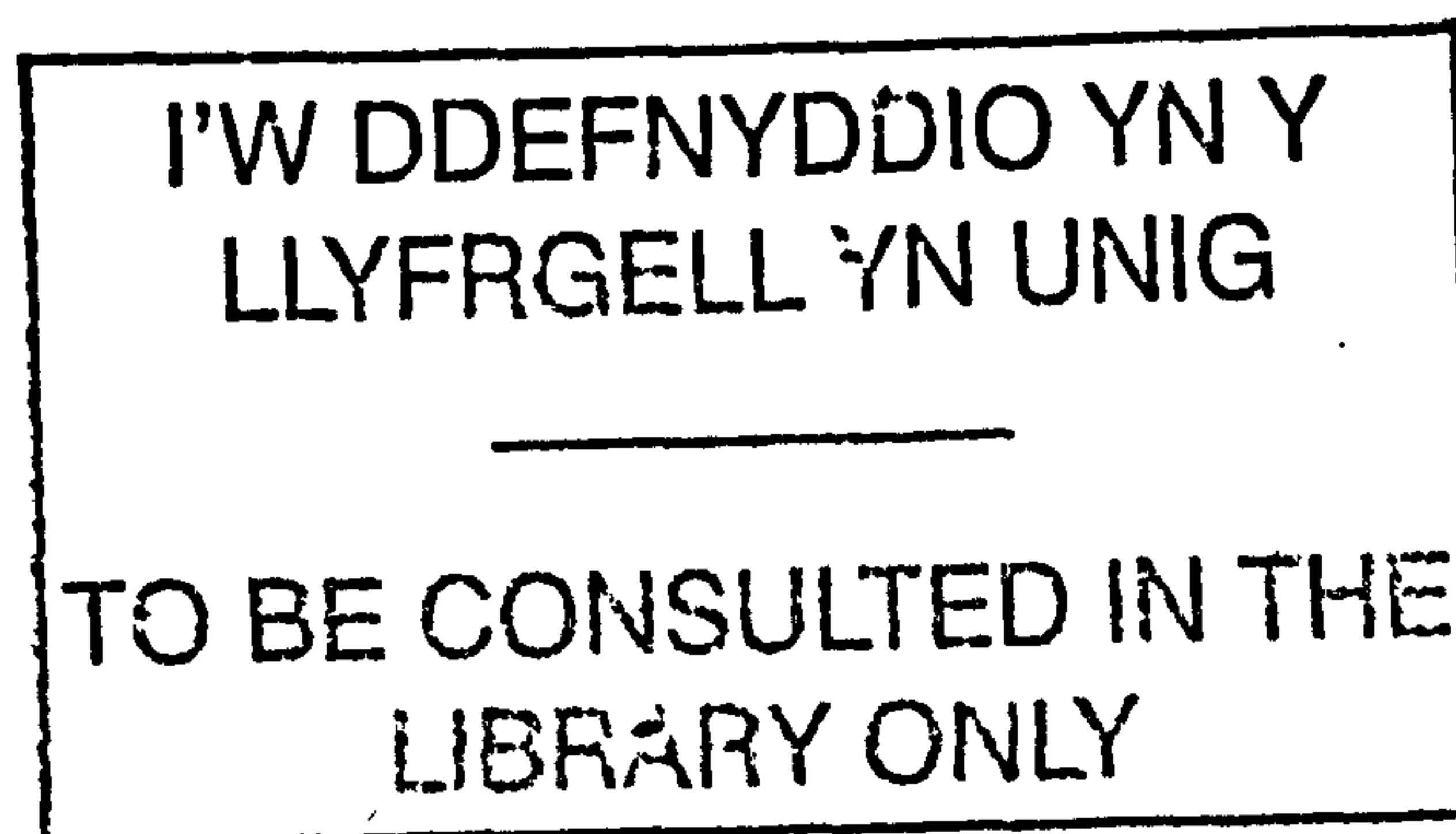
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# **Men of a Thousand Days: Death-sentenced Inmates at Utah State Prison**

by

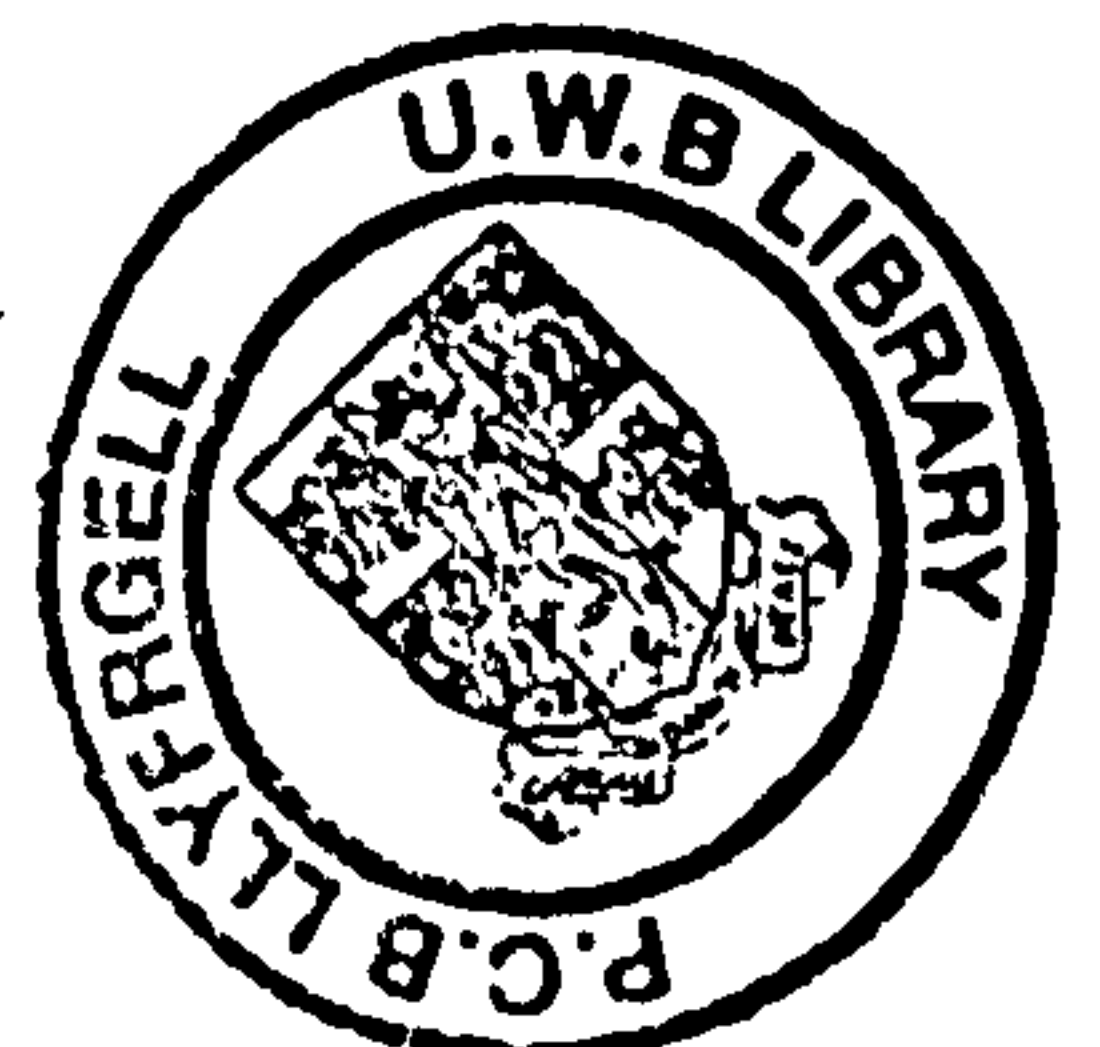
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2005

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## **SUMMARY**

Studies of the pains of confinement and coping techniques have ignored the experiences of death-sentenced inmates, particularly those in the USA housed under the punitive regimes of supermax facilities. This research is a qualitative, mini-longitudinal study carried out between 1997 and 2001 which examines the particular pains of confinement for inmates in the supermax facility of Utah State Prison and how they coped with life under the sentence of death. The findings suggest that these inmates experienced different pains and utilized different coping techniques than those described in prisons literature.

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# Chapter 1 – Capital Punishment

## Introduction

Had the United States Supreme Court been more decisive in the 1972 case of *Furman v Georgia*, I may well not have written this thesis. *Furman v Georgia* was a package of the following four cases: *Aikens v California*, *Branch v Texas*, *Jackson v Georgia*, and *Furman v Georgia*. The core argument for the defendants was that capital punishment “as administered in the second half of the twentieth century, was inconsistent with evolving standards of decency” (Haines, 1996: 37). Lawyers argued for their clients that the decline in the number of people sentenced to death was in line with modern sensibilities. It was further argued that although rigorous standards of due process were in place to lessen the possibility of tragic mistakes they had resulted in extended periods between trial and execution which had the effect on condemned prisoners of psychological torture which has since come to be known as the *death row phenomenon*. The defense lawyers also claimed that the penalty of death was determined by factors other than the seriousness of the offence including the race of the offender and the race of the victim. The court agreed that the penalty was handed down in a capricious and arbitrary manner thus rendering it unconstitutional and abolished the death penalty although, importantly, it did not rule that the death penalty *per se* was unconstitutional. Had it done so the sanction may well have remained outlawed. However, in 1976 the state of Georgia’s new judicial guidelines convinced the US Supreme Court that the sanction would be handed down fairly. Thirty-five states followed suit and by the end of 1976 the death penalty was for them once more a sentencing option. Utah was one such state.

The United States has a death-sentenced (DS) population of 3,503 as of January 1, 2004 (Death Penalty Information Center), yet we know very little about how condemned individuals cope with their existence. Only those who are living the ordeal fully understand. This thesis, however, provides some understanding and is based primarily on the experiences of eight death-sentenced inmates (DSIs) at Utah State Prison (USP, and what they told me about these experiences. Although it is difficult to chart the use of the extreme sanction of judicial killing anachronistically



as if it were “progressive,” an historical overview of the form and significance of the death penalty will be discussed here. I have relied to some extent on the work of Robert Johnson (1990) whose five stages in the development of the penalty are outlined. I have added a sixth era signifying progressive international pressure to abolish the sanction. The United States of America, however, resists this pressure; and to give some idea of where this powerful nation stands in this regard, attention is given in the second section of this chapter to two particular groups of retentionist nations. The first group consists of Russia, Japan, and the USA. They are the only three industrialized retentionist nations in the world to retain the sanction. The second group is “The Big Four.” The four nations with the highest execution rates are China, Saudi Arabia, Iran, and the USA. Finally, in this chapter developments in the United States in relation to the death penalty are discussed.

### **History of Capital Punishment**

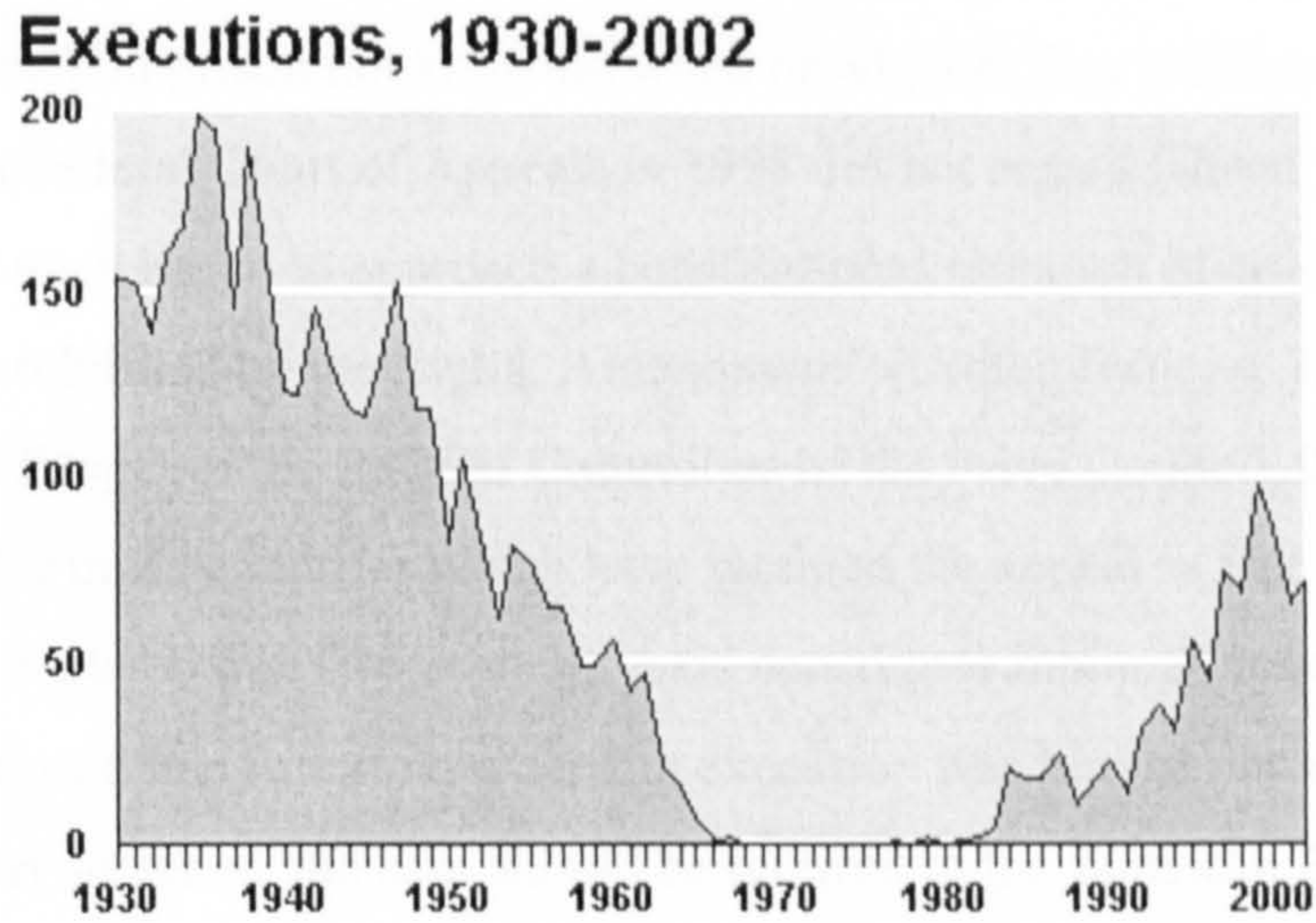
The taking of human life as a form of punishment has been used since antiquity with no evidence of a period when some society, somewhere in the world did not do so. It dates back to tribal societies in the form of stoning (Koosed, 1996), and may well have had its origins in human sacrifices (Schabas, 1997). It is difficult to provide a history of capital punishment as if it were a global progressive development going from barbaric rituals to sanitized procedures to complete abolition of the death penalty. There are two reasons for this difficulty.

First, there has not been a progression towards a recognized standard of acceptability in relation to judicial killing. For the most part, the horrors of public tortures, beheadings, and hangings are declining and facing worldwide condemnation; but this does not mean that executions are becoming progressively more humane. In most retentionist states public spectacles of harm to the body have merely been replaced with the private torture of the soul (Foucault, 1977). This is very much in evidence in the USA where DSIs suffer the agonies brought about by the death row phenomenon. This phenomenon results from inordinate periods of time spent in prison not knowing when or indeed if, they will be executed. The information in two graphs show the context in which it exists. Figure 1.1 shows the



dramatic decline in executions from 1930 to the 1960's.

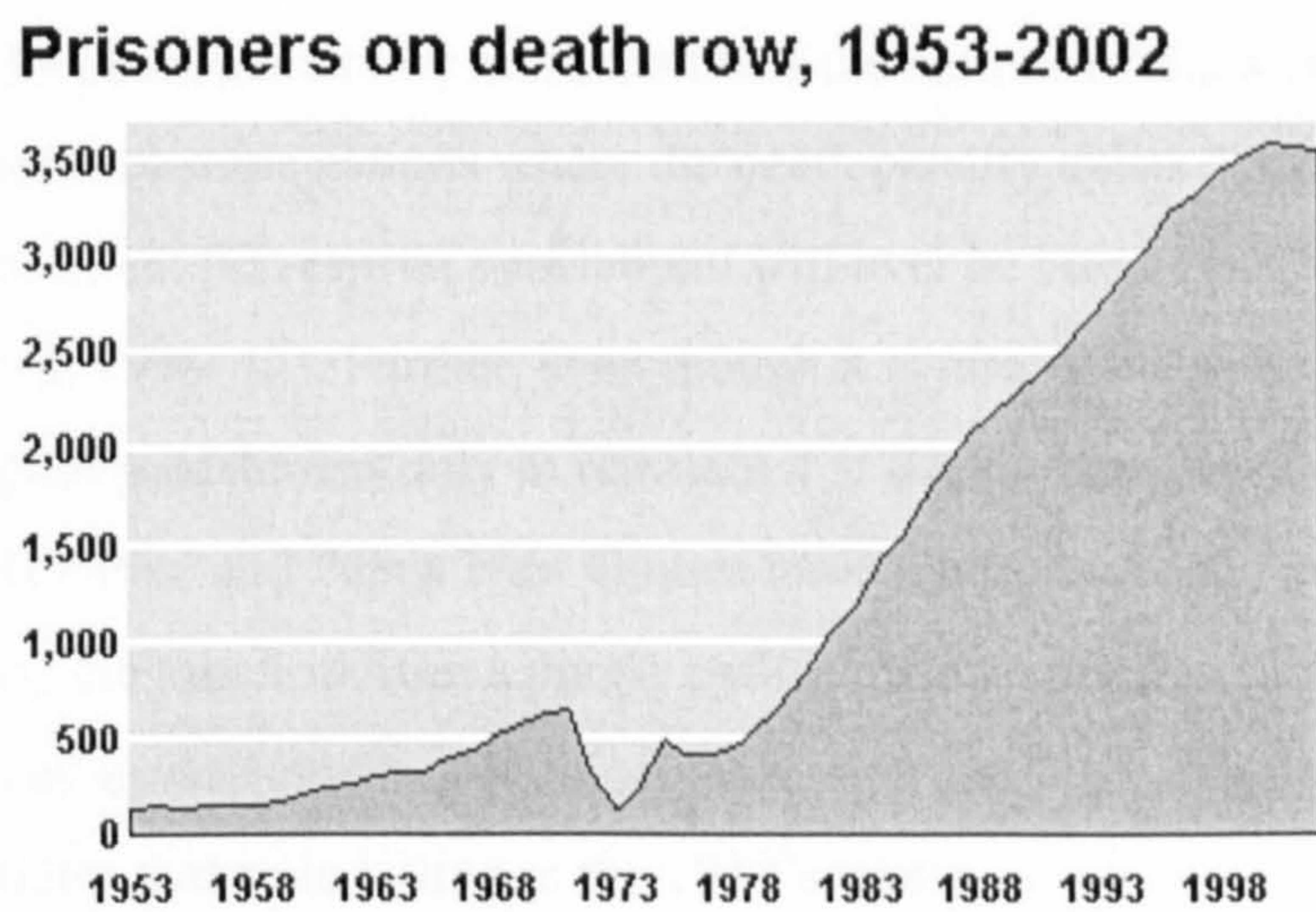
**Figure 1.1**



Source: Capital Punishment 2002

There is, of course, a rise again after the end of a ten-year moratorium ending in 1976. The second (Figure 1.2) shows the astonishing rise in the numbers of DSIs since the 1950's.

**Figure 1.2**



Source: Capital Punishment 2002



So long as executions remained high, prisoners did not accumulate but once the rate of executions slowed down, the numbers of DSIs started piling up. Hence the death row phenomenon which raises the human rights question of how long is it humane to keep prisoners in prison not knowing when or whether they will be executed. A United States Federal Court of Appeals in 1998 did not regard fifteen years “as a situation that even began to approach a constitutional violation of cruel and unusual punishment prohibited by the Eighth Amendment” (United Nations, 2001:32); but in the United Kingdom the Judicial Committee of the Privy Council, the court of final appeal for those countries which have retained the appeal to Her Majesty in Council, has declared that five or more years constitutes inhuman treatment. The Privy Council said that in future, where an execution was to take place more than five years after sentence, the case should be referred to the Jamaican Privy Council with the recommendation that the sentence should automatically be commuted to life imprisonment (Pratt et al v Attorney General for Jamaica et al [1993] 4 All E.R. 769 [1993]). There are, however, fears that the new Caribbean Court of Justice which is to replace the Privy Council in 2003 will, in response to increasing crime rates in Jamaica, become a “hanging court” (BBC News Online, 2002).

Second, what was happening in one jurisdiction may not have been happening in another. Although there is now a current trend towards international abolition of the death penalty by more than half the nations of the world, many resist abolition. There are some nations where the death penalty exists “but with no expectation or intent that capital punishment will ever be carried out” (Hodginson and Rutherford, 1996: 12). Further, even though it is rare, some societies have abolished capital punishment only to reinstate it at a later date. Since 1985 the Philippines, Gambia, and Papua New Guinea have reintroduced the penalty. Nor can we discuss the sanction from a purely punitive viewpoint; the sanction has been used at times as an instrument of political repression and legal redress. Roger Hood (1998: 741) notes that state killing in the 1930’s was:

“reintroduced and widened in its scope by authoritarian governments in Spain, Italy, and Austria, and was given a horrifying new dimension in Nazi Germany”.

It is useful, however, to describe historical stages in the significance and form of capital punishment even though fitting particular cases into the schema sometimes involves stretching the definitions in ways that seem hard to justify. As with most classifications, the boundaries between them are rather arbitrary. The following stages will be discussed: unceremonious brutality, public and punitive, state management, cruelty and empathy, privacy and sensitivity, and abolition.

### **Unceremonious Brutality**

The first era of significance comprises the years 3000 BC to AD 500. Among some of the earliest recordings of executions are depicted by prehistoric cave-dwellers at Vallodolid (Schabas, 1997). The sanction is documented as far back as 1750 BC in the Babylonian Code of Hammurabi (Koosed, 1996) but the Babylonians were the first to encode capital offences thereby laying down crude guidelines for the imposition of the death penalty. The importance of a written code remains an issue to the present day in the USA where retentionist states were compelled in 1976 to draw up guidelines for the imposition of the penalty (This is discussed more fully in the final section of this chapter). There was, however, no consensus on legal and moral issues relating to the death penalty and its imposition. Once more, this is much in keeping with the current situation in the USA where there is little agreement on policy regarding the execution of the mentally retarded and juveniles.

During this first era there was little agreement regarding the deterrent value of the sanction. William Schabas notes a debate reported by Thucydides concerning the use of the death penalty to quell a rising on the island of Mitylene in which Diodotus argues:

“We must not, therefore, commit ourselves to a false policy through a belief in the efficacy of the punishment of death, or exclude rebels from the hope of repentance and an early atonement of their error”.  
(Schabas, 1997: 4)

The death penalty’s deterrent value was, however, acknowledged by Plato who argued that it should be used as a deterrent but only for the most serious offences



such as sacrilege, murder of relatives, and seditious crimes:

“... if someone is proved guilty of murder, having killed any of these peoples, the judges’ slaves will kill him and throw him naked in a cross-road, out of the city; all the judges will bring a stone in the name of the whole State throwing it on the head of the corpse, then will bring him out of the State’s frontier and will leave him there unburied; this is the law” (<http://library.advanced.org/23685/data/iusa.html>).

More than likely the true value of the sanction during this period was the enforcement of community values. It is also worth noting that because of the criminal actions of individuals, the entire community ran the risk of supernatural sanctions such as famine and drought. It is not surprising, therefore, that the community, driven by unleashed rage at the offences of the condemned and in an attempt to appease God, would involve itself as spectators or executioners. The penalty thus served religious ends (Johnson, 1990) and is one reason why executions were probably quite common. The number of executions was also influenced by the number of capital offences combined with the arbitrary nature of the penalty. Under the Draconian Code of ancient Greece it was available for every offence and the Bible cites such offences as “magic, violation of the Sabbath, blasphemy, adultery, incest and rape” (Schabas, 1997). Lying, stealing during the night, cheating a client, and bringing away a boundary stone were offences punishable by death by the Romans. The Babylonians also levied capital punishment for minor offences such as theft; but, as already mentioned, the Code of Hammurabi provided for some consistency in its application in this particular community. There is a parallel here with concern that the death penalty in the USA continues to be levied in a capricious and arbitrary manner as well as with contemporary debates about the deterrent value of the sanction (Banner, 2002).

Most executions at this time took the form of stoning, be-heading, crucifixion, flogging, hanging, drowning, being thrown from cliffs, quartering, and being thrown to the lions. Whatever the method, executions in this early era were, for the most part, unceremonious and brutal.



### **Public and Punitive**

During the second period described by Johnson, the years AD 500 – 1000, the rage of the previous era had subsided somewhat; but famine, disease, disorder and invasions may have fostered a severe punitive psychology (Johnson, 1990).

Accordingly, public trials and executions remained a fact of daily village life; and the community remained instrumental in carrying out the sanction. There was little formality and decorum, and the aggrieved party was afforded the opportunity to take on the role of executioner. Trials typically took place in the market place, and the community was free to follow proceedings and to attend public executions.

Religion remained a forceful factor. Punishment was seen “as one of the many crosses laid on mankind by heaven and which must, therefore, be borne patiently” (Johnson, 1990: 7).

### **State Management**

During the late Middle Ages (1000 - 1500) the death penalty began to be handed down less indiscriminately (Laurence, 1960). At the same time executions were afforded a little more dignity and ceremony. In this third era, rage was replaced with other emotions such as excitement and awe. Significantly, trials and torture no longer took place in public. The accused would be privately examined in accordance with strict rules and procedures of evidence and, if found guilty, would be executed shortly thereafter. At this time there was much less involvement of members of the public. They no longer took on the role of executioner. The practice was now “considered to be incompatible with the dignity of the court that had pronounced judgment; it also brought undesirable odium on the accuser” (Johnson, 1990:13). Even though methods of execution remained grisly (disemboweling and beheading were not uncommon (Johnson, 1990)) the end of this era witnessed a move towards state management of trials and executions. A move towards the alleged decorum and civility of contemporary western criminal justice systems in relation to capital punishment began to emerge.

### **Cruelty and Empathy**

Although executions continued to be ritualistic, events were somewhat played down during the fourth era (1500 – 1800). Officials and spectators were expected to show

a little decorum and an element of sorrow. Occasional bursts of anger by spectators would have to be dealt with by gallows officials. Methods of execution, however, remained gruesome. It was the custom in England to display the head of the executed to show that the orders of the court had been carried out (Johnson, 1990). A person could be hanged but before death taken down and disemboweled or quartered. Breaking on the wheel was another particularly cruel method whereby the “prisoner’s arms and legs were propped up on a wheel-like platform and were broken in several places by the use of a heavy iron bar. The mangled remains were then turned rapidly, scattering gore about until the unfortunate victim was dead” (Johnson, 1990:9). Michel Foucault provides a graphic account of the fate of Damiens, the French regicide, who was

“taken and conveyed on a cart, wearing nothing but a shirt, holding a torch of burning wax weighing two pounds ... where, on a scaffold ... the flesh will be torn from his breasts, arms, thighs and calves with red-hot pincers, his right hand, holding the knife with which he committed the said parricide, burnt with sulfur, and, on those places where the flesh will be torn away, poured molten lead, boiling oil, burning resin, wax and sulfur melted together and then his body drawn and quartered by four horses and his limbs and body consumed by fire, reduced to ashes and his ashes thrown to the winds” (Foucault, 1977:3)

### **Privacy and Sensitivity**

By the beginning of the nineteenth century, the fifth era, communal involvement continued to diminish, forced out by bureaucratic procedure. Although executions in rural England were in general approved of by schoolmasters and parents (Johnson, 1990), they were accompanied by prayers for the condemned; and church bells would ring on the day of an execution. Yet London executions were often sites for drunken revelry – indeed the condemned and their executioners were sometimes very drunk during the proceedings because they had stopped at several pubs along the three mile route from Newgate Prison to the gallows at Tyburn (Hay et al, 1977; Johnson, 1990).

Disemboweling and the display of severed heads was no longer common practice. A cap was introduced for the condemned person to wear in order to provide “privacy and decency in public death” (Johnson, 1990: 11) while at the same time protecting viewers from the



**“obscenely contorted features of the hanged” (Johnson, 1990: 11).**

The emergence of a capitalist economy in Europe and England in particular and the need to protect private property were significant factors in the continued use of capital punishment. Capital punishment was valued by English rulers where a system of criminal law based on terror existed (Hay et al, 1977). Although there was no regular police force there was an abundance of laws with which to deal with law-breakers and the amount of capital offences increased from fifty to over two hundred between 1688 and 1820 (Hay et al, 1977). This modern period saw the demise of public executions in England, and they now took place behind the walls of penal establishments as is the current practice in the USA.

### **Abolition**

Although at each of the above five junctures of history people have “shown a considerable capacity for observing crude acts of violence without being repulsed by them” (Johnson, 1990: 14), the twenty-first century is witnessing changes in public attitudes and laws relating to capital punishment (Hood, 1998). The new millennium, therefore, is an apposite place to mark the beginning of a sixth era. This new one is witnessing a concerted effort to ban the use of judicial killing as punishment. Although only three states world-wide had abolished the death penalty at the beginning of the twentieth century, today 76 are completely abolitionist, 11 are abolitionist for ordinary crimes only, and 36 are abolitionist de facto countries (they have retained the death penalty but have not used it for over ten years). We are beginning to witness more refined sensibilities to violence and a lower tolerance of the use of capital punishment in most societies.

The United Nations stands opposed to capital punishment at an international level but does pussyfoot somewhat about the issue recognizing a:

**“humanitarian obligation to ensure that when capital punishment is carried out, both the period of detention under sentence of death and the method of execution should keep to a minimum the suffering of prisoners and avoid any exacerbation of suffering” (United Nations, 2001:22).**

In response to a survey question in this regard undertaken by the United Nations in 2001, the USA relied on a discussion of procedural safeguards published by the Georgetown University Law School which declared:

“implementation of the death penalty in the United States has been and continues to be reviewed by judicial, legislative, and executive officials to both state and federal governments. Our highest state and federal courts have upheld capital punishment subject to heightened procedural safeguards required under our state and federal constitutions and statutes, which generally meet or exceed those provided under international standards and the laws of most other nations” (Hood, 2001:22).

On a national level, The American Civil Liberties Union and The National Coalition to Abolish the Death Penalty are two of many groups who stand opposed to the death penalty. The United States has yet to sign any international treaty that bans capital punishment.

At a European level the Council of Europe requires its member states to abolish the sanction and argues that the death penalty has “no legitimate place in the penal systems of modern civilized societies and that its application might well be compared with torture and be seen as inhumane and degrading punishment within the meaning of article 3 of the European Convention on Human Rights” (United Nations, 2001:19). Further, many European States refuse to extradite persons to retentionist countries if there is a risk the sanction will be imposed (United Nations, 2001: 20).

### **Retentionist Nations**

Although progress towards abolition continues, this developing international norm is resisted by many nations (see Table 1.4 for list of retentionist nations). The USA (perhaps it is more accurate to say “some of the United States of America” since not all jurisdictions have the death penalty) is one of them; and in this regard can be located within two distinct retentionist groups. The first is “The Industrialized Three”. It is composed of Japan, Russia and the USA. They are the only industrialized nations in the world to use the death penalty. The second is “The Big



Four” (China, Iran, Saudi Arabia and the USA). These nations have the highest execution rates. It is worth reviewing these two groups to see why the USA should find itself with what can indeed be described as curious bedfellows.

### **Industrialized Three**

#### *Japan*

The number of DSIs in Japan is believed by human rights activists to be at least 110 (Amnesty International, 2001) although the Ministry of Justice refuses to confirm this number (webref New York Times, June 2002 //c:\win98\temp\gw\}00006.htm). Over fifty have had their sentences confirmed by the Supreme Court and, consequently, can be executed by hanging at any time. The execution rate is between four and six each year, and the length of time between sentence and execution is lengthy; one DSI has been in prison for over thirty years. Although Amnesty International has expressed “grave concern at the number of crimes punishable by death” ( web.amnesty. org/web/content .nsf/pagesbycountrytitle/gbrcopyright) Japanese officials claim the sanction is handed down only for particularly heinous offences.

Japan’s prison laws date back to 1908, but many regulations have not been made public. What is alleged is that prisoners in Japan suffer cruel and degrading treatment (Amnesty International has been denied independent access to prisoners in order to verify such a claim). Those whose death sentences are confirmed are housed in single cells in detention centers that have special chambers for executions. The condemned are allowed limited access to exercise facilities, jobs, medical care, and communication with the outside. Most are monitored by cameras 24 hours a day. The death row phenomenon in Japan is exacerbated by the fact that prisoners are not informed of their fate until the last hour of the execution. They have no opportunity, therefore, to meet with family and/or friends for farewells. Further, they have no access to their lawyers making it impossible to file last-minute appeals.

Executions are usually carried out on Friday mornings. Inmates are notified of their execution between 8:00 and 8:30 a.m. Until that time “things get so quiet that the only sound you can hear is the feet of the wardens ... you begin to feel the

most terrible anxiety, because you don't know if they are going to stop in front of your cell" (New York Times, June 2002). Surviving any Friday past nine a.m. is a shaky guarantee of one more week on earth. Justice Ministry officials, however, claim: "It would be more cruel if we notified the inmates of their execution beforehand because it would inflict a major pain on them ... they would lose themselves to despair. They might even try to commit suicide or escape" (New York Times, June 2002). The system is no kinder to family and friends who only become aware of an execution when they are requested to collect a prisoner's possessions or ashes.

The fight against corruption has been the main priority of the Japanese government and may, in part, be why little attention has been paid to the issue of the death penalty. Indeed, there has been a marked reluctance on the part of government to enter into the debate regarding the use of the sanction. This is evidenced by the fact that some executions take place during periods of parliamentary recess.

Despite a growing abolitionist movement and international pressure, public support for the death penalty remains high. A 1994 public opinion poll found that 74% of respondents were in favour of the death penalty in some cases (Hood, 1996). Michael Fox (Kansai Time Out, March 2002) argues that the penalty has an important function in that it is a powerful and useful weapon in the hands of the authorities; people would rather "sing than swing".

### *Russia*

As of February, 1999, there were more than 850 DSIs in Russia awaiting execution by way of a gunshot to the back of the head, for one or more of thirteen capital offences.

On joining the Council of Europe in February 1996, Russia committed to the establishment of a moratorium on capital punishment, and on 3 June 1999, Boris Yeltsin signed a decree commuting the death sentence of 713 prisoners to either life or 25 years in prison. This does not necessarily herald the abolition of the death penalty in Russia; the death penalty has been abolished on three separate occasions in Russia (1917, 1920 and 1947). Indeed, "few societies have vacillated between



extremes on the issue of the death penalty as has Russia” (Mikhlin, 1999: v). Even though Amnesty International claims there “is good reason to believe that, within a short period of time, the Russian Federation will become an abolitionist State” (United Nations, 2001: 15), by the end of 1999 it had neither abolished the death penalty in law nor ratified Protocol No. 6 to the European Convention for the Protection of Human Rights and Fundamental Freedoms.

Prison conditions in Russia are undeniably intolerable. For instance, over 84,000 prisoners have tuberculosis (Moscow Center for Prison Reform). An important point, however, is raised by King who reminds us that the “contextual gap between prison and the society of which it is a part is smaller in Russia than in Britain” (King, 1994:81). The deprivations suffered by Russian prisoners are not the same as those of, say, British and American prisoners. Nevertheless, Charlton (Associated Press, 1999) cites Anatoly Pristavkin, head of the presidential pardon commission, as saying prison conditions are so bad in Russia that many inmates are “practically begging for a death sentence” and “waiting for death is even worse punishment than execution.”

In an attempt to persuade State Duma deputies of an alternative to the death penalty, Justice Minister Yury Chaika invited the deputies to visit Institution No 265/5 on Ognenny Island. He wished to demonstrate that for 156 people whose lives were spared when Russia imposed a moratorium that life in prison “is nothing to make light of” (Chemga, 2002: 12). Since 1994 four people living in this colony have committed suicide, and another 28 have died. The colony consists of 81 cells housing two or three inmates. Inmates leave the cells only in the presence of officers to bathe or exercise for an hour and a half in a “steel plated box measuring three by four meters” (Chemga, 2002:12). Visits are limited to two, two-hour visits per year, and inmates may receive one parcel and one letter. Vera Lekareva (vice-chairwoman of the committee on women, the family and young people) declared:

“these people are treated worse than cattle. Their teeth are rotting, their faces are gray ... maybe the Western world is rich enough to isolate murderers from society and still give them a chance to be human beings. But what we have here isn’t isolation, it’s a total mockery of human dignity. No, there’s no respect for death in Russia.



Or for life, either” (Chemga, 2002:12).

It is worth noting that Lekareva is one of the most zealous advocates of the death penalty.

For DSIs not spared, life is grim. Inmates are sometimes not told they were to be executed, but received the bullet when being taken to exercise or other activities (King 1994). The bodies of the executed are not delivered to families and no information about the place of burial is given (Moscow Center for Prison Reform, 1998).

Russia has a centuries-old tradition of judicial killings, a key tool of terror in the Soviet police state. As many as 20,000 people a year were executed under the rule of Soviet dictator Josef Stalin. Although Perestroika and the collapse of the Soviet Union freed many political prisoners, it spurred a rise in violent and organized crime and a murder rate among the highest in the world.

While the new countries of the former Soviet Union are grappling with the incompatibility of capital punishment with the values of democracy they may need time to adjust to these changes and in the meantime need the ultimate sanction as a symbol of the states’ resolve to deal with crime. Increases in certain types of serious crime have created an air of public anxiety making it difficult to reconcile social pressure to abolish the death penalty from organizations such as Amnesty International and, perhaps more importantly, official pressure from the Council of Europe. Here we see a tension between a nervous and apprehensive public and the political desire to enter Europe. Arkady Baskayev (People’s Deputy) announced on 16<sup>th</sup> February 2002 that “in the last 24 hours, 40 murders were committed in our country” (Chermega, 1001) and called for Vladimir Putin to make it possible to revive the death penalty.

While there is evidence of a growing opposition to capital punishment and increasing pressure from liberal academics (Mikhlin (1999), there is also evidence that oppositional feelings are burnt out. Political analyst Igor Bunin argues that “practically everything the authorities do is, if not approved of, at least accepted by

an overwhelming majority. What is the reason for this acquiescence? Is it simply that ‘life is returning to normal’?” (Kornya, 2002).

### **The Big Four**

Equally interesting is that the United States should find itself in the top four nations with the highest execution rates. Amnesty International (2002) reports that during 2001 over 3,048 people were executed in 31 countries (more than twice the number in 2000); China, Iran, Saudi Arabia, and the USA accounted for 90 % of this number.

### ***China***

China executes more people than any other nation in the world. Although the death penalty is strongly defended there, it is contended that the official policy is one of “killing only a few” as “negative examples” (Hood, 1996: 39). Chinese officials and academics maintain that abolition is on the agenda. This claim is weakened by the fact that even though Chinese academics argue China has one of the lowest crime rates in the world, it has a wide range of capital offences. The figure stands at sixty-eight, many of which are for non-violent crimes. That is more than any other nation in the world. In 1994 China was reported to have carried out 77 % of all executions reported to Amnesty International (Hood, 1996) and over 80 % in 1996 (Hood, 1998). According to Amnesty International (2002), at least 1,781 people were executed between April and July, 2001 alone. That is more than the total number of people executed in the rest of the world in the previous three years. It is believed that pregnant women have been among those executed (Hood, 1996).

Family members are expected to assume responsibility for the financial cost of incarcerating the condemned, the funeral expenses, and the bullet used by the firing squad. In September, 2000, the news programme CNN announced that the Chinese government is proposing to adopt lethal injection as an alternative form of execution. Although Chinese officials claim this will be simpler and more humane than gun shots to the back of the head, human rights groups fear the use of lethal injections is closely linked to the existing practice of harvesting organs of executed prisoners for transplant surgery. This practice is in direct contravention of World



Medical Association guidelines laid down in 1987; and, understandably, there are fears that this practice could stimulate support in China for the death penalty.

Chinese officials maintain that over 90 % of those who are sentenced to death have their sentences commuted to life (or a lesser period if the case is so deserving) through a process whereby the court has the power to suspend the death penalty for two years thereby giving the offender time to repent. Immediate execution, it is claimed, is reserved for convictions such as multiple rape, armed robbery, and murder.

China is going through a period of social and political change. Its market economy has brought in foreign influences accompanied by a new series of crimes; and with them a rationale for the use of capital punishment. A spokesperson for the Ministry of Public Security, speaking in 1999, announced a ten per cent increase in the offences of murder, rape, and major theft in the first three months of that year. The threat to social order brought about by increased freedom of expression also has to be kept in check.

### *Iran*

Iran is ranked number two in the world in the number of its citizens executed. In 2001, there were 139 recorded executions (with the true number believed to be much higher). The legal philosophies of Muslim societies, whose Islamic jurisprudence is based on religious laws, affect the high number of executions by firing squad, hanging, or stoning in the Middle East. Religious dissent in the form of blasphemy, for instance, is a capital offence. Crimes such as murder, violent robbery, and adultery are also capital offences; and political leaders have added seditious crimes including treason and drug trafficking. Iran relies solely on Sharia law which plays a strict role in the regulation of the affairs of private life. For example, a death sentence was passed on a woman for engaging in sexual relations outside marriage (United Nations, 2001). Although supporters contend that:

“Islamic law includes strong rules of evidence which - when properly applied - favor defendants. These include requirements that an act of adultery be witnessed by four people known for honesty before an adulterer may be convicted. The punishment for murder,

too, is less strict than it often appears. Many countries of the Arabian Peninsula provide murderers with the option of paying compensation to their victim's family in lieu of execution. The offer of compensation - known as "blood money" - must be approved by the victim's family. The amount is set by the state." (Radio Free Europe, 1999).

There is very little information made available about the number of DSIs, or the conditions under which they are confined in Iran.

### ***Saudi Arabia***

With 79 reported executions in 2001, Saudi Arabia ranks number three in the world. The methods of execution for men in this state are beheading with a sword and hanging in a public place; women are executed by firing squad. Middle Eastern countries show little sign of relaxing laws concerning capital punishment. Like Iran, Saudi Arabian jurisprudence is influenced by Islamic law.

Amnesty International (2001) reported that 100 people had been executed between January and September 2001. Like China, Saudi Arabia has a wide range of capital offences (including witchcraft and sexual offences); and the police, according to Amnesty International (Amnesty International, 2002), have arbitrary powers of arrest. Its laws are vague thus susceptible to abuse. Indeed, there seems to be a very fine line between criminal and moral behaviour. Criminal proceedings regularly take place behind closed doors and often without benefit of legal representation for the accused. There are no safeguards preventing the use of the sanction against children or the mentally ill. Amnesty (2002) further reports that those sentenced to death may not be informed of their fate until the very day of execution. There is little debate on the death penalty in Saudi Arabia. The threat of the death penalty itself deters discussions; and as with Iran, there is little information made available regarding conditions for DSIs.

### **Curious Bedfellows**

Ranked number four in the world for the number of executions (sixty-six people were executed in 2001) the USA finds itself with curious bedfellows. Zimring and



Hawkins claim, “It is no coincidence that the list of actively executing countries matches that of politically repressive countries” (Zimring and Hawkins, 1986:6). There appears throughout the rest of the world a “negative correlation between execution policy and governmental respect for human rights” (Zimring and Hawkins, 1986:6). They also note “a striking positive correlation between capital punishment use and human rights violations” (Zimring and Hawkins, 1986:6).

It is difficult to see how the USA could refute these claims particularly in view of the fact that it lags behind some of these major retentionist nations in certain areas concerning capital punishment. The USA and Iran execute those whose crimes were committed under the age of eighteen; Saudi Arabia, Russia, China and Japan do not. During the 1990’s more juveniles were executed in the USA than in any other country (Amnesty International, 2002) despite the criticism in 1998 by the United Nations for this practice. The USA was also criticized in the same year by the UN for executing women; Russia exempts women. Russia also has a maximum age limit (sixty-five); the USA does not.

A possible reason for retaining the death penalty and a shared characteristic between both the Big Four and the Industrialized Three is that these are all fiercely independent nations (though Russia is perhaps less so now in light of its desire to join the European Community). Japan has the second largest national economy after the United States. The United States, however, is different in one fundamental aspect. It is culturally akin to much of Europe. Its laws and customs emanate from Europe where capital punishment has now been abolished in keeping with evolving standards of decency. So far the USA has declined to sign any international treaty that completely bans capital punishment. If some of these nations are curious bedfellows for the USA, one can only speculate how comfortable this nation, the epitome of democracy and technology, is in such company. The remainder of this chapter discusses the history and development of capital punishment in the USA.

### **History of Capital Punishment in USA**

If we, here in the UK, think of ourselves as being part of the ‘United States of Europe’ it leads to a better understanding of the American criminal justice system. It

would be wrong, for instance, to talk of the French criminal justice system as if it were the same as that of England and Wales; and by the same token, we must remember that each of the fifty states of America, the District of Columbia, and the federal government has its own criminal and penal code. Although the death penalty is authorized by the statutes of thirty eight states and by Federal statute, the decentralization of criminal codes means that there are variations in the ways the penalty is enforced which have existed since the establishment of the colonies.

The USA remains out of step with Europe in relation to the death penalty. Yet, paradoxically, the use of the penalty in the USA originated in colonial times as a product of English law. Between 1688 and 1820 capital offences increased from fifty to over two hundred in England (making its criminal code the harshest in Europe). Criminal codes in the colonies were also harsh but from the beginning there were regional differences. Banner (2002) notes that the early northern colonies were far less punitive than England for property crimes; but because of their religious origins, they were harsher on crimes against morality.

The southern colonies relied more heavily on English law; and, as a consequence, included capital punishment for fewer morality offences and more property offences than the northern colonies. The southern colonies' harsh capital laws were closely linked to the slave trade and the desire to control this large workforce as evidenced by the Slave Codes of 1666 which documented capital offences that did not apply to the free population (Villa and Morris, 1997).

During the seventeenth century, 162 executions were documented in the USA with little evidence to suggest that there was much opposition (Bigel, 1997). Execution sermons typically appealed to onlookers to witness the consequences of irreverence for the law and community members. Increase Mather, one of the most prominent Puritan ministers of the day, spoke in an execution sermon of why a murderer must be put to death, "... so that the Land [sic] where the murder is committed may be purged of Blood" because murder is "a sin as does pollute the very Land where it is done; not only the person that has shed blood is polluted thereby, but the whole Land lies under Pollution until such time as Justice is done



upon the Murderer” (Villa and Morris, 1997:13). The execution sermon of the pastor of the First Church of Hartford, Nathan Strong, reasoned that “others may be fortified against temptation by the spectacle of horror, and the bitter consequences of transgression. When you look thereon, learn the venerableness of the state and of civil government – the sacred nature of those laws made to protect liberty and property, and our obligations to obedience – learn that sin is punished by infamy, distress and death – that the man who injures his country, and will not be restrained by considerations of duty, justice and gratitude, must be cut off from the earth that others may be safe – remember that lesser sins, though they are not made capital by the laws of the State, lead directly towards the same untimely end” (Villa and Morris, 1997:13).

The sanction remained largely unchallenged during the eighteenth century. The population continued to grow; immigrants now included paupers, criminals, and slaves. These new, more heterogeneous communities were no longer bound by common cultures and values; and, in the absence of a formal prison system, capital laws were increased in order to maintain social control. Executions were, according to Banner (2002: 31) “genuinely popular”; and he notes that hundreds, maybe thousands, of spectators witnessed the 1821 hanging of sixteen year old Stephen Clark, an individual of previous good character who had been convicted of arson of a dwelling (Banner, 2002).

The punitive attitude of the English Crown (who had an economic interest in the colonies, Villa and Morris, 1997) was challenged in Europe by the philosophy of the Enlightenment era. This thinking was based on new scientific notions which argued that behaviour was guided by reason rather than divine intervention and that offenders could accordingly be rehabilitated. Cesare Beccaria advocated proportional punishments as an alternative to capital punishment and was cited three different times in this regard in a 1779 draft bill submitted by Thomas Jefferson entitled “A Bill for Proportioning Crimes and Punishments”(Villa and Morris, 1996: 16). Beccaria’s ideas also found favour with Benjamin Rush (a signer of the Declaration of Independence) who not only denounced capital punishment but was influential in the establishment of the world’s first penitentiary in Philadelphia.



Although nearly all states adopted the penitentiary as a form of punishment, it became apparent that overcrowding and mismanagement were leading to failure of the system (Villa and Morris, 1997) and capital punishment remained a sentencing option.

Despite the influence of Enlightenment philosophy the rate of executions did not abate in the USA during the early nineteenth century but by the 1830's they had begun to take place away from the public eye, the first taking place in 1834 in a Pennsylvania prison (Vila and Morris, 1997; Hale, 1997).

Executions, at the turn of the twentieth century, were not very much different than those at the beginning of the modern period some four hundred years earlier, although they did become less frequent. At the same time they took on a new impersonal form and continued to take place in private, at first in the prison yard, then in a corner of the prison yard, and eventually inside the prison building (Johnson, 1990). Hanging was the predominant method, brought to America from England.

It is also possible that less sensational executions were more in line with developing sensibilities. This was, after all, an era which called for radical change in the treatment of marginal groups such as the poor, the mentally ill, and the criminal. These issues continued to give concern during the latter half of the nineteenth century when constitutional issues were brought to the forefront regarding the death penalty. There were concerns about "due process" under the Fourteenth Amendment to the Constitution which promised equal protection for all Americans and which called for all states to respect those rights and to observe due process restrictions. There were also concerns relating to cruel and unusual punishment provided for under the Eighth Amendment especially in relation to the form of executions. There developed an air of humanity; the execution process aimed to be "quick, painless, minimally disfiguring, and private" (Johnson, 1990: 20). Because hanging could be a prolonged and painful death, the "long drop" was introduced at the end of the nineteenth century using a formula which determined the length of rope to be used based on the weight of the condemned. The fall was long enough to the break the

condemned's neck; death was almost instantaneous.

The deterrent value of the penalty also began to be questioned by prominent politicians, businessmen, and religious leaders (Villa and Morris, 1997). By 1929 sixteen US states had abolished the death penalty although some have since reinstated it. The number of executions declined (largely as a consequence of litigation in the federal courts) from 199, in 1935 to none in 1969, although between 1917 and 1957 there was not a single repeal of death penalty legislation (Zimring and Hawkins, 1986). Again, the distinction must be made between regions; Zimring and Hawkins point out that the shift away from capital punishment was not a national phenomenon and indeed conceals regional variations. There was, and still is, a crucial difference between some of the southern states and the rest of the USA. Between 1935 and 1969 there were more executions in these southern states than in other regions combined.

Throughout the 1920's, 1930's and 1940's legislative attacks on capital punishment met with little success. Public opinion also supported capital punishment. In 1937 the first Gallup Poll found a strong majority of the public supported capital punishment (Villa and Morris, 1996), yet judges and juries showed reluctance to sentence people to death. This may have been due to awareness of a trend towards abolition in Europe. In any event, issues concerning case law, defendant's rights to effective legal representation, and racial discrimination in relation to capital punishment were debated. It was not until the 1960's, however, that they became significant issues; and the whole issue of capital punishment became a matter of much debate.

## **Abolition**

The 1960's were a time of immense social unrest in the USA; the civil rights movement of the period included protests over the Vietnam War and concern over the rights of women, ethnic minorities, and other groups. The criminal justice system, accordingly, came under pressure to protect individual rights guaranteed by the U.S. Constitution and the Bill of Rights; and, as a result, new state and federal laws were passed.



In light of these developments the issue of capital punishment also took on a legal and political complexion. A strategy of attacking capital punishment through the courts was adopted by the NAACP (National Association for the Advancement of Coloured People), the Legal Defence and Educational Fund, Inc (LDF) and the American Civil Liberties Union (ACLU). This action came in the wake of two developments. First, there were two law review articles . The first by antitrust attorney Gerald Gottlieb, argued that capital punishment was inconsistent with “evolving standards of decency” and, accordingly, violated the Eight Amendment prohibition on cruel and unusual punishment. The second article by Walter E. Oberer raised a procedural issue involving the practice of excluding from jury duty those who were opposed to capital punishment thereby creating a jury more inclined to findings of guilt (Haines, 1996). The second development, a dissenting opinion in the 1963 case of Rudolph v Alabama, was even more important. The opinion considered that capital punishment in the case of rape was a violation of the “evolving standards of decency” vital for the moral evolution of society. This opinion also denounced capital punishment as a penalty for an offence in which life had not been taken and asked whether a less severe punishment would serve the same legal purpose as execution. These two developments raised serious doubts about the constitutionality of capital punishment (Haines, 1996).

Although sociological inquiry alone does not influence lawmakers, Caswell (cited in Haines, 1996) points out that it can provide the basis for justification of judges’ rulings. This was evident during the 1960’s when social science played a significant part in raising issues concerning capital punishment. This was at a time when the LDF in its struggle to abolish capital punishment chose not to address the constitutionality of capital punishment. Instead, it focused on the part played by racial discrimination in deciding whether to impose the death penalty. In 1964 a study was made of race sentencing in southern states which exposed bias thus violating the equal protection clause of the Fourteenth Amendment. Rape, at that time, was still a capital offence in a number of southern states, and Wolfgang’s findings in 1966 showed that black men who raped white women were significantly more likely than those who raped black women to be sentenced to death (Banner,



2002). The study noted “during the twenty year period from 1945 to 1965 in seven southern states ... there has been a systematic, differential practice of imposing the death penalty on blacks for rape and, most particularly when the defendants are black and their victims are white” (Zimring and Hawkins, 1986: 34).

The ACLU and the LDF in their determination to end capital punishment put into action a plan to halt executions by attacking both racial bias and selected trial procedures in death penalty cases. This “moratorium strategy” (Banner, 2002) was designed to create a logjam of DSIs. It was thought that in doing so states would be forced to consider abolition of the death penalty or else they would be faced with wholesale executions. The LDF hired a recent graduate of Harvard Law School, Jack Himmelstein, to coordinate the campaign. He distributed “last-aid kits” to allied lawyers to assist in preventing executions (Banner, 2002). This campaign owed much of its success to the genius of Anthony Amsterdam, also of the LDF, who obtained a temporary stay of execution for all of Florida’s DSIs in 1966. This was the first ever class action lawsuit of its kind; the same success was achieved in California. There was but one execution nation-wide in 1966 and only two the following year (Haines, 1996). The logjam had started.

The moratorium strategy was strengthened further in 1968 by the case of *Witherspoon v Illinois* (391 U.S. 510). This case was also argued by Anthony Amsterdam who claimed that “death qualified” juries do not represent cross sections of society. This was supported by research findings that “death qualified” juries were conviction-prone. Although the trial court’s guilty verdict in this case would stand, the Supreme Court ruled that only absolute opposition would exclude from jury duty, meaning only those who would never vote for capital punishment under any circumstances would be excluded (Haines, 1996).

By 1971, the moratorium strategy was beginning to see results. Nine states had abolished the death penalty, and four had no DSIs. In the case of *People v Anderson*, the California Supreme Court was the first court to declare the death penalty *per se* unconstitutional; but by the time this decision was made, the case of *Furman v Georgia* was already under way.

## **Furman**

Furman v Georgia argued that the sentence of death was being passed down in an arbitrary and capricious fashion due to the absence of guidelines. This resulted in racial and procedural imbalances. The Supreme Court was asked “Does the imposition and carrying out of the death penalty in this case constitute cruel and unusual punishment in violation of the Eighth and Fourteenth Amendments?” (Zimring and Hawkins, 1986: 37). On June 29, 1972 the Supreme Court answered that question; in a five to four decision, it reversed the lower courts’ imposition of the death penalty. It was, however, a badly split court making it almost impossible to determine on precisely which issues the nine justices agreed but they did agree that the death penalty, as administered, was unconstitutional (Bedau, 1982).

The effect of this decision was the invalidation of every death penalty statute in the country. Although abolitionists and many scholars applauded this development, one can only begin to imagine the relief felt by over six hundred DSIs who had their sentences of death commuted to sentences of life imprisonment. Capital punishment no longer existed in the USA. In Arkansas the electric chair was unplugged and was used for haircuts; the execution chamber in Pennsylvania became offices; in New Hampshire it was used to store vegetables, and in Idaho it was used to store medical equipment.

The majority decision in Furman, however, did not rule that the death penalty *per se* was unconstitutional (although two of the five justices, Brennan and Marshall, so held (Zimring and Hawkins, 1986)). Because the decision held that the infrequent, arbitrary and capricious way in which the death penalty was administered was unconstitutional, the back door was left open for the reinstatement of the death penalty; and there followed an immediate backlash to the Furman decision. On the day of the court’s decision, President Richard Nixon said, “the holding of the Court must not be taken ... to rule out capital punishment.” Nixon was a strong supporter of capital punishment regarding it “a superior deterrent to violent crime” (Haines, 1996:223). Unenthusiastic responses to the Supreme Court’s decision followed in other states. The lieutenant governor of Alabama announced,



“A majority of this nation’s highest court has lost contact with the real world,” and a Georgian politician claimed the decision was “a license for anarchy, rape, murder” (Haines, 1996: 23). California had the nation’s largest DS population at the time, 107 condemned prisoners. At the time, Governor Ronald Reagan called his state’s decision to outlaw the death penalty a “case of the courts setting themselves above the people and the legislature” and vowing “revenge” (Salt of the Earth, 1998). The decision to abolish the death penalty clearly did not meet with public or legislative approval. Zimring and Hawkins argue that this may have been in part because of the States’ resistance to Supreme Court intervention. “There may be no consensus about what democracy means, but being brought into line by an unelected, authoritative, elite body would not fit most popular definitions” (Zimring and Hawkins 1986: 44). A further reason why the decision was met with hostility was that the death penalty was seen as a symbol of what would happen to those found guilty of heinous offences.

### **Gregg**

By the second anniversary of Furman, 16 states (Delaware, Idaho, Indiana, Kentucky, Louisiana, Mississippi, Nevada, New Hampshire, New Mexico, New York, North Carolina, Oklahoma, Rhode Island, South Carolina, Tennessee, and Wyoming) had enacted new death penalty legislation which purported to ensure against the arbitrary nature of the death penalty by introducing mandatory sentencing for particular capital offences such as murder of a police officer and murder of an inmate by an inmate. Five other states (Georgia, Illinois, Montana, Texas, and Utah) took a different line. They set up formalized guidelines to ensure that judges and juries took into account specific factors when deciding whether to impose a death sentence. More than 100 people in 17 states were sentenced to death under these two kinds of new laws (Zimring and Hawkins, 1986) although executions could not resume without the consent of the Supreme Court.

In 1976 both new sets of death penalty laws were tested before the Supreme Court. As in the earlier Furman ruling this was another package deal and consisted of five cases. *Woodson v North Carolina* and *Roberts v Louisiana* were two of these

cases which rested on challenges to mandatory death penalty statutes. In these cases the Court claimed such statutes would rule out “individualized sentencing” (Bedau, 1996: 46). The three other cases in the package, *Proffitt v Florida*, *Jurek v Texas* and *Gregg v Georgia*, related to guided discretion statutes. On July 2, 1976, at a time when Nixon appointees dominated the Supreme Court, the case of *Gregg v Georgia* satisfied the Supreme Court that it had cleaned up its act and now had judicial guidelines that would satisfy the Court’s concerns over the arbitrariness of capital punishment. The guidelines laid by these three states included: separate hearings for guilt and sentencing, statutory lists of both aggravating and mitigating circumstances to guide sentencers, and automatic review of conviction and sentence by an appellate court (Bedau, 1996). The Supreme Court’s decision opened the floodgates. Thirty-five states administered new death penalty laws with much haste; and by the end of 1976, more than 460 people were sentenced to death. In January, 1977, Gary Gilmore faced the firing squad in Utah (the location of this research) and was the first person to be executed in the USA in ten years.

### **Post-Gregg Developments**

Despite mounting support for the death penalty, capital punishment continued to be challenged. In 1977 the death penalty was held by the Supreme Court to be excessive and unconstitutional in cases of rape (*Coker v Georgia*) and cases of kidnapping (*Eberhart v Georgia*) (Bedau, 1996). In 1982 the US Supreme Court (*Eddings v Oklahoma*) ruled that a sentencing judge had failed to take the age of a defendant at the time of his offence into account and overturned the death sentence. No ruling was made with regard to the constitutionally permissible age until 1998 when a five to three opinion held that the Eighth Amendment prohibited the execution of an individual who was under the age of sixteen at the time of the offence (*Thompson v Oklahoma*) (Villa and Morris, 1996). In 1986 the Supreme Court was called upon to clarify the position regarding execution of the insane and found such to be unconstitutional under the Eighth Amendment. In 1989 it was again called upon to rule on the execution of the mentally retarded which resulted in an opinion that ruled that mental retardation could be considered a mitigating factor but was not *per se* in violation of the Eighth Amendment. Although the issue of



capital punishment was shaped by almost yearly decisions (Bedau, 1996), the sanction was never seriously challenged (Haines, 1996) and remained constitutional into the twenty-first century in cases where there is no mandatory sentence and where life has been taken.

What little interest the Supreme Court has demonstrated in state procedures relating to capital punishment has merely perpetuated the sanction. For instance, although the Supreme Court decided in favour of consideration of mitigating circumstances to allow for more fully informed sentencing decisions, it has negated the effect of the Furman ruling by allowing for more arbitrary sentences. Another example is found, in the 1987 case of *McCleskey v Kemp*, the issue of race was once more raised only to be decided by the Supreme Court that even though in the application of the death penalty “a discrepancy that appears to correlate with race” occurred, it is “an inevitable part of our criminal justice system” (Salt of the Earth, 2001).

By the 1990's, procedural issues were once again under attack. Concern was expressed regarding execution delays in cases where guilt was undisputed. The 1995 bombing of the Oklahoma City Federal Building resulted in hurried anti-terrorism legislation. The Anti-Terrorism and Effective Death Penalty Act of 1996 which was signed into law by President Clinton (Haines, 1996) severely limited the challenging of state court convictions in federal courts (Villa and Morris, 1997). The reforms introduced by this Act limit the appeals process for DSIs. In 1992 the Supreme Court took the unprecedented step of outlawing further stays of execution by lower courts; and in the 1993 case of *Herrera v Collins*, it refused to hear new evidence of innocence claiming its role was to preserve constitutional rights not to correct the mistakes of lower courts. It appeared that the Supreme Court was removing procedural obstacles for states in what Haines (Haines, 1996:3) called a “rising tide of harsh justice.” The attitude of the Supreme Court was further described by Robert Weisburg as a “deregulation of death” in that states were allowed liberal latitude in the administration and interpretation of capital laws (Bedau, 1996:54). The early 1990's provided little indication that the USA would dispense with state sanctioned killing as a form of punishment.

In 1994, however, Harry A. Blackmun, an influential Supreme Court Justice, renounced capital punishment. He said, "The death penalty cannot be administered in accord with our Constitution" (Villa and Morris, 1997: 280). For him little had been achieved in the post Furman years to eliminate arbitrariness, discrimination, caprice, and mistake from capital sentencing. The following year, the Supreme Court ruled that the right to due process would be violated in cases where a capital jury was not informed that a life sentence meant life with no possibility of parole thereby providing the jury with a viable sentencing alternative.

By the mid 1990's, there were indications of major concerns over wrongful convictions and the danger of executing innocent persons. A major study by Columbia University showed that of 4,758 appeals between 1973 and 1995 most were seriously flawed and laid a large proportion of the blame for this at the doors of lazy and incompetent defence lawyers (Tran, 2000).

Illinois Governor Ryan expressed concern over what he called his state's shameful record of putting innocent people on death row. Since 1977 thirteen condemned prisoners have been released as a result of either new witness evidence, independent investigations, or DNA evidence; and on January 31, 2000, he ordered a moratorium based on the DNA exoneration of DSIs. This was triggered by two events in 1999. Early that year Anthony Porter was released from death row in light of evidence uncovered by Northwestern University journalism students. Later that year the Chicago Tribune published a thoroughly researched series which claimed that almost half of the 285 death sentences in Illinois involved one of four dubious elements: "defence attorneys who were later suspended or disbarred, jailhouse snitches eager to shorten their own sentences, questionable "hair analysis" evidence, or black defendants convicted by all-white juries" (Newsweek, June 12 2000: 32). Newsweek was told by Governor Ryan that there probably won't be any more deaths while he is governor. Although he believes "there are cases where the death penalty is appropriate," he argues that the state has to make sure it has the right person; and he says, "every governor who holds this power has the same fear I do." The same article reports that to date only Nebraska, Maryland, Oregon, and New Hampshire are reviewing their systems (June 12 2000).



Former Texas Governor George Bush, on the other hand, remained unconvinced by the findings. He believed Texas DSIs had full access to a fair trial; but by early 2000, Governor Bush made a turnaround and, in the light of DNA evidence, issued his first ever reprieve for a condemned man. In the wake of the development of the use of DNA evidence in capital cases, the American Association of Public Health is being urged by public health physicians to seek a national moratorium (June, BBC News, Website).

In 1966 public opinion polls indicated that only 47% of the American public supported capital punishment - the first and only time the majority opposed it (Haines, 1996). By March 1973, 63% were in favour and public support remains high – 66% as of February 2000 (June 2002, BBC News website). Opinion polls carried out by ABCNEWS.com in 2000 and 2002 indicate that over 60 % of Americans support capital punishment when no alternative is offered. This figure does, however, slip to under 50 % when life without parole is an option. The 2002 result does show, however, that the terrorist crimes of September 11, 2001, have not altered basic views on capital punishment though one would have expected increased support for the death penalty. While the Governor of Illinois issued a moratorium on the death penalty before the terrorist attack in 2000, since that date and after September 11, Governor Parris N. Glendening has, according to the New York Times, ordered a moratorium on executions in the state of Maryland until a special two-year study by specialists at the University of Maryland into whether minority felons are unjustly singled out for capital punishment is completed.

In May 2000, federal judge, Jed S. Rakoff, argued that the death penalty created “an undue risk that a meaningful number of innocent persons” were being executed. These views have been expressed by other judges; and although they are being strenuously opposed by prosecutors, it is thought that Judge Rakoff is unlikely to change his mind (New York Times, 17 May, 2002) and in July 2002 ruled the federal death penalty unconstitutional. None of the above recent developments, however, attacked the essential constitutionality of capital punishment *per se*. However, in January, 2003, Governor Ryan announced a blanket commutation of death sentences in the State of Illinois saying, “Because the Illinois death penalty

system is arbitrary and capricious – and therefore immoral – I no longer shall tinker with the machinery of death” (BBC News, 1993). The ADPM (the National Coalition to Abolish the Death Penalty), the country’s main anti death penalty group, applauded Governor Ryan’s decision declaring it a watershed move. To date, however, no other jurisdiction has followed suit; and capital punishment remains a sentencing option.

### **Resistance to Abolition**

Why the USA should retain this sanction is unclear, but one of the strongest arguments in favour of capital punishment in the USA is its potential for deterrence. Sellin’s 1959 analysis of this issue, however, concluded that there was no significant difference in homicide rates in states with capital punishment and those without capital punishment. But in a recent article, Paul H. Rubin (2002), a professor of economics and law at Emory University, doubts that cross-state comparisons are reliable for two reasons. The first being that there are many differences between states, for example, income, racial composition, and population density. All factors may influence homicide rates. Second, causality is unclear. Rubin points out that we cannot be sure whether a state has capital laws simply because it has a higher homicide rate. Along with two colleagues he used refined statistical analysis for a study in which he claims each execution led to a significant reduction in the number of homicides. While he does not argue for the social desirability or undesirability of the death penalty, he claims that “if we decide not to execute murderers, then we are making a decision that will lead to many additional murders in society” (Rubin, 2002: 29). This sentiment is not, however, shared by all academics. Capital punishment has been referred to as “just another form of violence” in an already too violent society (Bessler, 2002: 13). The sanction, according to Bessler, attorney and adjunct professor of law at the University of Minnesota Law School, “needs to be done away with” (Bessler, 2002: 14). He sees it as a message to society that killing already-incarcerated individuals can somehow solve the problem of violence in American life.

Another reason for the continued use of the sanction may be, as mentioned



previously, the rate of violent crime (which is thirteen times higher than in Great Britain) and which may foster a climate of fear among citizens (Banner, 2002:300). A third and closely related reason is the link in the USA between public opinion and law. Popular support in the USA translates quickly into government policy because it is more democratic, and elected officials come under pressure to reflect public interests (Banner, 2002). In Great Britain and many other nations, however, capital punishment was abolished despite public support. Zimring and Hawkins (1986) note that when countries have abolished the death penalty it is not necessarily because this is what the public wants; most abolition movements have been led “from in front” (1986: xi). They note that when the death penalty was abolished in the England and Wales in 1965, 70% of the public were in favour of capital punishment.

Capital punishment is considered by most nations to be an abuse of human rights. In 1989, The European Court of Human Rights found that the USA’s norm of execution after a lengthy period of time would violate The European Convention on Human Rights. In 1998 the United Nations Commission on Human Rights urged a moratorium on all executions and, the following year, resolved that all nations should move towards complete abolition. However, despite this pressure, there is little to suggest that things will change significantly in relation to capital punishment in the USA in the immediate future. The nation remains accountable to an electorate who remain in support of the penalty and impervious to foreign criticism

### **Summary**

The right to take human life as a form of punishment has always existed somewhere in the world. The form and significance of the sanction has moved through various stages leading to a worldwide move towards abolition. The United States Supreme Court, however, remains deeply divided on capital punishment and also is reluctant to involve itself in state matters. The United States, therefore, continues to resist abolition. All of the nations with which the United States considers itself an ally and with whom the United States considers itself to have a similar moral foundation, have banned the use of capital punishment and have publicly and severely criticised

the United States for not following suit. The United States has not adopted protocols on human rights which endorse the abolition of the death penalty and as a result finds itself in the company of nations such as China, Japan, Russia, Saudi Arabia and Iran; nations who have not demonstrated a commitment to human rights. This is not what one would expect from the most advanced nation in the world.

The number of USA death sentences handed down and executions carried out, when compared with the number of murders committed has always been small. In an average year, 20,000 homicides occur in the United States; yet fewer than 300 convicted murderers receive the death penalty. If not all those convicted of murder are given the death penalty, who does? Those sentenced to death have been, and remain, overwhelmingly male, disproportionately black, and, in the main, poorly educated (Koosed, 1996; Mikhlin, 1999). Another significant factor is the race of the victim; over 80% of completed capital cases involve white victims even though nationally only 50% of murder victims are white (Death Penalty Information Center, 2003). It is small wonder that execution is a southern states phenomenon (Zimring and Hawkins, 1986). Little has been done to rectify the failing of the judicial system that the Supreme Court was unable to correct in *Furman and Gregg* (Banner, 2002) and meanwhile the reality is that there are over three and a half thousand DSIs in thirty-eight of the States of America and its federal and military prisons.



## **Chapter 2 - Death Sentenced Inmates**

### **Introduction**

This chapter will look first at the make-up of the DS (death sentenced) population of the USA which is over 3,500. Second, there is a discussion of how they will be put to death, and the procedures involved. Third, there is a description of the conditions under which they live until the appointed day of execution. In the fourth section, consideration is given to how DSIs should be housed and concerns about conditions for this population.

### **Death Sentenced Inmates**

Almost 99% of DSIs are male; although women are the fastest rising prison population there are only 52 DS females in the USA. The 12% black population of the USA is overrepresented among DSIs; 43%. Further, certain jurisdictions have more black DSIs than white (Arkansas, Colorado, Georgia, Illinois, Louisiana, Maryland, Mississippi, North Carolina, Ohio, Pennsylvania, Texas, U.S. Government, and U.S. Military) (Appendix 1).

Close to 100% of DSIs are poor (Dow and Dow, 2002). Thirty-six per cent of DSIs have no previous convictions and 92% have no prior homicide convictions. Over two-thirds were not on probation, parole or serving time at the time of the murder. Over half have never been married, and over half have not graduated from high school. The average age at sentencing is 28 years with the youngest inmate being sentenced to death in Arizona in October 2000 at the age of 18 years, 6 months. The oldest inmate sentenced to death was in Arizona in June 1983 at the age of 67 and as of January 1, 2001 was 85 years, 4 months old (Department of Justice, 2001).

Personal characteristics are not the only indicators of who is likely to be sentenced to death. Where a person lives or where the crime is committed is also an indicator and is a further determinant in the likelihood of the penalty being carried out. Regional variations in the application of the death penalty create differences in state DS populations (Appendix 1).

While Wyoming has only two DSIs, California has the largest DS population. Interestingly, however, the condemned in California are much less likely to be executed than those in most other retentionist jurisdictions. For instance, since 1976 California has executed 10 individuals while Texas with its DS population of over 450 has carried out over 300 executions and is far and away the most active. Per capita, however, Texas ranks number three behind Delaware and Oklahoma (Appendix 2).

### **Methods and Procedure of Executions**

Five different methods of execution are prescribed: lethal injection, electrocution, lethal gas, firing squad, and hanging; but most jurisdictions provide for execution by lethal injection. Eighteen jurisdictions provide for alternative methods of execution. Only one, Nebraska, does not have lethal injection as a primary or optional method of execution, the method being electrocution. No jurisdictions provide for lethal gas, hanging, or firing squad as the sole method of execution (Appendix 3).

### **Lethal Injection**

Lethal injection had first been considered a means of execution in 1888 but it wasn't until 1977 that Oklahoma became the first state to adopt this method. The first execution by this means took place in Texas in 1982.

The fatal injection is usually a combination of three drugs. The first, sodium thiopental which has the trade name Pentothal, is a barbiturate which induces general anesthesia and can reach effective clinical concentrations in the brain within 30 seconds. As many as 5 grams are administered for executions; in itself a lethal dose. Pancuronium bromide, also known as Pavulon, is the second drug which paralyzes the diaphragm and lungs and usually takes effect in one to three minutes after injection. The last drug is potassium chloride which causes cardiac arrest. Within a minute or two after the last drug has been administered death is usually declared.

In the execution chamber the inmate is strapped to a gurney where an Intravenous (IV) of saline solution is started in each arm (one IV is held in reserve in case of malfunction). On an order from the warden the fatal injection is then



administered, usually by staff and/or outside persons. Some jurisdictions use a protocol which provides a degree of anonymity as to which individual administers the lethal dose. This is done in one of two ways. The first method is to set up two lines, one of which is a placebo. The second is the use of a machine invented by Fred Leuchter (Trombley, 1992). This machine automatically activates the administration of the lethal injection. Two people simultaneously press start buttons only one of which sets the procedure in motion. The machine is designed to automatically forget which button started the procedure.

### **Electrocution**

William Kemler in 1888 in New York was the first person to be executed by this method. From 1930 to 1980 this was the most common method in the USA. On entering the execution chamber the condemned is restrained in a wooden chair. A metal leg piece is placed on the condemned's right calf and a sponge and an electrode is attached. A metal headpiece containing an electrode, covered by a leather hood which conceals the face, is put in place with a wet sponge placed between the electrode and the scalp. On a signal from the warden a cycle begins with 2,300 volts for eight seconds, followed by 1,000 volts for 22 seconds, followed by 2,300 volts for eight seconds. If the condemned is not pronounced dead the procedure is repeated.

### **Lethal Gas**

This method was first used in the USA in Nevada in 1924 and has been used 31 times since, the last such execution was carried out in 1999. Only Arizona, California, Missouri, and Wyoming use this method and all use it as an alternative to lethal injection.

A steel airtight chamber equipped with a restraining chair is used. The chair has a metal container under the seat which contains cyanide pellets. A metal canister on the floor is filled with a sulfuric acid solution and on a signal from the warden a key is turned which causes the bottom of the canister to open. The cyanide pellets fall into the sulfuric acid solution, producing a lethal gas. If the condemned does not

inhale for some time death is delayed and wild convulsions can occur, but if a deep breath is taken death can occur within a few seconds.

## **Hanging**

This is the oldest method of execution in the USA. After many botched executions this method was replaced by electrocution as the most common method. Delaware, New Hampshire, and Washington currently have this method as an alternative to lethal injection. There have been only three hangings since 1977, the last being in 1998.

Attention to detail is required for a “successful” execution. The rope has to be soaked, stretched and left to dry to eliminate any spring and the knot has to be tied pursuant to military regulations. The condemned’s physical characteristics are taken into account such as weight and height. The length of the rope and the drop is adjusted so as to ensure instant death otherwise strangulation or even beheading could result. The noose is placed behind the left ear which should cause the neck to snap, and on a signal from the warden a trap door opens and the condemned drops.

## **Firing Squad**

Since 1600 there have been 350 executions by this method but there have been just two executions by this method since reinstatement of the death penalty in 1976, both in Utah; the 1977 execution of Gary Gilmore and the 1996 execution of John Taylor.

The traditional firing squad comprises of 3 to 6 shooters per prisoner who stand or kneel opposite the condemned and take aim at the chest, since this is easier to hit than the head, causing rupture of the heart, great vessels, and lungs so that the condemned person dies of hemorrhage and shock. A specially designed chair is used which has a pan beneath it to catch and conceal blood and other fluids and restraints are applied to the offender's arms, legs, chest and head. A head restraint is applied loosely around the offender's neck to hold his neck and head in an upright position. The condemned is dressed in a dark blue outfit with a white cloth circle attached by Velcro to the area over the offender's heart. Behind the offender are sandbags to absorb the volley and prevent ricochets. Approximately 20 feet directly in front of



the offender is a wall. This wall has firing ports for each member of the firing squad. The weapons used are 30-30 caliber rifles. No special ammunition is used. Following the offender's statement, a hood is placed over the offender's head. The warden leaves the room. The firing squad members stand in the firing position. They support their rifles on the platform rests. With their rifle barrels in the firing ports, the team members sight through open sights on the white cloth circle on the offender's chest. On the command to fire, the squad fires simultaneously. One squad member has a blank charge in his weapon but no member knows which member is designated to receive this blank charge.

Only Idaho currently authorizes shooting as a method of execution, all as an alternative to lethal injection, depending upon the choice of the inmate, and where injection is impractical, or the possibility of lethal injection is held unconstitutional. Until February 2004, this method was an option in Utah.

### **Procedure**

Once all appeals are exhausted, an execution order is given and a date is set for the execution. He or she will be moved from the general condemned housing area into a special area of the prison, called death watch, where the cell is often smaller. This area may be housed in the same building as the execution chamber but some states move the inmate to another prison; a central prison where executions are carried out.

During this death watch period, which varies from several days to 24 hours before the execution the inmate is under constant surveillance. Reports of inmate activity are submitted to the warden every hour, and then every fifteen minutes by fax or email as the execution deadline approaches. During this period inmates are usually allowed visits from family, friends, legal advisors and spiritual advisors. Family and friends will stay until the final few hours when they are asked to leave so that final preparations for the execution can be made.

During this time the last meal is provided; usually whatever is requested by the inmate, within reason. The condemned then showers and changes clothes. In some jurisdictions this will include the wearing of disposable underwear to deal

with loss of bodily functions at the point of death. A heart monitor is connected. The inmate then waits for the warden to give the order for the inmate to be brought to the execution chamber.

A few minutes prior to the scheduled execution time the inmate is escorted to the execution chamber by what is commonly called the tie-down team. There the condemned is restrained on a gurney or in a chair depending on the method of execution. The curtains are then drawn back in the adjoining witness room, and the condemned is given the opportunity to make a final statement.

Meanwhile witnesses will have been escorted to the witness rooms. Executions are no longer public spectacles; they now take place within the confines of the prison and members of the public no longer have an automatic right to attend (although 12 jurisdictions do require the presence of, on average, 6 civilians). Other witnesses include representatives of the media, prison officers, the prison warden, medical personnel, spiritual advisors, relatives of the victim, and relatives of the condemned. As is the case in Utah, the event is viewed through a window (although some jurisdictions have a one-way mirror that only allows the witnesses to see the condemned). The window is curtained until the condemned has been secured at which stage the curtains are opened. At a signal from the warden, and unless there is a last minute stay of execution, the executioner(s), who can be prison employees or outside persons, will begin the process. Once the execution is over witnesses are escorted out, unless they are required to attend a press conference.

### **Conditions**

Because of the decentralization of the US prison system there is no uniformity in the ways DSIs are housed. For instance, at Potosi Correctional Center, in Missouri, the condemned inmates mix freely with the general prison population, all of whom are serving life sentences or the sentence of life without the possibility of parole (Trombley, 1993). There is, however, an increasing use of supermax type facilities and since most retentionist states house their DSIs in this way (including Utah, where this research took place) the following account relates to conditions for DSIs



in such facilities. While regimes vary within jurisdictions, this account applies to the majority.

### **Supermax**

There are several ways of describing supermax housing; special housing units (SHU'S), administrative segregation (ADMAX), control units (CU's), maxi-maxi, and so on, but for the purpose of this thesis all of the above will be called supermax. Although the regime may vary slightly within jurisdictions they share a common feature; they exist to contain and control the "worst of the worst" of the inmate population.

The concentration of disruptive prisoners in a unit specifically designed for control was first used in the USA by the federal government in the infamous Alcatraz Prison in California between 1934 and 1963. It became home to the "nation's most wanted" (King, 1999: 166) in an attempt to demonstrate the government's impatience with recalcitrant prisoners. It is important to remember that then, as now, in most cases institutional behaviour, rather than the sentence of the court, determined such confinement. Life, for inmates in this institution was undoubtedly bleak. On a tourist tour of Alcatraz some years ago I had the benefit of a guided tour by a retired employee. He told me that when inmates first arrived at the prison they were told not to worry about losing privileges. The reason? There were no privileges. This harsh regime, however, differed in some important respects from life in modern day supermax units. Communication between inmates was possible and not only were they required to work they did this in communal settings (King, 1999). "The Rock" (as Alcatraz became known), however, proved to be an expensive failure, due to both the high cost of its maintenance and the influence of the rehabilitative penal philosophies of the time (Cavadino and Dignan, 1992; King, 1999) and it closed in 1963.

The abandonment of the idea of consolidation of troublesome inmates by the federal government was followed by the decision to disperse disruptive inmates throughout other penitentiaries. By 1978, however, "the level of assaults and violence directed towards staff and inmates passed the level of tolerance ..." (Ward and Carlson, 1995: 29) and by 1983 the US Penitentiary at Marion, Illinois was

converted to an Alcatraz type regime to control difficult inmates and was soon labeled “the new Alcatraz” (Ward and Carlson, 1995: 29). The term “control unit” was used to describe this regime. The “success” of Marion was measured by the fact that by 1995 these Marion-type regimes were established in at least one of the prisons in 36 states (Ward and Carlson, 1995).

Although supermax units have developed along the same lines as Alcatraz the defining features of a modern supermax unit are more restrictive. The Committee to End the Marion Lockdown describes the features of supermax facilities as:

1. Prisoners in control units are kept in solitary confinement in tiny cells (six by eight is usual) for between twenty-two and twenty-three hours a day. There is no congregate dining, no congregate exercise, no work opportunities, and no congregate religious services.
2. These conditions exist permanently (temporary lockdowns occur at almost every prison) and as official policy.
3. The conditions are officially justified not as punishment for prisoners but as an ‘administrative’ measure. Prisoners are placed in control units in ‘administrative moves’ and since there are no rules governing such moves (in contrast to ‘punitive moves’), prisoners are denied any due process and prison officials can incarcerate any prisoner in a control unit for as long as they choose, without having to give any reason (Dowker et al, 1992: 140).

For the purposes of this thesis, however, the term supermax is defined in accordance with the National Institute of Corrections and comprises three essential elements:

- “(i) accommodation which is physically separate, or at least separable, from other units or facilities, in which
- (ii) a controlled environment emphasizing safety and security, via separation from staff and other prisoners and restricted movement, is provided for
- (iii) prisoners who have been identified through an administrative rather than a disciplinary process as needing such control on grounds of their violent or seriously disruptive behaviour in other high security facilities” (King, 1999: 171)



The existence of supermax units is justified first by the claim that because the “worst of the worst” are isolated security can be relaxed to particular extents in other areas of prisons. The Committee to End the Lockdown at Marion, however, claims there is no evidence to suggest that violence within the overall system decreases as a result of the existence of control unit regimes although Strickrath and Bucholtz (2002) claim this type of housing does have a deterrent effect. Second, the use of supermax housing symbolizes a state’s commitment to getting “tough on crime” (Strickrath and Bucholtz, 2002) in a period of mass incarceration. There has been a proliferation of supermax units over the last twenty-five years – what King (1999) aptly calls “the rise and rise of supermax” and while executions are being carried out in the USA with increasing frequency there is also a trend towards increased security leading to maximum separation of individual prisoners (Johnson, 1990). Security and control regulate such confinement with little regard for humane conditions.

### *Supermax and DSIs*

Historically DSIs in the USA have largely been confined in separate areas of prisons in individual cells, denied opportunities for work or education programmes and other privileges available to general population inmates (Johnson, 1990). On Sing Sing’s death row, in New York, built in 1922, DSIs spent all but one hour of each day in their cells. Steps were taken to ensure that suicide attempts did not succeed and that violence of any description was avoided. Knives and forks were not allowed, only spoons. Special shoes were provided because weapons had been fashioned from ordinary shoes. Conditions on California’s San Quentin’s death row were very similar (Johnson, 1998). There has been little significant improvement in the quality of life for many DSIs. Currently the majority of those sentenced to death live in punitive segregation supermax facilities separate from the general prison population (Appendix 4). Conditions such as prolonged isolation in conditions of reduced sensory stimulation, small cells, lack of recreational equipment, and constant surveillance are in violation of international standards.

Supermax facilities are designed to minimize human contact. At the core of a typical supermax facility is the control room. Cells are arranged around the control

room in such a way that all cell doors are visible and are opened and closed electronically by staff in the control room. Cells are usually no bigger than 14' x 8' and sometimes much smaller. Thirty-four jurisdictions house condemned prisoners individually (ACA, The American Correctional Association, 2000). A typical cell has a steel door with narrow window pane, cuff-port (which is a slot in the door through which officers are able to cuff inmates before opening the door, and also for delivery of food trays), and a long narrow window. Furnishings are Spartan comprising a poured concrete bed, ledge, fixed stool, steel sink and uncovered toilet. A large part of each day is spent in this type of confinement with little to alleviate the boredom and isolation. An inmate's record of institutional behaviour together with department policy will determine access to a television and/or radio provided the inmate has the funds to purchase or rent. Personal possessions are also governed by policy but are usually minimal; just a few photographs and nothing pinned on the wall.

Most condemned prisoners in such confinement eat all meals in their cells (which would of course be in close proximity to a toilet). However, in spite of its large DS population of 222, DSIs in North Carolina are all taken, uncuffed and unshackled, to the dining room three times a day to eat. It should be noted, however, that the rest of the prison population is locked down for these movements.

The time spent out of these small cells ranges from 3 hours a week (Colorado) to a maximum of 6 hours, 7 days a week (California) (Appendix 5). Interestingly, Colorado has only 5 DSIs, compared to California which has the largest DS population of 613; one would expect that security issues would require larger DS populations to restrict privileges. The majority of jurisdictions, however, allow DSIs out for one hour per day. This time is usually spent in isolation but depends on the regime of each jurisdiction. During this time showers are taken and telephone calls are made. Most jurisdictions have outside yards (which are usually very small with high walls resulting in both restricted exercise options and limited direct sunlight) and inside dayrooms. Recreation is limited to board games and simple ball games. Very few departments allow the use of free weights. Mechanical



restraints which include handcuffs and leg irons are used whenever inmates come into contact with others.

Time, waiting to die in a supermax facility, is spent in various ways (Appendix 6). Delaware, Florida, South Dakota, and Texas provide no education programming for DSIs. Where education programmes are provided they are limited and are typically in-cell correspondence courses paid for by the inmate. Work programmes are not provided for DSIs in seventeen of the retentionist states and, as with education, job opportunities are limited. Where jobs exist they are usually menial (such as cleaning showers) and carried out on the unit. They are also low-paid but are much sought after because they are often the only source of income with which to fund the purchase or rental of a television or radio. Such income is also relied upon for the purchase of commissary items such as potato chips and cans of chili which are often needed to supplement the prison diet.

Confinement to the supermax unit also means that there is no access to the general prison library. Some units provide a small library but they usually consist of a very small supply of well-used books of limited interest. The majority provide a law library (Utah, which does not, is an exception), and all are permitted contact with outside attorneys. Nineteen states provide inmate legal counsel (again Utah is an exception and does not provide this service) (ACA 2000).

Due to the absence of on-site kitchens meals are usually delivered in carts from outside the unit and are often cold. Meals are also unappetizing and of poor nutritional value which, it is alleged, is due to budget cuts.

The issue of visiting privileges is particularly interesting. For instance, the type of visit varies although the majority of jurisdictions have non-contact visits only. Non-contact visits mean inmates are separated from visitors by toughened glass. Conversation takes place via telephone handsets or directly through speakers incorporated into the framework of the glass. The sound quality is never good, but of more significance is the fact that the parties cannot have physical contact. However, Alabama, Arkansas, California and Nebraska with their DS populations of 187, 41, 606 and 7 respectively all provide contact visits for those who so qualify.

If security is the reason behind non-contact visits one can only wonder how staff in California's San Quentin Prison is able to police such a large DS population during visiting times. Montana, on the other hand, with its comparatively small DS population allows contact visits only. There are also inconsistencies among responding jurisdictions regarding length and frequency of visiting times (Appendix 7). Idaho (DS population of 21) allows only two visits per week for two hours in duration (non-contact); Alabama's 187 DSIs could conceivably have forty-two contact visiting hours per week. As with out of cell time the size of the DS population appears to have little to do with visiting privileges.

Visits are in addition to out of cell time and range in duration from six hours down to thirty minutes. Indiana has no limit on the number of permitted visits while Louisiana allows only two per month

Medical and dental treatment is largely inadequate mainly because DSIs in supermax have to be treated on site. When DSIs are required to visit the prison infirmary they must be escorted which means that movement in the prison for the general population is restricted, both of which activities require extra manpower. Religious services are limited or non-existent.

These are the conditions under which the condemned live until the appointed date for execution.

### **Concerns about Conditions for DSIs**

The justification for housing DSIs in punitive isolation is that because the most severe sanction has been imposed on them they have nothing to lose. Prison officers fear that these people of "proven violence" have little to lose by escape attempts or attacks on officers (Johnson, 1998). Yet DSIs are often considered a trouble free prison population by staff as is the case at USP. A US District Judge, in 1993, stated that

"DSIs pose no greater security risk than any other high-maximum security inmate. There is significant evidence that they present less of a management problem than many offenders convicted of less serious crimes. There are many persons who have been convicted of murder who are not under the sentence of death, who are allowed to work



through the security classifications and/or levels and ultimately be released back into society..... Institutional behaviour is generally better for DSIs because such behaviour may be used as evidence in mitigation or commutation proceedings” (Amnesty International, 1994).

They are often “obedient, indeed often passive inmates, obsessed with working on their appeals, and posing little threat to prison security” (Association of the Bar of the City of New York, 2001).

Nevertheless the prevailing sentiment is that the condemned have nothing to lose even though they do indeed have a lot to lose by poor institutional behaviour. They are not without hope; not all DSIs are executed. Just under one third of all those condemned to die subsequently have their sentence or conviction overturned and 2% have their sentence commuted (U.S. Department of Justice, 2000). In one year alone (2001), 90 people had their death sentences removed or overturned for various reasons by the courts (USA Today, 2002). Since 1973, 111 individuals have been released from death row with evidence of their innocence (Death Penalty Information Center, 2003). The majority of DSIs make it their business to keep abreast of such issues and are well aware that a record of good institutional behaviour is vital.

In any prison population there will always be, for a variety of reasons, recalcitrant inmates. For those who do conform, however, a record of trouble-free institutional behaviour is essential for progression through the system to a better standard of living; more out of cell time, work opportunities, access to education programmes, visitation and recreational privileges, and so on. In other words who they have become in prison determines how they are treated, regardless of the nature of their crimes. This is not the case, however, for DSIs. Efforts to conform go unrewarded meaning that they will never progress through the system to a better standard of living. The sole reason for this is the sentence of the court. The capricious and arbitrary nature of the death penalty, already discussed, means that not everyone convicted of a homicide is sentenced to death. Those who escape capital punishment may very well face many years of imprisonment but are among

those who are eligible for life in a more liberal regime. Yet they have committed similar, and sometimes worse, offences than DSIs. It makes absolutely no sense therefore to subject those sentenced to death to what has been called a living death with no hope of improved living conditions.

Of course it will invariably be argued that it is because of their restrictive housing that they are less problematic than other inmates. However, this is not the case at Potosi Correctional Center in Missouri, a maximum security facility where its condemned population of 70 have, since January 1991, been successfully mainstreamed into general prison population (Lombardi, et al, 1996). This major reform at Potosi came about in response to questions regarding the management of DSIs. For instance, staff had noted the irony in having lifers and DSIs segregated from one another; inmates who had committed the same offence but had received different sentences. It was therefore decided to try mainstreaming condemned inmates. This was accomplished over a period of time and to date the programme is running successfully. Staff benefited from this reform in that the condemned became more easily managed because they had incentives to conform. Also, the lives of the general prison population were not disrupted because the condemned were allowed unrestricted movement within the facility. The elimination of special posts and services, reductions in legal expenses and greater flexibility to use bed space have resulted in significant cost savings (Lombardi et al, 1996). Benefits for DSIs include increased access to recreation, greater health care (physicians no longer have to treat on site), equal work opportunities, additional access to commissary/canteen services, equal access to visitation, and greater access to the law library. A much less subtle change has been the humanizing of the environment for these men (Lombardi et al, 1996). Factors such as “facility design, historical background and prevailing ideology” (Lombardi, et al, 1996) have to be taken into account in deciding whether DSIs can be successfully integrated with general population inmates but if Missouri can accomplish this with a DS population of 70 one would imagine that other jurisdictions, particularly those with smaller DS populations, could surely give this reform serious consideration.



Minor reforms at other jurisdictions have been accomplished. For instance, California, Florida, Georgia, Illinois, along with Missouri (with DS populations of 624, 381, 117, 7, and 70 respectively) allow contact visits. North Carolina (population 217) permits DSIs to congregate in a day room from 7:00 am to 11:00 pm, and to eat in dining halls in groups. California also allows DSIs to congregate both inside the prison and outside in the prison yard (Association of the Bar of the City of New York, 2001). Despite these reforms, conditions have not changed significantly in many years but what is different is the length of time between sentence and execution. There may have been some justification for keeping a condemned person in restrictive custody when execution was days, weeks or months away but there is no justification for inhumane incarceration for lengthy and indefinite periods of time in which inmates experience the death row phenomenon (the average time in 2001 was 11 years and 10 months (Bureau of Justice Statistics, 2001)). The Association of the Bar of the City of New York claims that in this regard, to impose harsh conditions even if inmates obey “every rule that the system enacts, is harshness without a purpose, a fair definition of cruelty” (2002). After all, the sentence passed by the court is one of death. The court does not require that the penalty entail inhumane treatment until the carrying out of the sanction. The punitive segregation of supermax housing is totally unjustified and therefore unacceptable.

One of the effects of this existence, as Johnson (1990) discusses, is the dehumanizing effect; a sense of worthlessness and futility. Further, one of the most distressing aspects is the inconsistency of life. Improvements are discussed but rarely implemented. When they are put into effect there is no knowing whether they will be withdrawn for minor misunderstandings or rule infractions. In essence there is no sense of justice among the condemned who are also keenly aware that they have little public sympathy. There are no justifiable reasons why the majority of condemned inmates should not be afforded the same privileges as other prison inmates; association with other inmates; contact visits with family and friends, access to library, hobby and exercise facilities, work and education opportunities, congregate dining and recreation, and longer out of cell time. Constant surveillance,

small cells, mechanical restraints, isolation, limited exercise, lack of work, limited education programmes, limited and non-contact visits, poor quality food, inadequate library and medical facilities make up conditions which at worst can be seen as added punishment, at best as complete lack of concern.

Little attention is paid to conditions for DSIs (Sorenson and Marquart, 1989). Perhaps this is because the DS population of over 3,700 is a drop in the ocean compared with the overall incarcerated population of the USA of more than two million. Also, the ongoing problem of access to prisons for research purposes limits the amount of available information. And, of course, there is the prevailing “who cares” sentiment among a public who perceive the DS population as unworthy of a humane environment (American Civil Liberties Union, 2002).

There is, therefore, very little information readily available on conditions for DSIs. Even organizations such as Amnesty International and The Death Penalty Information Center have limited data. Although there is a consensus among correctional administrators that condemned inmates should have minimal contact with the general prison population, legal guidelines are non-existent and policies vary widely (Hudson, 2000). There has been a call for the American Correctional Association (ACA) to set standards of confinement for DSIs (Amnesty International, 1994), a call which remains unanswered. Meanwhile, the overall conditions for DSIs remain unchanged from those at the turn of the century (Lombardi et al, 1996) and what changes have been made have only nominally improved the quality of life. The continued use of the punitive segregation of supermax housing remains the trend.

Death-sentenced inmates’ arguments that psychological and physical conditions constitute cruel and unusual punishment in violation of constitutional prohibitions have been put forward by attorneys but have largely been unsuccessful (Bedau, 1996). Legal recourse, therefore, offers little hope of reforms in a nation where there is strong support for capital punishment.

Robert Johnson’s work titled “Condemned to Die: Life Under Sentence of Death” (1981) is based on in-depth tape recorded interviews with 35 of 37 DSIs in Alabama in September 1978. In this work Johnson seeks, with a commendable



degree of success, to reveal subjective perceptions of conditions, and coping problems, thereby providing a valuable insight into the world of the condemned. He also carried out a further study on what he calls a “reformed death row” where inmates are “afforded considerable liberties” (Johnson, 1990: 42) in another Southern prison over a three-year period from 1987 to 1989 (Johnson, 1990). In both works he is extremely critical of conditions for DSIs in the United States.

Johnson cites a 1979 survey which revealed that the custodial routine for DSIs varies little from state to state (Johnson, 1998); DSIs were typically denied access to contact visits, meaningful jobs, education classes, and religious services. It was further found that they had inadequate recreation facilities, were forced to eat in their cells, and were cuffed and shackled when moving within the prison. Even though five state jurisdictions integrate those under sentence of death into the general inmate population and do not have specific death rows, the most significant finding in the other jurisdictions was the effects of isolation from other human beings.

Johnson (1990) points out that prisons are not designed to be pleasant. This is particularly so in the current “just deserts” era where prison is considered to be a natural consequence of criminal behaviour. When it comes to public expenditure and concern the treatment of prison inmates is not particularly high on the agenda and DSIs are often considered even less deserving of improved conditions. Indeed, Johnson points out that DSIs are not treated like regular inmates and makes the claim that:

‘Death row is the most total of institutions, the penitentiary most demanding of penitence, the prison most debilitating and disabling in its confinement. On death row the allegorical pound of flesh is just the beginning. Here the whole person is consumed. The spirit is captured and gradually worn down, then the body disposed of.’ (Johnson, 1981: 121).

Abolition of the death penalty is an ongoing and strenuously fought battle by human rights activists. The ACLU, Amnesty International, Death Penalty Information Center, and others have all created websites concerning capital punishment.

However, there is little readily available information on conditions for DSIs in the USA. Nevertheless concern comes from several human rights groups. In response to repeated complaints in 1994 about conditions at H-Unit, a new unit at Oklahoma State Penitentiary a staff member of Amnesty International together with Roy King, Professor of Criminology and Criminal Justice at the University of Wales, visited the facility (Amnesty International, 1994). The resultant report found that conditions were even more restrictive for H-Unit DSIs than other DSIs throughout the USA. Moreover they were in violation of international standards. The facility, which opened in 1991, was designed by a committee of prison staff and at the time it was reported that “the design of this unit maximizes security and control, while providing inmates and staff with a safe, modern environment in which to live and work”. Roy King, however, maintains that “H-Unit is an example of a facility in which there is an overemphasis on considerations of security and control at the expense of consideration of humane treatment”. DSIs very often go for many years living in the above conditions, the pain of which is exacerbated by the lack of human contact.

There is little information readily available concerning conditions for DSIs but we do know that most live under grim conditions. There is continued and increasing use of supermax housing for DSIs, housing designed primarily for the containment of the “worst of the worst” in the US prison system and this is where the majority of the condemned are confined. Although the conditions in these units vary from institution to institution they amount to punitive segregation exacerbated by the pains associated with death row phenomenon, not knowing when, or if, they will be executed.

Justification for this type of housing for DSIs when it is based on the premise that these inmates have nothing to lose by demonstrating dangerous institutional behaviour is flimsy at best. However, although concerns have been expressed about these conditions there is little to suggest that there will be any major reforms in the near future.



## **Chapter 3 – A Collage of Understanding**

### **Introduction**

Whether it is a product of criminological enquiry or mere morbid fascination, prisons "always generate talk and controversy" (Sparks et al 1996: 339). Most of us are curious about places to which we are generally denied access and so accounts of prison life have inspired works of fiction, films and documentaries. From a criminological viewpoint there are also many sources of information. Most descriptions of prison life in the United States, however, relate to males serving medium to long-term prison sentences in traditional prisons. There is a paucity of literature, for instance, on life in America's jails, and juveniles in custody. Similarly the prison experience for women has been largely ignored even though women are now the largest growing inmate prison population in the United States. Also, and although there is a wealth of data on the use of capital punishment, the death sentence experience itself has been neglected by academics. There are two possible reasons for this. One may be because access to prisons for research purposes is usually denied or extremely restricted, particularly in maximum custody institutions (which are where most DSIs in the US are housed). A second reason is that the DS population in the United States is very small in relation to its overall rapidly growing prison population of over two million, and therefore receives less attention with regard to conditions. Whatever the reason nobody has to the best of my knowledge theorized life and death for DSIs. Nobody has, over a period of time, been able to interview and re-interview condemned prisoners on a one to one basis. There has been virtually no social science research to explore their world.

We can, however, glean information from several sources in order to reach some understanding of what it is like to live and die under the penalty of death. This chapter is divided into eight sections. The first discusses what information we can use from fiction, films and documentaries. The second deals with what we can learn as a result of the direct reflections of those living the ordeal. The work of Robert Johnson is reviewed next, followed by the work of Michel Foucault. The fifth section deals with classic texts on coping with prison life. As none of these

works describe the extreme conditions of supermax conditions for DSIs the sixth section looks at literature on surviving the extreme conditions of death camps. The seventh section, and because of the lack of literature on dying in prison, reviews what has been written about death and dying in the wider society. Finally, consideration is given to literature on those who manage the ordeal; staff.

### **Fiction, Films and Documentaries**

Fictions, films and documentaries have provided some of idea of life for DSIs and sometimes in quite informative ways. For instance, Stephen King's fictional work, *The Green Mile*, explores the human side of staff/inmate relations. The film *Dead Man Walking* presents a probably atypical account of a sadistic cold-blooded killer but it does pay meticulous attention to detail. For instance, as the condemned man is being escorted to the execution chamber one can see a piece of blue plastic showing above the waistband of his trousers, part of the disposable underpants he is required to wear. This is so that loss of bodily functions at the point of death does not soil the gurney.

Stephen Trombley's hard-hitting documentary and book entitled *The Execution Protocol* describes, step by step, the execution procedure adopted by Potosi Correctional Center in Missouri. In it condemned inmates speak freely about their concerns regarding executions. An inmate is filmed attending the hospital for a knee injury problem and voices his concern that the very same doctor treating him is the one who will be administering his lethal injection. The airing of this documentary on British television had a deep impact on many viewers and prompted a flood of mail to several of the inmates in the video. Indeed there is now an extremely informative website dedicated to one of these inmates, Alan Jeffrey Bannister, who was executed, in 1997, several years after the airing of the programme.

### **Direct Reflections**

The direct reflections of those living the ordeal also provide a valuable source of information. *Life from Death Row* by Mumia Abu-Jamal and *Soledad Brother: The Prison Letters of George Jackson* are two accounts of DSIs. There are also several



websites, such as Prisonerlife.com, which feature letters and articles from DSIs. In the first in-depth, comprehensive national survey of DSIs Swindle and Malone, staff writers for The Dallas Morning News, primarily attempted to examine the causes of crimes but during interviews with about fifty DSIs aspects of conditions were mentioned; the boredom, isolation, poor quality of food. These accounts are particularly useful when they support the findings of scientific enquiry. Not all inmate accounts are complaints however; they are also expressions of inner personal feelings through, for instance, artwork and poetry.

### **Work of Robert Johnson**

The only account, to date, of life for DSIs based on research is by Robert Johnson (1990) who, over a three year period, identifies the specific pain of being confined in control units while waiting to die, where there is no light at the end of the tunnel, where life is about execution and not release. He interviewed, at length, twelve officers. He also “met for about an hour with sixteen condemned prisoners housed in one area of death row” (access was limited by the prison authorities) and admits that “discussions with the prisoners did not constitute a genuine interview. It was more like a gripe session” but useful in that their concerns “dovetailed with those of other prisoners interviewed more systematically” (Johnson, 1990:42). By the time of the second edition of his book he had re-interviewed a number of the participants.

Johnson describes death rows as “special housing units set aside for the strict control and maximum security and management of condemned prisoners” (1990: 42). The constant surveillance which renders inmates powerless to influence their daily existence is, for him, a boring and debilitating experience. He describes some significant reforms, which include longer out of cell time, meals outside cells, group religious services, regular visits, and access to work, but concludes that no matter what improvements are made, life for DSIs remains as warehousing in its “most blatant, unvarnished form” (1990:50). In his study a prisoner described life under reformed conditions (where DSIs spend less time alone in their cells and have access, albeit limited, to work and hobbies) as “a psychological nightmare that very few survive” (1999: 79). The modern death row, for Johnson, is indistinguishable “aside from a smattering of essentially cosmetic reforms” from that of earlier years

(1998:71) and remains “a prison within a prison” (1998:76). He describes the pain experienced by the condemned caused by non-contact visits, executions of other inmates, boredom, loneliness and vulnerability and their feelings of pressure, harassment, and fear of personal debilitation.

In proffering a powerfully convincing case for confinement-unto-death as a modern instance of torture he refines the definition of torture (Johnson, 1998:197). Johnson talks of the “personhood of the punished” and maintains that to be a person one needs a sense of self determination (1995: 121). Self-determination finds expression in some degree of autonomy, security, and relatedness to others. However, without the “social skin” of privacy the inner thoughts and feelings necessary for the negotiation of these expressions are stunted (1990:130) and since most DSIs are under near constant surveillance privacy is limited. This kind of imprisonment, according to Johnson, is torture because it causes dehumanization which, he argues, has an important function; it facilitates an easy execution. It is easier to execute a passive prisoner, than one “who alive to his own feelings and hurts, struggles for freedom, or worse, protests his innocence or pleads for mercy” (1990: 134). He argues that while such confinement is not intended to cause suffering its dehumanizing effect “serves the ends of the torturer” (1998:210). Moreover, “we cannot execute prisoners without also torturing them, which is always unjust” (Johnson, 1998:249).

### **Work of Michel Foucault**

Any review of the literature on prisons would be incomplete without reference to the work of Michel Foucault. While orthodox paradigms of punishment lend themselves to explanations and understandings of the social structure of prison life they all concern themselves with the sources of the power to imprison and punish. A much deeper analysis is achieved, however, by looking at Foucault’s ideas because, significantly, Foucault does not concern himself with the source of power. Instead he examines the dissemination of power. This is the fundamental difference between orthodox paradigms which offer understandings of *why* prisons exercise particular forms of power and Foucauldian theory which provides an explanation of *how* such power is disseminated. By “examining the very fabric of penality” he provides an



"internal analytics of how penal institutions are structured, how they exercise control and how they are informed by particular forms of knowledge and technique" (Garland, 1990). He describes the micro-physics of power sustained through "regimes, timetables and strategies of work, discipline, education, segregative control, and so on" (Sparks, 1996: 64).

In his 1977 work "Discipline and Punish" Foucault includes an account of the significant transformation of penal policy during the eighteenth century; a period which saw the decline of public spectacles of punishments such as whippings, the pillory, and hangings. He provides a graphic and grisly description of the fate of Damians the regicide who was:

"taken and conveyed in a cart, wearing nothing but a shirt, holding a torch of burning wax weighing two pounds ... in the said cart ... where, on a scaffold ... the flesh will be torn from his breasts, arms, thighs and calves with red-hot pincers, his right hand, holding the knife with which he committed the said parricide, bunt with sulphur, and, on those places where the flesh will be torn away, poured molten lead, boiling oil, burning resin, wax and sulphur melted together and then his body drawn and quartered by four horses and his limbs and body consumed by fire, reduced to ashes, thrown to the winds" (Foucault, 1977: 3).

This spectacle took place in Paris in 1757 and yet, as Foucault points out, in less than a century this mode of punishment had disappeared to be replaced by the introduction of imprisonment as the principal form of punishment. Foucault, suggests this was because the economic changes of the eighteenth century had generated a more severe attitude towards crimes perpetrated by the propertyless which called for tighter control and surveillance of the masses and so the prime concern became not to protect the sovereign but to minimize the harm done to society by the threat of economic, and consequently social, disorder.

This was a period influenced by Enlightenment notions of progress, free-will, and rationality. These ideas allegedly underpinned the penal reforms put forward by liberals who were reputed to be appalled by the atrocities of the gallows and other public punishments as well as the conditions in overcrowded and disease-

ridden prisons ( (Hamilton, 1992: 20; Hay, 1977: 57). Such reformers were influenced by the ideas of the deeply radical Cesare Beccaria whose essay *Dei Delitti e delle Pene* was published in 1764 and in which he attacked the widespread use of the death penalty. He also advanced the notion of the social contract being entered into by these free-thinking, rational individuals and while calling for a rational system of punishment, one which imposed a certain and fitting penalty, he also acknowledged that a degree of personal liberty would have to be relinquished in pursuit of the greatest good for the greatest number (Roshier, 1986: 6). Jeremy Bentham also argued against capital punishment as a savage and inhuman penalty, saying it was too capricious and uncertain to be a deterrent and claimed that individual propensities must be discouraged although he did acknowledge that many crimes are not rooted in the heart, they spring up from seduction, and above all indigence and hunger (Atkinson, 1905: 144). Although it was Beccaria who first referred to the effectiveness of the certainty of punishment, Bentham also advocated the certainty of comparatively light penalties as more effective than the possibility of extravagant punishments. Because of this concern he devised a model prison under the influence of a book *The State of Prisons in England and Wales* written by his contemporary, John Howard and published in 1777.

Howard saw prison as the inevitable shape of punishment but expressed concern over the conditions in prisons and the abuses taking place within these establishments. Concerns were to influence the passing of the Penitentiary Act of 1779, which was largely the work of Howard, Sir William Blackstone and William Edge. The Act supported reforms of the prison and began to see them not merely as places of incarceration but as opportunities to change prisoners. Even though this Act was responsible for the introduction of uniforms and solitary confinement, it did encourage prison work for which the prisoner was entitled to a share of any profits. It also introduced a scheme for advancement through the system as well as remission for good conduct (McGovern, 1995). The above are but a few examples of extremely influential eighteenth century ideas relating to prison reform, all purporting to be based on humanity and benevolence.



Foucault, however, did not see these changes as an extension and refinement of punitive practices. Nor is he the sole sceptic in relation to such notions. Jenkins (1984) points out the shortcomings of the humanitarian thinking of the time; for instance, Beccaria's blueprint for a rational system of punishment ignored how a fair and just system of punishment could be applied in a society of unfair and unjust social and economic conditions. There have also been Revisionist calls for a deeper analysis of the political, economic and ideological nature of society at the time of such reforms. Ignatieff, for instance, notes that penal reform had been affected by a nascent bourgeois civilization, and especially the state (McLachlen, 1990: 60).

Therefore, for Foucault, eighteenth century reform was not about punishing less; it was about the evolution of another form of punishment; one that required a legal limit and one that spread throughout society in the form of surveillance and discipline (Garland, 1990). This is when punishment began to focus on punishment in private and targeted the mind/soul of the individual and became the most hidden part of the penal process as opposed to the public spectacle of punishment to the body (Foucault, 1977: 9). Foucault argued we were now witnessing a reorganization of the power to punish (Foucault, 1977: 102) which involved codification, definition of offences, the fixing of a scale of penalties, rules of procedure (Foucault, 1977: 102). In essence, there was now a general recipe for the exercise of power over men: the mind as a surface of inscription for power (Foucault, 1977: 102).

Central to Foucauldian theory is the concept of the body. The classical age, for Foucault, "discovered the body as object and target of power" (Foucault, 1977: 136) and is the material that is the subject of all political, economic, and penal institutions (Garland, 1990: 137). It can be trained, without the use of force, through discipline by constant supervision at the end of which a docile body is produced one that may be "subjected, used, transformed, and improved" (Foucault, 1977: 136). This is achieved through three techniques; observation, normalizing judgment and examination (Foucault, 1977: 170).

The first technique, keeping bodies under constant observation in prisons, is an expensive and sometimes hazardous operation which, according to Foucault,

needed a new form of gaze and he argues that from the first half of the nineteenth century "there was scarcely a text or a proposal about the prisons which didn't mention Bentham's 'device'" (Foucault, 1980:147). Here he was referring to Bentham's plan to construct a prison in such a way that all parts would be visible; the panopticon. Although his project found little favour with policy-makers thereby causing its early demise (Garland, 1990), the fundamental conception of Bentham's plan was to construct a gaol such that all parts should be visible from a single point by means of a series of reflectors; that is to say, a prison in which an inspector would be able to see at a glance everything that was taking place; the inspector being himself concealed from the observation of the prisoners, so as to beget the sentiment of an invisible omniscience (Atkinson, 1905: 84). The panopticon served two political purposes - it kept costs down and it also plugged into hegemonic notions of progress and humanity because people were no longer beaten. Because of the self-exercising of surveillance we now have what Foucault succinctly described as a "superb formula: power exercised continuously and for what turns out to be a minimal cost" (ibid: 155).

Foucault contends that the second technique, normalization, has its own rules which extend beyond the prescribed judicial penalty, rules which he refers to as "infra-penalty". By this he means that the correction of the individual's behaviour in prison now specifies what is forbidden and what is permitted. In this way inmates are coerced into conformity, and at the same time non-conformity can be identified, quantified and individualized (ibid: 184). He talks of minor deprivations and petty humiliations (ibid: 178) which form part of a series of subtle procedures used to punish the slightest departures from corrective behaviour (ibid: 178).

The third highly ritualized technique is examination. It ensures the subjection of the individual through constant surveillance. Foucault notes it is not enough to be fully informed of the criminal behaviour of an individual - the very moral make-up and life-style of the individual comes to be analyzed; behaviour both before and since entering prison. This information follows the inmate throughout



his or her inmate career and as a result is characterized as a delinquent rather than a perpetrator of a particular crime.

An interesting and significant product of constant surveillance is the concept of self-policing. Foucault notes that although, under panopticism, the inmates cannot see their keepers, they know they are being watched, or at least likely to be, and therefore begin to regulate themselves, becoming "themselves the bearers" of power, and thereby assuming "responsibility for the constraint of power" (Foucault, 1977: 201). Moreover, power becomes automatic, and is independent of those who exercise it. Nor does it much matter who exercises such power.

The value of the above aspects of Foucault's work in relation to the examination and explanation of the social structure of life, and death, for DSIs in a supermax facility is, however, limited. Foucault restricts his thoughts to prison on a more general level and nowhere in his writings does he refer to DSIs. Nor does he discuss supermax facilities which did not begin to emerge until the 1960s in the USA.

Giddens levels criticism of Foucault in that he contends Foucault's "'bodies' are not agents", and that there is "little theoretical reason to anticipate resistance, subversion of innovation" (in Sparks, 1996: 67), leaving little to be said about how DSIs in supermax facilities shape their existence. Garland maintains that "resistance to official authority occurs most frequently and most effectively in those prisons where an alternative inmate culture offers oppositional identifications, roles, and forms of support for those who adopt them"(Garland, 1990: 172). Cohesion is more likely to ease the pain of confinement but living under sentence of death in a box-car cell for 23 hours every day with virtually no opportunity for socialization does not permit the same degree of opportunity for the formation of subcultures as in other forms of incarceration. In a Foucauldian sense, therefore, we are left with docile bodies living under restricted confinement which prevents access to an alternative inmate culture. We must then somehow explain resistance on the part of DSIs in view of the fact that this study did find evidence of resistance on the part of the condemned. Further, if the purpose of prison is to punish the mind rather than the body there is something of an irony in using supermax surveillance over a period

of time. Many years spent in such custody certainly amount to punishment of the mind yet the end product of such confinement is the ultimate punishment to the body; execution.

Foucault does, however, advance a convincing case for re-thinking notions of progress and humanitarianism in relation to punishment and reminds us that modernity should not be equated with progress. If this were the case we would expect to see an end to pointless suffering in prisons and, in particular, torture. Robert Johnson (1990), for instance, reminds us that DR, whatever type of prison it is located within, and whatever regime it operates under, is "a modern instance of torture" (ibid: 142) because for the men on DR:

"their confinement violates any notion of humaneness or respect for persons one can adduce, and hence violates the Eighth Amendment to the U.S. Constitution, which bans "all punishments which do not comport with broad and idealist concepts of dignity, civilized standards, humanity and decency". As such, death row confinement "makes no measurable contribution to acceptable goals of punishment and hence is nothing more than the purposeless and needless infliction of pain and suffering".  
(Johnson, 1990: 121)

### **Classic Prisons Texts**

Nancy Mitford claims that much of the literature on prisons is as "forbidding as the jailhouse itself, couched in the mind-glazing language of sociology" (1973:4) and unfortunately for the layperson this is probably true. Nevertheless, to understand life and death for DSIs in one of America's prisons this literature is a valuable source. Classic prison texts are extremely useful in explaining coping with, and adapting to, life in general prison population. Research in this genre was pioneered in the United States by Clemmer (1958) who described a process of what he called prisonization ; the "taking on in greater or lesser degree of the folkways, customs, and general culture of the penitentiary" (Clemmer, 1958:299). The longer prisoners were inside, the more prisonised their values became and the more distant from those in the outside world. Wheeler, in 1961, found strong support for Clemmer's concept of



prisonization, but found a U-shaped curve in the distribution of those values instead of a straight line. At the beginning of the sentence prisoners had conventional outside values, at mid sentence they adopted prison values, at end of sentence they returned towards conventional values. He introduced the idea that there was a kind of dialogue between values inside prison and values outside prison – but it was construed monolithically as prison values versus conventional values. Methodologically it was weak, often relying on getting prisoners to agree or disagree with value statements offered to them by researchers in pencil and paper questionnaires; the prisoners had little voice. This work tells us little about inmates who are not on a curve; DSIs and those serving life.

Using a broad theoretical backdrop prison life has also been discussed within a peculiarly functionalist model. It was Robert Merton who initially discussed how individuals adapt according to their position in a social structure and the means afforded to them in order to achieve socially approved goals. Prison cannot be described as a society (the power relations are very different) but relying on a more functionalist analysis than his usual interactionist approach to most of his sociology, Goffman's work (1961) looked at the way individuals cope in what he called "total institutions". These are places where the same people work, recreate, sleep, eat and play together, cut off from the larger society and where the power relations are structured to facilitate the control of a majority by a minority. Goffman explained (particularly in relation to those facing long prison sentences) Robert Sommers' term "disculturation". By this he meant the stripping away of behaviours that relate to the outside world. Of course this not only renders the individual incapable of dealing efficiently with life on the outside (for those facing eventual release), but has a more valuable function - it creates "a kind of tension between the home world and the institutional world and use[s] this persistent tension as strategic leverage in the management of men" (1961: 13).

For Goffman, adaptation to life in total institutions is affected by mortification of the self. Upon entrance to a total institution an individual's "self is systematically, if often unintentionally, mortified" (Goffman, 1961: 14). Who that

person was on the outside no longer exists. There then sets in a struggle to adapt to the regime that has stripped that identity. Of course, Goffman was writing about institutions generally, and not specifically about prisons and while the extent to which these four forms of adaptation relate to DSIs is limited, it is worth discussing.

The first form of adaptation is withdrawal from the reality of life in a total institution, in what Goffman called situational withdrawal. In prison jargon this would be called “stir crazy”. The second form of adaptation is intransigence where the inmate “intentionally challenge[s] the institution” (Goffman, 1961: 62). Colonization, the third form of adaptation, refers to the taking on of institution life as the norm and finally, conversion consists of the acting out of the role of the model inmate.

Gresham Sykes used a similar model of adaptation, but as a prisons researcher he discussed ways of coping in prison, and the ways in which prisoners adapt to the pains of confinement caused by deprivation of liberty, loss of contact with family and friends, loss of the services and goods available to those outside prison, loss of autonomy and a sense of security and, for most prisoners, the loss of heterosexual relations. In order to cope with these deprivations prisoners live by the inmate code which demands that, among other things, prisoners do not trust the guards, they don’t whine, and they pay their debts to other prisoners. It demands that prisoners do their time rather than create problems. This assumes, of course, that there is an end to the sentence period which is not the case for DSIs or those serving life.

Sykes describes several typical roles which prisoners adopt to reduce the rigours of prison life. “rats” or “squealers” (whose deeds betray the loyalty of the inmate culture) and centre men (those who take on the views of the captors) are roles despised by other inmates. “Gorillas” are those who simply take by force what they want from other inmates and merchants are those who sell goods which they could give; both roles are also despised. “Wolves”, “punks”, and “fags” describe homosexual roles, differentiating between “the “true” sexual pervert” (Sykes, 1958:95) and those driven to homosexuality through deprivation. “Ball busters” are those who openly defy officers, often losing control, even though they know they



are in a no-win situation; a role which earns little respect from other inmates. “Toughs” are those who are quick to fight with other inmates and feel easily insulted, a role which carries both the respect and the fear of others. “Hipsters” are also quick to violence but lack the courage of toughs, they select easy prey. These roles are at the expense of other inmates and are based on individual interests. The role of the real man, however, is a cohesive response to the pains of imprisonment and is taken on by those who seek to reduce the tension of prison life in a spirit of mutual cooperation. This role involves “loyalty, generosity, sexual restraint, and the minimizing of frictions among inmates as well as endurance with dignity” (Sykes, 1958:107). In this way solidarity is created with a shared set of beliefs and values.

While Sykes described the importance of coping and doing your own time, he focused solely on the pain caused by deprivations suffered in prison (the “deprivation model”). John Irwin, however, went further by also looking at issues external to prison life such as pre-prison lifestyles, and prisoners’ hopes for the future. In other words patterns of behaviour imported into prison life (the importation model) helped determine coping strategies. He described three classic models of doing time: doing your own time (getting through the sentence with as little change to personality as possible); jailing (typically state-raised youth with little chance of returning to mainstream society and therefore a need/desire to gain a reputation in the inmate culture), and; gleaning (making the most of opportunities for change). The importation model, therefore, makes prisoners active subjects who make strategic choices linked to what is available and to their hopes for the future.

Irwin’s concepts were operationalized by King and Elliott (1978) whose work supported his concepts and since their work was carried out in a British prison, and therefore in a different cultural context than Irwin’s American study, these concepts may transcend cultures. King and Elliott found coping strategies, three of which were very similar to those described by Irwin; doing your own time, jailing and gleaning. Importantly, they expanded the strategies by talking of “uncertain negative retreat” typical of younger inmates who found other inmates as well as staff problematic. These inmates preferred not to associate with others although they did not want to be locked down. A second strategy was “secondary comfort

indulgence . This form of adaptation was used by those who had no real plan of action with which to cope with prison life, but who could not be described as retreatists. They begrudgingly welcomed whatever privileges were afforded to them as a way of doing their time. A combination of jailing and gleaning is described by King and Elliott as opportunism. Those who coped in this way were more cynical than gleaners in their approaches to staff and facilities and had a more sophisticated approach to jailing. The authors also found opportunism as a way of coping where inmates would, for instance, gamble and possess contraband yet also took advantage of whatever the prison offered in the way of programming. The models put forward by Irwin, and King and Elliott are useful but limited when it comes to inmates who will never be released. Nor do they help us understand individualized responses to the prison experience.

A deeper understanding is reached through the work of Cohen and Taylor in their "longitudinal study of the psychological reactions of a small group of men to an extreme and immutable environment, imposed upon them as a punishment" (1972: 58). The authors examine psychological survival; the ways in which prisoners cope by doing time in their heads. In their work they argue that there is a danger of reducing the role of the prisoner to one of an institutionalized body making a choice between a set of negative and limited options, and slotting into the prison subculture as a way of coping. These authors claim that prison inmates actively restructure the meaning of their environment, and we must, therefore, look at the ways in which each individual prisoner survives:

"... without a full consciousness of the way in which the everyday world has been broken for the long-term prisoner, we can underestimate the pain he experiences and assume that his apparent ease represents a natural adaptation to prison conditions and not one which has been personally constructed as a solution to intolerable problems " (Cohen and Taylor, 1981: 66).

The work of Cohen and Taylor, therefore, acknowledges the ways in which individual prisoners actively shape their lives, moves away from notions of mere adaptation toward strategies of resistance. (1981:114).



In a later work (1976) Cohen and Taylor again take up the issue of coping and in so doing introduce a concept called mindscaping which may be similar to a coping technique discussed in chapter 6. The authors found this to be a way of making time pass by escaping in the mind from the routine world. One way this can be achieved is by therapy. There is, however, no permanent escape from the realities that have to be faced and most therapies are designed permit the traveler to return to reality.

Cohen and Taylor (1981) also discuss the "fear of deterioration" which is a particularly relevant pain for those living in supermax facilities. Life for DSIs in the USA is a special case of living in a supermax facility (with one or two exceptions most states house their condemned prisoners in this way) and there is little in the way of explanation in their work of how DSIs cope in supermax facilities. Supermax necessarily entails placing individuals in solitary confinement for long periods of time (though at the more progressive phases of sentences supermax prisoners are sometimes double-bunked). We know little about the psychological effects of this on non DSIs (Jackson, 1983: 64) and even less on the condemned, but there are those who deny any "profound psychological consequences" of extended incarceration for those serving long sentences (Wallace, 1997: 20). Bluestone and McGahee (Flanagan, 1995) found no anxiety and depression among 19 condemned prisoners in Sing Sing Prison, Smith and Felix (Flanagan, 1995) found only 7 out of 34 DSIs in a depressed mood which required further counselling. These contentions are further supported by Ward and Carlson (1995) who say "the best known psychiatric clinic in the United States - the Menninger Foundation - produced expert testimony" that no significant deterioration was suffered by inmates, *regardless of sentence*, in control units (Ward and Carlson, 1995:32). This is, of course, inconsistent with Johnson's (1998) contention that such confinement is a modern instance of torture.

There is value in the work of Toch and Adams (1989) which contributes to our understanding of prison life by examining the issues surrounding the inability of disturbed inmates to cope. Their contribution also supports Johnson's findings and calls for an understanding of individualized responses. Furthermore, they emphasize

the importance of longitudinal research designs so that these individualized responses can be tracked over time. The authors discuss the importance of autonomy, describing it as “using our own resources to deal with problems” (1989: 132). They stress the problems which occur when autonomy is unavailable or denied which is an issue that affects all inmates, not just disturbed inmates and is very much the case for inmates in restrictive custody. Of particular interest to this research is the authors’ observation of the need of those denied autonomy to “salvage pride” something which is also described by survivors of death camp experiences and is discussed in more detail in the sixth section of this chapter. Faced with the pains of confinement Toch and Adams talk of inmates “seeking refuge” (1998: 153). They discuss how some inmates prefer to withdraw from the hazards of general prison population, a tactic which provides refuge from pain but also has its negative impact in that isolation results in the closing off of rewards and privileges available in other prison regimes. In 2002 the authors expand on their earlier work by examining the problems for disturbed inmates in supermax prisons by which time the USA had witnessed the “rise and rise of supermax” (King, 1999) and argue that supermax has the potential to exacerbate mental illness.

Studies on the pains of confinement and attendant coping strategies, however, mean little without a contextual setting. How inmates cope with doing time depends not only on how much time but also on the material world in which the coping has to take place. Toch (1989) calls for longitudinal research designs in studying inmates and in the same vein we must also examine changes in prisons over time and from place to place. The realities of various prisons in England and Wales, the USA and many other parts of the world have been exposed in the works of Roy King. Of particular significance to this study is his powerful study of the development and proliferation of US supermax prisons (1999) which informed the description of supermax in Chapter 2.

### **Death Camps**

In the absence of literature specifically relating to coping with life and death for DSIs in supermax facilities, literature on how people survived the atrocities of life in



concentration camps is useful and some comparisons can be made. For instance, although it can be argued that the plight of DSIs in the USA is very often regarded as a just and deserved consequence of their criminal behaviour, it should be remembered that the Jews were also not considered worthy of life in Nazi Germany.

The work of Todorov (1996) relates experiences of survivors of Auschwitz and their struggle to maintain dignity and autonomy under the extreme conditions of the concentration camps, and the importance for the prisoners to hold on to self-respect. With regard to dignity, which for Todorov is a form of social recognition and the arbiter of individual worth, he says that "we delude ourselves if we think we can substitute our own opinions of ourselves for those that others have of us. An individual can claim whatever dignity he wants, but such claims are futile if society declines to acknowledge them. And what happens if society not only refuses you to recognize your dignity but actually declares you not worthy of life, as Nazi Germany did with the Jews?" (Todorov, 1996: 59). Also in relation to dignity Todorov talks of how camp prisoners refused to humble themselves before their superiors. One way of doing so was to decline a privilege which for these people were few and far between and it must have taken immense courage to refuse such. The denial of a privilege in order to retain identity and dignity is not to be taken lightly. Bruno Bettelheim, a survivor of Buchenwald and Dachau, referred to dignity as autonomy "man's ability to regulate his own life" and that the aim of the camps was to destroy that autonomy (Todorov, 1996: 61). Autonomy was to be retained at all costs because it was one of the last freedoms the camp prisoners had and if nothing else prisoners could choose their own attitude. This is the only dignity possible in situations in which one no longer has any choice "...going of one's own accord to the death that others have prepared for you" (Todorov, 1996: 61).

The role of the guards is also discussed by Todorov and the ways in which they dealt with camp prisoners. He claims that they were not all sadists and some would allow goodness to come before duty (1996). He claimed it is not the character of the individual, rather that of society that determines the treatment of prisoners (1996), although Primo Levi (1988) considered the purpose of humiliations and

cruelties administered by the Nazi guards when they knew the prisoners were ultimately going to be killed.

Semprun (1997) talks of how the concentration camp prisoners may have felt closer to the dead than to the living. He also talks of the vivid nature of the experience and the difficulty of relating it to others:

“The only ones who will manage to reach into this substance, this transparent density, will be those able to shape their evidence into an artistic object, a space of creation. Or of re-creation. Only the artifice of a masterly narrative will prove capable of conveying some of the truth of such testimony” (Semprun, 1997:13).

Memories of life, for Semprun, will never be the same; they will never be untainted by memories of the atrocities of the death camp.

### **Death and Dying**

The "death system" is a concept introduced by Robert Kastenbaum in 1972 (Kastenbaum, 1989) in which he claims that every society has its own death system, the components of which include people, places, times, objects and symbols. We have places of death within a system - hospitals, hospices, and so on. Black arm bands, wreaths, and music are some of the symbols of the death system as are coffins and hearses. We use particular words when referring to death, for instance “passed on” and “passed away” and the dead person becomes “the deceased”. Phrases such as these suggest a protocol which requires that one distances oneself from the finality and reality of death.

How aware a person is of the fact that death is near affects the dynamics of the death system for Seale (1998). He discusses, for instance, how awareness by all parties of the coming death, which he calls "open awareness", is conducive to the making of arrangements regarding possessions and disposal of the body. Seale also notes that the dying strive for control over the timing and manner of their death Seale.

In a study of the last months of nine terminally ill patients, Staton, et al (2001) tell us that to fully understand the subculture of terminally ill persons we



should consider "insider" and "outsider" points of view" (Staton, et al, 2001: 53). These authors regard the patients and their caregivers as "insiders"; the medical profession who define the patient as terminally ill as "outsiders".

Glaser and Straus, in 1977, studied the interaction between the dying person and hospital personnel in American hospitals. They noted that "the patient may wish to die in certain ways: without pain, for instance, with dignity, or perhaps in private. At the same time, however, staff has its own ideas about the way patients ought to die. These ideas "are not merely the physical aspects of dying, but also its moral and stylistic aspects" (page 80).

### **Keepers**

Even though "the character and mentality of the keepers may be of more importance in understanding prisons than the character and mentality of the kept" (Mitford, 1974:9) there is very little information available on the experiences of those who manage inmates yet, as Hans Toch observes:

"fewer occupation groups in our society are more maligned than that of the guards; fewer are faced with more difficult challenges and are more misunderstood, mismanaged and alienated."(Toch in Lombardo, 1981: xiii).

Poole and Regoli (1980) suggest that very little attention is paid to prison officers because there is a tendency to regard them as a homogeneous group whose job it is to secure security, discipline and custody.

Kauffman (1988), however, provides an insight into how officers cope with managing inmates. She maintains that officers, like inmates, also have a distinct subculture, one which stands apart from administration, social workers, and inmates. She describes these norms in order of strength and acceptance. Firstly, always go to the aid of an officer in distress. Secondly, don't "lug drugs" (bring into the prison as contraband). Not only does this support the black market trade but is the source of potential harm to other officers from inmates under the influence. Thirdly, don't rat either to an inmate or against a fellow officer. The fourth norm is never to make a fellow officer look bad in front of an inmate. The next is always support an officer

in a dispute and always assume the inmate is in the wrong. The sixth requires that officers always support sanctions against inmates. The seventh demands that officers do not sympathize or identify with inmates. Next maintain solidarity among officers against all outside groups including administration. Lastly, support officers inside and outside the institution.

Kaufman also describes a typology of officers the effects of which influences the quality of life for inmates. "Pollyannas" are those who find favour with inmates and officers. They are likely to criticize attitudes towards inmates, but are not out to revolutionize the system. "White hats" are those who have a negative attitude towards officers and a positive attitude towards inmates. Those hostile towards inmates are "hard asses". Those who are negative towards inmates and officers are "burn outs", and those completely indifferent to all aspects of the job are called "functionaries". However, just as there is no clear cut agreement regarding the sources of the norms of the inmate subculture as to whether coping mechanisms are the product of prison itself or importation from outside values, Kaufman raises this point in relation to the officer subculture. In other words, is it the nature of the officer or the conditions? Kaufman's work, which was based on interviews with sixty officers at four Massachusetts prisons, one of which was maximum security, found that nearly all officers reported being afraid some of the time and some were afraid nearly all of the time. All said they had been threatened repeatedly. Violence was a big concern. They also said that physical force beyond the need for restraint was used on a regular basis. The reason for this was the need to establish a reputation in order to meet aggression with aggression although violence is not a concern in all institutions. For instance, in Lombardo's 1981 study officers were relieved to find inmates pretty much unexceptional and only one third said the danger and mental tension was the worst thing about the job. Similarly, Fleisher in 1989 found little violence at an FBI penitentiary which is "warehousing violence as well as it can be done" the success of which is largely due to its personnel (1989: 23).

Prison work has been described as monotonous and dull (Poole and Regoli, 1981). The physical environment is sometimes considered the most depressing part



of the job (Kaufman, 1988). Some of the reported physical effects of doing the job are injuries, heart problems, insomnia, and substance abuse (Kaufman 1988). Some officers said they suffered in spirit because of the suffering in prison (Kaufman, 1988). Others said they did the job because there was nothing else available and others said they did the job because of the security and pay, relationship with other officers, and personal pride in the job (Lombardo, 1981

A particular condition which is a source of frustration among officers is the need to “find a balance between following rules and using common sense and discretion and this leads to role stress.” (Poole and Regoli, 1981: 217). If they enforce all the rules, the resulting disciplinaries of inmates could be construed as evidence of bad management. In other words if inmates are managed properly there will be no need to discipline them. In an era of increased punitiveness they also have to find a balance between custodial functions and safeguards for prisoners’ rights, an issue that management is often reluctant to become involved in leaving officers feeling a sense of betrayal.

Although there is limited knowledge about how officers carry out and experience their work and to what extent they impact the lives of inmates we know even less, however, about those who manage DSIs. This is hardly surprising in view of the fact that very few jurisdictions regard the role worthy of special training. A survey of practices regarding the management of DSIs concludes that there should be a fully trained staffing complement (Hudson, 2000). This is in view of the fact that “managing DSIs consumes a relatively high percentage of administrative time and energy. This is especially true when one considers the legal scrutiny, public awareness and interest, the increased security concerns, and the transportation and visitation difficulties of managing such individuals” (Hudson, 2000:71).

Donald Cabana, former warden of Missouri State Penitentiary discusses his experiences of managing DSIs and claims most wardens, as executioners, seek absolution from the condemned otherwise they are left with “feeling pretty empty” (Dow, 2002: 181). He also talks about the relationship between him, as warden and executioner, and a particular inmate, immediately prior to an execution; “we had somehow managed to become real people to each other. There were no more titles

or social barriers behind which either of us could hide. I was no longer a prison warden, and he had become someone other than a condemned prisoner. We were just two ordinary people caught up in a vortex of events that neither of us could control.” (Dow, 2002:180).

Of course the role of prison warden is much different than the role of the staff who works on a daily basis with DSIs. It is the “officer who most closely observes the onset of the ‘pains of imprisonment’” (Sykes) and can most effectively deal with the inmate in coping (Lombardo, 1981: 49). Yet there is little information on how staff experience working with DSIs. The job has been described as stressful and unrewarding (Johnson, 1990). Officers are there to solely to “preserve the corpus of the condemned” with their role reduced to an impersonal one of “intrusive and unwanted escorts” (Johnson, 1990:57). Guards are often bored and tense and harbour feelings of vulnerability since DSIs are under what is considered the most severe sanction and accordingly have nothing to lose. They fear being taken hostage; a common fear is that an officer will open the wrong door at the wrong time (Johnson, 1990:59). Fear, according to Johnson (1999) produces a casualty – simple human compassion which adds to the interpersonal climate of working with DSIs.

Even though a former warden “watched in amazement, wondering how men survived the rigours of being confined to a cell for twenty-three hours a day” (Johnson, 1998:109), there is little to suggest that staff have any understanding of life for DSIs. Conditions of confinement for DSIs are seen by keepers as cold, lonely, and often frightening (Johnson, 1998:79). However, we need much more research on how the experiences of those managing life and death impact those who are so very dependent on them for almost every aspect of daily life, and death.

Knowledge of life and death for DSIs is markedly limited and there remains a real need for much more detailed research in this regard.



## **Chapter 4 - Utah State Prison**

### **Introduction**

Utah is one of the most beautiful states in the USA; the Rocky Mountains frame some of the most amazing stretches of country with deserts and lakes for thousands of miles. It is somewhat ironic, therefore, that this vast state of wide open spaces should be the location for the study of DSIs; those living in the most restricted confinement in the US prison system.

Utah is a low-key state. Although it is the 13<sup>th</sup> largest state (84,904 square miles) it is only the 34<sup>th</sup> most populous state in the USA with a population of over 2,316,256 (ECRS 2000). Its unemployment rate is low (4.4%) as is its rate of violent crime. Outside the USA little is known about the state except its association with the LDS church (formally known as The Church of Jesus Christ of Latter Day Saints), the Osmonds, and more recently its staging of the 2002 Winter Olympic Games. Although one often hears Utah referred to as one of America's best kept secrets it has an interesting and colourful history which has been well documented due to the keen Mormon tradition of keeping and maintaining genealogical records.

This chapter examines Utah's legal history, the death penalty in Utah, describes Utah State Prison (USP), and conditions of confinement for DSIs at USP.

### **Legal History of Utah**

The USA won control of Utah in a war with Mexico. Utah then applied for statehood, asking to be called the State of Deseret. The application was turned down and instead in 1850 Utah was made a territory which meant that the US government had the power to appoint Utah's leaders. However, as the Mormons (members of the Church of Jesus Christ of Latter Day Saints) were in 1847 among the first people to settle in Utah the culture of the state was, and still is, dominated, for the most part, by its values. At that time the territory had no legal laws or police control. Order was maintained by early Mormon law which was a combination of divine law, natural law, state and

federal laws, and Mormon practices. Methods of punishment included fines. Also whippings; a bell was attached to a whipping post to call the people together to witness punishments for wrongdoings. This system worked well within the Mormon community but the population growth during this period included those who did not subscribe to the faith; "Winter Saints". These were newcomers to the valley who joined the Church of the Latter Day Saints during the winter months en route to California in the Gold Rush and with the arrival of warmer weather they moved on sometimes taking goods that were not always their own property. In 1851 the first criminal code was put into effect and an act passed providing capital punishment which also provided that the condemned should have the choice of method of execution. The first execution was that of two Native American boys, Antelope and Longhair, found guilty of the murder of two white boys in 1854. In 1859 the first white man was executed (Walters, 1973).

### **Death Penalty in Utah**

Utah's criminal code was based on one originally created by the leaders of the State of Desert under which capital punishment was prescribed for first-degree murder. It wasn't until 1972 when, as a result of the Court's opinion in the case of *Furman v. Georgia*, Utah's statute concerning the death penalty was invalidated, along with those of 39 other states and the federal government. Four years later the case of *Gregg* upheld a Georgia capital punishment law which incorporated trial procedures purported to eliminate problems associated with the capricious and arbitrary was in which the penalty had been handed down. Similarly Utah satisfied the requirements of the Supreme Court by enacting a death penalty scheme that contained eight categories of aggravating circumstances. By the end of 1983 the death penalty could be handed down for homicide under one or more of seventeen special circumstances including rape (or attempted rape), pecuniary gain, hostage-taking, and homicide by a person confined in a correctional institution. This list of factors, it has been argued, makes it difficult to differentiate between intentional killing that justifies the death penalty from that which does not



(Weron, 1994) because they do not focus on the defendant's culpability.

The death penalty remains a sentencing option in Utah where tolerance for capital punishment is steady, possibly because the dominant Mormon culture of the state does not oppose the sanction. It is alleged that in 1851, in a revelation to Joseph Smith, the Lord said "And now, behold, I speak unto the Church. Thou shalt not kill; and he that kills shall not have the forgiveness in this world, nor in the world to come. And again, I say, thou shalt not kill; but he that killeth shall die" (Gillespie, *Utah's Unforgiven*). More than a hundred years later the church's public communication officer announced (somewhat ambivalently) "... if the state and federal laws provide for capital punishment, we are bound by those laws ... in Great Britain, there is no capital punishment, so we would be against it there" (Gillespie). The sanction, therefore, has never been seriously challenged and prior to *Furman v Georgia* in 1972 the state has never explicitly considered its constitutionality (Weron, 1994).

In 1993 a new sentencing option in Utah became available in capital murder cases; life without the possibility of parole. On 2<sup>nd</sup> February 1994 the sentence was handed down for the first time in Utah and since that date on six more occasions. The death penalty has been handed down once since this option was introduced, on May 1999.

### **Executions**

In 1977, following the Gregg ruling, Utah became the first state to carry out an execution in the USA in over ten years. Not surprisingly, the execution of Gary Gilmore attracted worldwide notice but that attention was in part attributable to the method of execution; the firing squad. Methods of execution in Utah have included hanging, beheading, firing squad and lethal injection. Beheading, which was never used, was dropped in 1888 and hanging was abolished in 1980. The last hanging took place in 1958 and was replaced with lethal injection, used for the first time for the execution of Pierre Dale Selby in 1987. Although lethal injection is the most common method of execution in the USA it has been used in only four out of forty-eight executions in Utah.

Thirty-nine have been by firing squad, the last being that of John Taylor in January 1996. In recent history the only two USA firing squad executions (Gary Gilmore, 1977 and John Taylor, 1996) have been carried out in Utah. Until February 2004 Utah was unique in that it was the only state which provided for this method of execution as a choice made by the condemned; the other option was lethal injection.

Although historically the shedding of blood is a controversial issue, especially between the years 3000 BC to AD 500, it is, interestingly, this very issue which was at the heart of the firing squad as a method of execution in Utah. Historical accounts of the beliefs of the dominant church in the state, The LDS church, suggests that for certain sins the only way a sinner can achieve forgiveness is to have his or her own blood shed. Joseph Fielding Smith (1805-1844), a prominent member of the Church, announced, "I am opposed to hanging, even if a man kills another, I will shoot him, or cut off his head, spill his blood on the ground and let the smoke ascend thereof to God..." The doctrine of individual blood atonement, however, remains an undecided issue among members of the Church. University of Utah professor Richard J. Cummings notes "the whole notion of blood atonement is so obviously linked to the Mormon literal mind-set that it does not seem to admit of a mitigated, symbolic interpretation and is either accepted or rejected outright, depending on one's level of literalistic belief" (Mormon Research Ministry, [mormonismresearchministry.org](http://mormonismresearchministry.org)). Nevertheless, in 1994 the Salt Lake Tribune declared that "In the past decade, potential jurors in every Utah capital homicide were asked whether they believed in the Mormon concept of "blood atonement" (Mormonism Research Ministry). It is not entirely clear why this question would be asked but may have something to do with the fact that until recently those sentenced to death in Utah had the right to choose their method of execution. Those who were sentenced to death before February 2004 retain the right to choose the method of execution; firing squad or lethal injection.

Historically, executions in Utah were carried out in the counties where the crimes occurred, under direction of county sheriff and the last public



execution was that of John D Lee in March 1877 by firing squad (historytogo.utah.gov). From 1903 executions started to take place within the confines of the prison.

### **Utah State Prison**

The 1850 Act of Congress provided for the erection of public buildings including a territorial prison and in 1854 the first prison building was completed in downtown Salt Lake City on a ten acre plot of land at a cost of \$32,000 (Hill, 1958). It comprised an adobe prison house, workshop, warden's house, and an adobe wall twelve foot high and four inches thick. Security had never been a major consideration and between 1855 and 1878 escapees and those killed attempting to escape were 25% of all inmates. The prison expanded and by 1877 housed 120 men. Between 1904 and 1918 a modern cell house was constructed and in 1920 electric lights were installed (Van Ordon: 1981).

The unavailability of land at the site prevented further expansion and although authorization for the construction of a new prison was given by the legislature in 1937 it wasn't until March 12 1951 that 444 inmates (including the infamous Butch Cassidy) were moved to a new prison at Point of the Mountain, Draper, 22 miles south of Salt Lake City; the biggest mass movement in the history of Utah corrections. The new prison expanded and by 1960 a facility was completed for female inmates who since 1938 had been housed in Canyon City in the neighboring state of Colorado. Due to overcrowding they were returned to Utah in 1957 where they were housed in the administration building. The first phase of the minimum security facility was completed by 1965 and the second phase was finished by 1967. By 1968 the maximum security facility, fuelled by the importance attached to the segregation of inmates, was completed.

Utah State Prison now has a population of over 5,500 inmates housed in two main locations, Draper and Gunnison. Gunnison, 125 miles south of Salt Lake City, was established as satellite housing in 1990 and has capacity to house 800 male inmates. The remaining 4,700 inmates are housed at the

Draper site with its 800 staff members and nearly 550 correctional officers, sergeants, lieutenants and captains, with an annual operating budget of \$55 million.

The Draper site is divided between two complexes. North Point has facilities for 377 females and juveniles and also those with mental health problems. South point, the location of this research is surrounded by two twelve foot fences with a guard tower in each corner. The six towers are manned by a security officer twenty-four hours a day who have access to a 12 gauge shotgun and a semi-automatic rifle which has laser and telescopic sights. Additional security is secured through the use of spotlights, armed vehicle patrols, controlled entry points, and K-9 and SWAT teams. USP has had no successful escape attempts from a secure facility since 1993.

South Point houses a 13 bed hospital with x-ray, surgery, laboratory, physical therapy and dental facilities. Religious programmes are held in the "Chapel by the Wayside" which was completed in 1961 largely by inmate efforts. The complex comprises inmate housing in four main facilities; Oquirrh, Timpanogos, Wasatch and Uinta facilities, all named for the surrounding mountain ranges.

Oquirrh Facility consists of pod type housing units (very similar to those of a supermax facility) as well as dormitories. The physical layout of this facility is such that inmates from different housing units can be kept apart thus allowing for the management of several different types of programmes, and includes housing for both minimum and medium security inmates.

The minimum security section of the prison is also located in this part of the prison but although it lies within the South Point complex it is fenced off from the rest of the prison. Here inmates sleep in dormitories and have a communal exercise field. They have relative freedom within this section to work, programme, exercise and attend school in various locations on the complex. They also have the opportunity to pay for the rental of televisions and/or radios; for all inmates at USP this is funded either by money from paid work in the prison or by money sent in to the inmate from outside.



Timpanogos is a newer facility and houses medium security inmates. It consists of four buildings arranged around a communal outdoor recreation area (although it is rarely used as such). Each building has a central control room surrounded by cells which provide for double-bunking.

Wasatch Facility is in the original and much older part of the prison although most of the cells have been remodelled. This facility houses long-term and senior inmates, and provides housing for general medium security inmates. Inmates live in cells, for the most part double-bunked, and spend sleeping hours locked in their cells. The amount of out of cell time to work, recreate, attend school and so on is determined by the inmate's behaviour; out of cell time is reduced for infractions of prison rules. Those who can afford to buy or rent a television and radio have the opportunity to do so in this part of the prison, provided they have a good conduct record. When inmates move to other parts of the prison to carry out these activities it is usually under supervision. This type of security also provides the opportunity to purchase or rent televisions and radios.

Uinta Facility is the maximum security compound and consists of five housing facilities; Uinta One, Two, Three, Four and Five (Figure 4.1).

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Death row, the death watch cell and the execution chamber are also at this facility. Inmates whose institutional behaviour warrant closer supervision, or have been convicted of an extremely serious offence, are housed in maximum security housing.

Unit Two, Three, and Four are buildings of particularly unimaginative design, especially built for this purpose. These separate areas are linked by a series of long, drab corridors although access is gained through one main entrance. The exterior and interior walls are of grey cement. Paintwork is also grey. All doors, apart from those in the administration section, are operated electronically. Windows to the outside world are long and narrow. Here inmates spend over 23 hours a day in their cells, usually double-bunked. There is extremely limited access to jobs, recreation, and virtually no educational opportunities. Each unit comprises eight sections. Each section has twelve cells arranged in two tiers along one wall, a shower room, and a communal floor area. From the communal floor area there is access to an "outside" exercise yard measuring approximately ten feet by twenty feet. The term "outside" is used loosely; the area is surrounded by high solid cement walls and is covered over by heavy metal meshwork which restricts the amount of direct daylight.

When inmates leave their cells to recreate they do so in extremely limited numbers - very rarely are they allowed out more than four at a time. The limited work opportunities mean few inmates can afford to buy or rent a television or radio. Also the behaviour that brought them to maximum security may have warranted the withdrawal of this privilege.

Although these three buildings are not supermax facilities, the physical layout is very similar. They too are panoptic in design providing constant surveillance from a central control room and referred to by staff and inmates as "the bubble". The bubble, which is encased in concrete, is split into north and south - one half looks out over the four sections facing north, and the other



over the four south-facing sections. Those in the bubble have complete surveillance of all sections because they are fronted by a floor to ceiling wall of toughened glass, although they cannot see into each cell from the control room. All doors in the building can be closed and opened from the control panels and inmate movements are controlled by orders delivered over an intercom system. The sections are separated from the "bubble" by a distance of about fifteen feet; referred to as the "horseshoe".

Each section is fronted by a floor-to-ceiling Lexan (toughened glass) wall and consists of two tiers of six cells, a shower room and a communal floor area. From the communal floor area there is access to an "outside" exercise yard measuring approximately ten feet by twenty feet; the term "outside" is used loosely - the area is surrounded by high solid cement walls and is covered over by heavy metal meshwork thus making the amount of direct sunlight extremely restricted.

The double-occupancy cells measure approximately six feet by fifteen feet. They contain a steel sink, open toilet, poured concrete beds, ledge for books and personal belongings and desk with a fixed stool. Each cell has a long very narrow window overlooking magnificent views of one or more of the Rocky Mountain ranges; which must surely serve as a poignant testament to loss of liberty. The door to each cell is solid metal with a small window at eye level, and a hatch, which can be opened only from the outside, to facilitate the passing of meal trays and laundry, and more importantly, the cuffing of inmates. Inmates are cuffed at all times except for when they are recreating in the communal exercise area or outside yard and when there is no officer present. At all other times they must be cuffed.

For inmates the way to progress out of this restrictive confinement is a combination of an appropriate time period and a record of good behaviour.

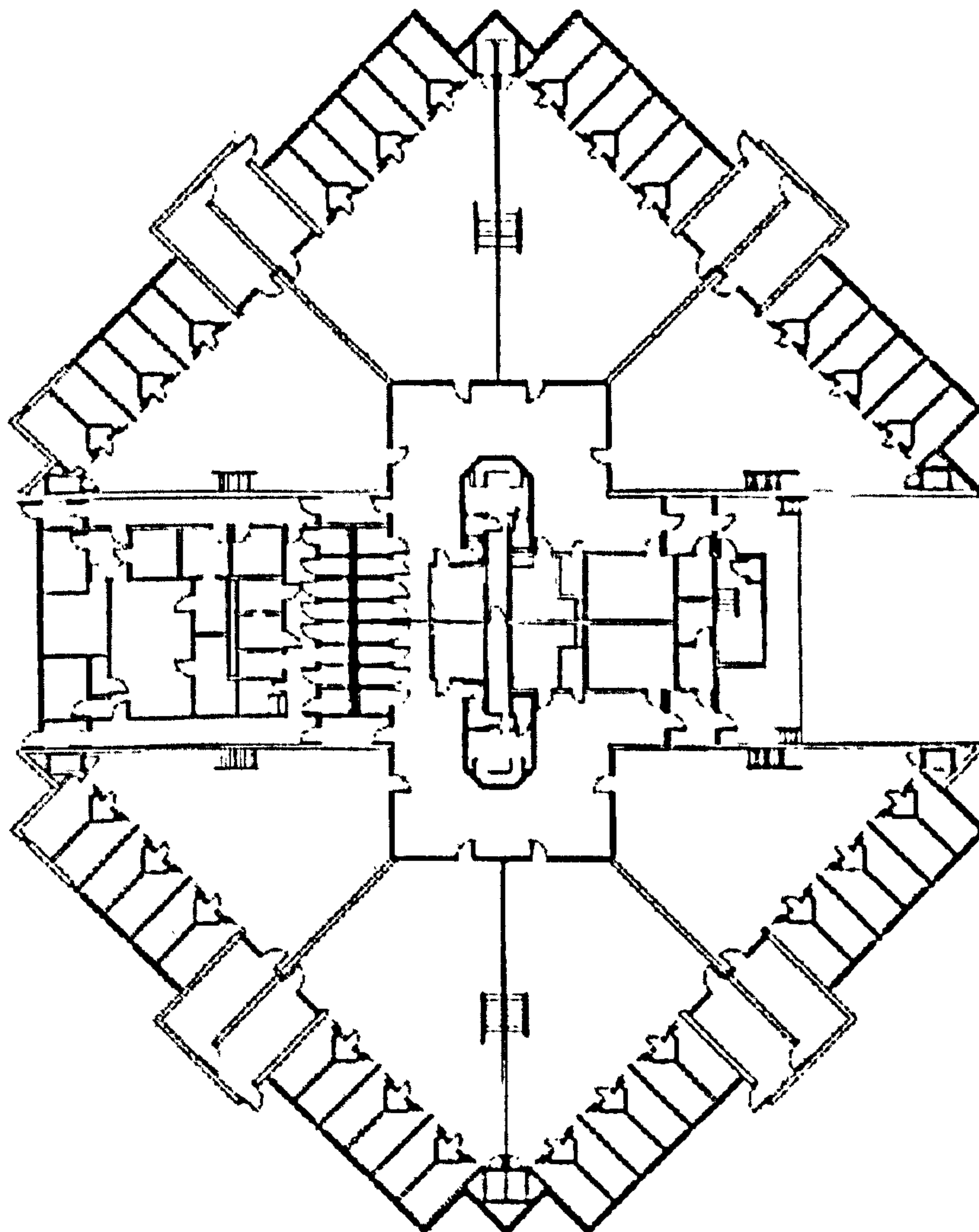
### **Supermax**

Officially inmates at South Point are housed in one of three security types; minimum, medium and maximum. However, even though Utah Department of Corrections does not consider Uinta One to be a supermax facility, it does fall

very much within the general definition of the American Correctional Association (see Chapter 2) and inmates who do not conform to the strict regime of Uinta Two, Three or Four may find themselves here, as will inmates whose behaviour in general prison population calls for severe punitive measures or calls for protective isolation from other inmates.

The layout of Uinta One is the same as Uintas Two, Three and Four (Figure 4.2).

**Figure 4.2: Uinta One**





One significant difference, however, is that inmates live in single occupancy cells in one of its eight sections for more than twenty-three hours a day. They are never allowed out of their cells more than one at a time. Also, when these inmates are cuffed to leave the section they also wear ankle shackles and a disposable mask across the nose and mouth to prevent spitting. The masks are designed so that they cannot be removed by a restrained inmate. The mask is attached to a mesh hood which is pulled up and knotted on top of the head. The mesh can be undone during interviews or when spitting is not likely to occur (Figure 4.3).

**Figure 4.3: Inmate Wearing Spit Mask**

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These grim conditions have a purpose in Uinta One - they encourage recalcitrant inmates to modify their behaviour.

One of the sections in Uinta One, Section 4, is referred to as the "hole". This is where those inmates who cannot be housed in general prison population, cannot be controlled in maximum security, and refuse to conform in supermax reside. Three of these cells have 24 hour camera surveillance and out of cell time for all inmates in Section 4 is severely restricted.

### **Confinement for DSIs**

Although Uinta One is the most secure in the prison complex and although most of the inmates are deemed to be among the most dangerous in Utah's prison system, it also houses men, most of whom have shown very little evidence of institutional misconduct; the eleven DSIs.

All inmates received into USP are taken in the first instance to Uinta 5 which is the Reception and Orientation facility. Here they are classified by a technique which addresses three fundamental issues. The first is identification of appropriate security level. Level 1 is maximum security and applies only to DSIs. Level 2 is maximum security for non DSIs, and Level 3 is for general population inmates who will be assigned to either medium or minimum security. Once an inmate has been assigned to housing it is possible to progress through the system to Levels 4 and 5 which are, again, general prison population but which entitle the inmate to particular privileges. For instance, Level 5 inmates are allowed to work outside the prison walls. Housing is determined by security level. In turn, institutional behaviour and other factors such as the nature of the offence, criminal background and previous incarceration history will determine security level. On completion of the orientation process inmates are allocated Level 1, 2 or 3 housing.

The second issue is personality type. Here inmates are assessed to determine which inmates may reasonably be housed together. They are divided into three groups: Kappas are stronger, more aggressive individuals; Sigmas are weaker and easily preyed upon, and; Omegas are neither aggressive nor weak. Kappas and Sigmas are rarely housed together but Omegas can live with either Kappa or Sigma personalities.



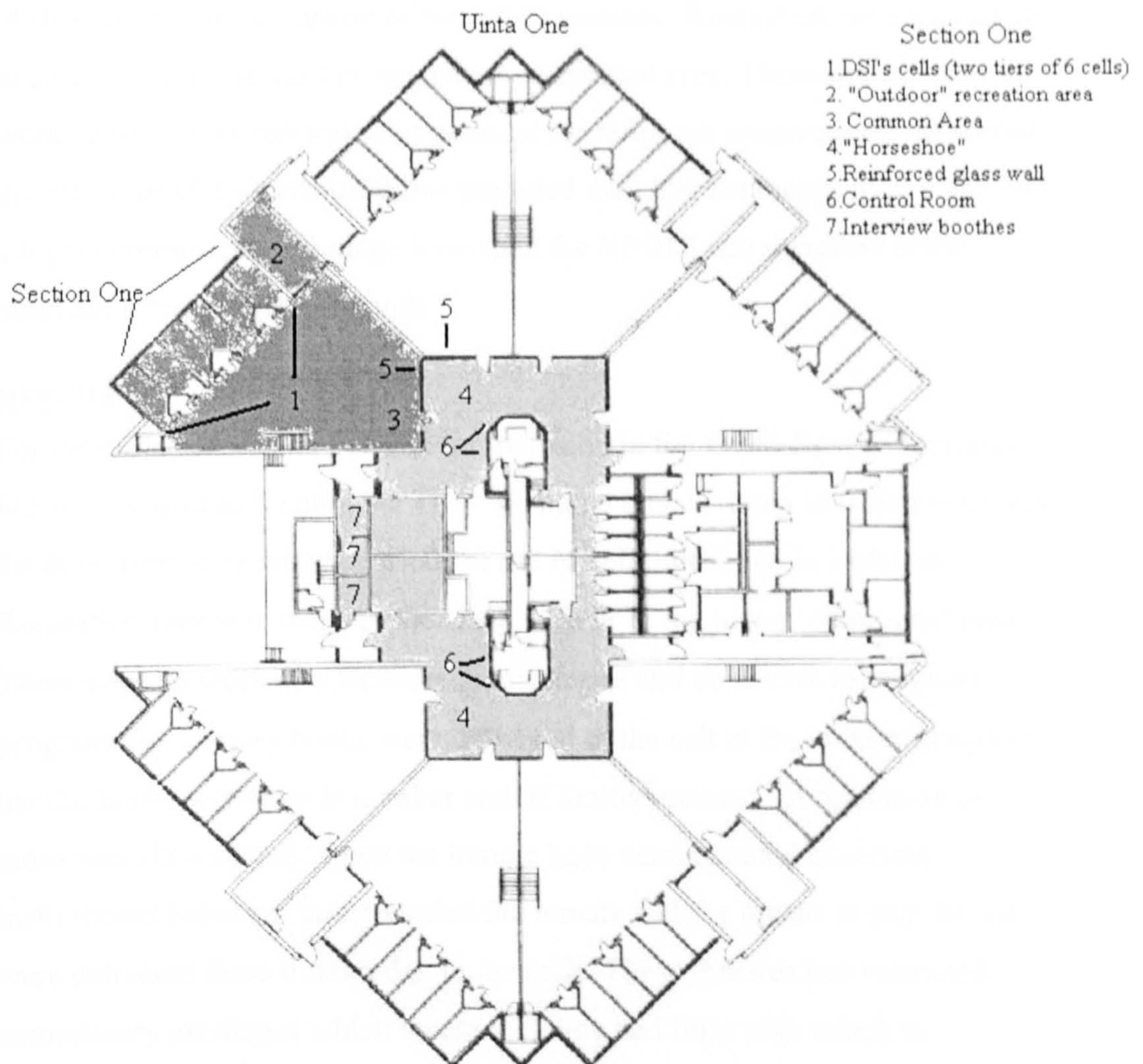
Finally inmates are allocated a matrix level which determines what privileges the inmate is entitled to. This matrix system determines, among other things, out of cell time, access to use of telephone, commissary spending level, visiting privileges. The matrix level ranges from A up to K. On completion of the Reception and Orientation phase of incarceration each inmate is placed at Level I. The reasoning behind this is that they are given enough privileges so that they don't want to lose them through disciplinary problems while at the same time are given an incentive to progress to the highest level, level K.

This process of classification is ongoing and, together with the recording of rule infractions, determines the way in which inmates advance through the prison system yet offers little hope or incentive for Utah's condemned. Because of the nature of the sentence they are treated differently from all other inmates in several respects. After an appropriate period of time and a record of good behaviour, inmates in supermax will be considered for progression back into general prison population. Regardless of their institutional behaviour, however, DSIs will never progress through the system. Further, they are the only inmates who are assigned to security level 1 and are automatically housed in Uinta One, supermax, for the duration of their time in prison. The only times they leave Uinta One are to attend the prison surgery, or when moved to the death watch cell prior to execution. The treatment of non-routine medical matters involves transporting the condemned to a hospital outside the prison complex under heavy guard. Court attendances warrant similar security.

At the beginning of the fieldwork Utah's DSIs were housed in a building which also housed eighty-four inmates who warranted punitive isolation. In 1998 the Death Row Programme was introduced for those DSIs who were deemed suitable and they remained housed in Section 1 (Figure 4.4).



**Figure 4.4: Section 1, Uinta One**



Because of their institutional behaviour three of the DSIs were thought to be incapable of living uneventfully with the other inmates, including the DSIs, and they were housed in other sections of Uinta One. Although they were housed in the same building the implementation of the death row programme introduced differences in the daily regime and privilege levels for both groups of DSIs, programming and non-programming.



## **PDSIs**

By the end of this research these inmates were spending three hours a day out of their cells in the company of two other inmates. Recreation time was taken in either the outside yard or the indoor communal area. These inmates had no work or education opportunities or access to religious programmes. Most had the privilege of TVs and/or radios provided they had the means to pay and had a higher commissary privilege level than the NPDRIs and therefore could purchase a wider range of goods.

## **NPDSIs**

For the DSIs considered suitable for inclusion in the Death Row Programme life was as grim as it could be. They remained locked down in isolation except for three forty-five minute periods of out of cell time taken in isolation. Recreation time was taken in the small yard or in the indoor communal area. There were no work or education opportunities and no access to religious programmes. Library books were delivered to the cell at the inmate's request, but the books were few in number and of limited interest. A television or radio was allowed only when the inmate have demonstrated excellent institutional behavior, and provided the inmate had the means to pay. Meals were delivered three times a day to the cells. These inmates had restricted commissary privileges which meant that they had little with which to supplement prison meals. Visits took place every weekend for three hours but, as with PDSIs, they were strictly non-contact.

Even though Utah's prison population is small (Texas has a population nearly thirty times higher) the prison is a typical US prison. It has three levels of custody housing as well as a supermax facility. Also typical is the housing of DSIs in the supermax facility along with 84 inmates who are deemed the worst of the worst in the prison population. Significantly, however, compared to DSIs in other jurisdictions Utah's DSIs are housed in a supermax facility which operates under a very restrictive regime. For instance, visits are non-contact and visiting times are comparatively short. Education, work, and religious programmes are either very poor or non-existent. Meals are of poor

quality and are taken in close proximity to an open toilet. There is no law library. None of these issues can adequately be justified in the name of security; other jurisdictions with much larger DS populations are less restrictive.

Utah's comparatively young history has been well-documented by its early pioneers and has been kept current in great detail in keeping with the Mormon tradition. It is a deeply conservative state bent on adhering to entrenched political and religious beliefs. Its unemployment and crime rates are low, as is its DS population which is housed under one of the most harsh prison regimes in the USA. This is the location for the fieldwork for this research, the subject of the next chapter.



## **Chapter 5 - Doing Research at Utah State Prison**

### **Introduction**

While the research reported here was not initially designed as a longitudinal study, the circumstances in which it was carried out provided unique opportunities to interview and re-interview DSIs and other inmates as well as staff over a period of four and a half years. So that is, in effect, what it became. A comparative dimension was incorporated in 1998 when the DSIs were split into two groups living under different conditions, and in 2001 when Lifers were interviewed and observed. Between June 1997 and January 2002 over two hundred interviews were conducted with inmates and staff allowing me to explore the ways they experienced different conditions of confinement and how their ways of coping changed as time went by. Countless hours were spent observing the dynamics of prison life; this observation ranged from the more mundane aspects of everyday prison life to witnessing the end product of living under the penalty of death; execution.

### **Training**

Training for this research at the University College of Wales, Bangor (UCWB) was somewhat unusual in that it took place in reverse order. This was because although I had the full support and cooperation of the Executive Director of Corrections for the State of Utah during my 1997 period of fieldwork I could not be sure that if he left the position his successor would afford me the same privileges. It was therefore decided that I should 'strike while the iron was hot' and return to Utah for an extended period of fieldwork in February 1999. On my return, and in between periods of fieldwork, I completed research training classes at UCBW. While this may appear not to be ideal research training I do not think it unduly affected the quality of the research. In any event in January 1999, and immediately prior to the 1999 fieldwork at Utah State Prison, I was presented with a first class opportunity for hands-on training. My supervisor, Professor R D King, needed an assistant to help him conduct interviews with inmates at Colorado State Penitentiary. This opportunity provided me with an invaluable two-week training period with an

extremely experienced prisons researcher of international renown. On one occasion Professor King and I both, quite accidentally, interviewed the same inmate (who seemed not to care that he had been interviewed twice, possibly because it meant he remained out of his cell longer); the quality of training was such that the data collected from both interviews was almost identical. Also of value was the fact that Colorado State Penitentiary is a supermax facility and is similar in many aspects to the unit where Utah's death row inmates are housed.

Training of a non-academic nature was required by Utah Department of Corrections and I attended a one-day training course which provided guidelines regarding contraband, ethics and dress attire. I was also informed of prison policy regarding certain issues and was made fully aware that in the unlikely event of my being taken hostage the prison would not negotiate for my release!

## **Methodology**

### **Research Design**

Not all research begins with a hypothesis. This research began, quite simply, as an attempt to capitalize on the rare opportunity I had as an undergraduate to talk to a handful of DSIs. Since I had known nothing about their experiences at the outset the research had inevitably begun in an exploratory way, getting to know the men and their situations, their hopes and fears, and the ways they coped. Staff were also interviewed in order to explore how they managed life, and death. When I returned as a postgraduate my initial objective was to talk to these men in greater depth and to see how things had changed. But as soon as I tried to make sense of what I saw and what they told me a measure of "grounded theorizing" (Glaser and Strauss, 1967) inevitably crept in. Utah's DS population was small, and execution was not a frequent outcome. I wondered whether DSIs would respond differently where there were much larger numbers of like-situated inmates or where death sentences were regularly and frequently carried out. Such possibilities suggested extending the research in ways that would permit me to develop answers to these questions. At this point I approached the Executive Director of Corrections for the State of Utah, Pete Haun, to ask if he would write letters of recommendation on my behalf in



support of research proposals to some of jurisdictions with larger DS populations. He readily agreed to do this and wrote to seven departments vouching for my professionalism and integrity. For a while I was on tenterhooks because although five departments of corrections turned me down immediately my prime targets, California and Texas, invited me to submit formal research proposals. California has the largest DS population but a comparatively low rate of executions: DSIs in Texas, which has the second largest DS population, live with a high probability of being executed. Either or both would have been ideal comparators. Neither, in the end, gave permission.

But there were other questions too. Foucault had suggested that the modern prison had evolved in ways which replaced punishment of the body with punishment of the mind. He clearly did not have in mind DSIs or the death row phenomenon. To the extent that many DSIs are housed in prisons which subject them to the highest degree of surveillance, in what are now called supermax facilities, they offer a limiting test case of Foucauldian theories. For here there is not merely the most extreme punishment of the mind that comes from near total surveillance, but the added torture of the spirit through not knowing when, or indeed if, one is going to be executed.

When the uncertainty becomes a reality one has to submit to the highly regularized protocol of the execution process. The protocol includes, for the condemned, selection of witnesses, funeral arrangements, last wishes, and transfer to the death watch cell. The final stages includes, minutes before the scheduled execution time, a change of clothing to a clean set of clothing which is usually a difficult operation since the condemned is restrained in handcuffs. The walk from the death watch cell to the execution chamber is escorted by a team of officers who are responsible for securing the condemned to the gurney. The condemned is then attended by the medical team who insert intravenous lines for the administration of the lethal chemicals. Finally the warden reads the death warrant and asks the condemned for any last words before the execution takes place.

For DSIs, punishment of the body and punishment of the mind are not

alternatives, they are combined. Such considerations raise questions as to whether DSIs were responding to the conditions of confinement, as such, in supermax, or to the fact that they were awaiting the possibility of death at the hands of the state. To answer questions of this kind a research design that would permit comparisons between DSIs and Lifers housed in similar or different conditions of confinement was needed.

In 1997 a group of seven DSIs were interviewed. However, a comparative element was introduced somewhat serendipitously in 1998 when Pete Haun was appointed as the new Executive Director of Corrections for the State of Utah. Shortly after his appointment he announced a new programme for well-behaved DSIs at Utah State Prison as a result of which the DSIs were separated into two groups – programming (PDSIs) and non-programming (NPDSIs). This meant, for the PDSIs, an improved quality of life as a result of increased privilege levels which included more out of cell time to be taken two at a time. The NPDSI were those deemed unsuitable for involvement in the programme because of their poor institutional behaviour and they remained subject to the restrictive conditions of the old regime of Uinta One. This change in policy provided a valuable opportunity to examine whether the experiences of DSIs were related to these different conditions of confinement.

In January 2001 I interviewed another comparison group; those who were not under the sentence of death but were unlikely ever to leave prison, Lifers. Life without the possibility of parole is a comparatively new sentencing option in Utah and at the time of the fieldwork there were only eight inmates under this sentence. These inmates were easily traced and seven of them agreed to be interviewed. There were, however, other inmates who were extremely unlikely ever to be released from prison for one of two reasons: they would die in prison before they completed their sentence (either through ill health or old age) or the Board of Pardons was unlikely to consider them suitable for release. There was a problem in locating this population because not all inmates who fell into this category truly believed they will never be released; some were in denial about the seriousness of their offences and some believed that they would regain their health. In these instances these



inmates did not consider themselves to be Lifers and their experiences could not be linked to the pains of prospective life in prison. The way in which I solved this problem was to use a snowballing technique.

This population was housed at various locations within the prison complex; maximum security, medium security, and minimum security. It should be borne in mind, however, that Lifers were likely to move in and out of these three custody settings according to institutional behaviour and it was also possible they could end up in supermax. Most Lifers had experienced more than one type of custody level during their sentences. Their experiences, therefore, were not necessarily the result of prolonged periods in any one type of housing. Nevertheless, the experiences could be related to housing rather than living with the sentence of death. If, for instance, Lifers shared very similar pains of confinement as DSIs they might easily be associated with prison conditions rather than living with the sentence of death.

The final research design for inmates was :

**Figure 5.1**

<b>Research Design - Inmates</b>	<b>1997</b>	<b>1998</b>	<b>1999</b>	<b>2001</b>
<b>NPDSI</b>	7	2	3	2
<b>PDSI</b>		5	5	5
<b>Lifers (Maximum)</b>				11
<b>Lifers (Medium)</b>				8
<b>Lifers (Minimum)</b>				3

The experiences of DSIs and Lifers were, of course, affected by their keepers. It was vital, therefore, to gain an understanding of the experiences of staff regarding particular aspects of managing life and death. For instance, it was possible to ascertain how many of the staff and officers agreed with the death penalty and whether this affected the way in which they carried out their roles.

### **Sample**

Forty-five subjects were interviewed over the course of the fieldwork: nineteen line officers, seven sergeants, five lieutenants and four captains, a caseworker, a mental health worker, an ethnic resource officer, two deputy wardens, two wardens (one of whom was a former deputy warden), the Deputy Executive Director and two Executive Directors. At the conclusion of the fieldwork the average age of the sample was thirty-seven years, the oldest member of staff being sixty and the youngest twenty-four. The average length of service at the prison was six and a half years, the longest period of service was sixteen years, and the shortest was six months. Only four subjects were female. Previous occupations included mechanics, security officers, engineers, factory workers, hospital workers, maintenance workers, construction workers, and receptionists. Two male staff members were ex-military. There were no African American or Native American staff. All had experience in dealing with DSIs at some time during their employment.

Over the years I had come to know many members of staff fairly well and so my analysis and categorization of them relies not only on interviews but what King and Elliott (1977) call "impressionistic evidence".



The final research design for staff was:

**Figure 5.2**

<b>Research Design Officers and Staff</b>	<b>1997</b>	<b>1999</b>	<b>2000</b>	<b>2001</b>	<b>2002</b>	<b>No. of Interviews</b>
Officers	5	9		10		24
<b>Sergeants</b>	<b>1</b>	<b>2</b>		<b>5</b>		<b>8</b>
Lieutenants		2		3		5
<b>Captains</b>		<b>2</b>		<b>3</b>		<b>5</b>
Mental Health Worker		1				1
<b>Caseworker</b>		<b>1</b>				<b>1</b>
Deputy Warden		3				3
<b>Warden</b>		<b>1</b>		<b>2</b>		<b>3</b>
Deputy Executive Director				1		1
<b>Executive Director</b>	<b>1</b>	<b>1</b>		<b>1</b>		<b>2</b>
<b>Total</b>	<b>7</b>	<b>21</b>		<b>25</b>		<b>53</b>

### **Research Methods**

This qualitative research accordingly took on an exploratory and descriptive nature and followed the ethnographic tradition in which I became involved in the daily world of life and death for DSIs. This involvement is necessary because:

“any group of persons – prisoners, primitives, pilots or patients – develop a life of their own that becomes meaningful; reasonable and normal once you get close to it, and ... a good way to learn about any of these worlds is to submit oneself in the company of the members to the daily round of petty contingencies to which they are subject.” (Goffman, 1961: ix-x).

Ethnography is committed to the understanding of the meanings the social group applies to their ‘symbolic world’ –a world which, for DSIs, is surely distinctive. To get a full understanding of these meanings I needed to adopt the perspective of the inmates so that I could see things as they did (Gilbert, 1993). This entailed



becoming a part of the natural setting of the prison and learning the language and special meanings used by inmates and staff so that they could tell their own stories and could give meaning to their experiences (Cohen and Taylor, 1981); Sparks, et al (1996)).

### **Research Roles**

I visited Utah State Prison in four distinct capacities: undergraduate, intern, postgraduate, and execution witness for a DSI. The role as undergraduate researcher proved beneficial in that I openly confessed to being a novice. This worked well with staff because they were keen to explain things to me in some detail. For instance I stated from the beginning that I was opposed to capital punishment but that I was perfectly happy for staff to show me why I should change my mind. In this way I became a kind of science project for them, rather than someone who intended to ride roughshod over the dominant ideology. With the inmates I also confessed to being new both to research and the workings of an American prison. They too were anxious to draw my attention to particular issues, such as explaining prison argot. As an intern I sensed that I was afforded a higher status with staff; I was, after all, on the payroll! This role had little effect on the DSIs who I thought would identify me with management but they were simply happy to see me back at the prison perhaps because, if nothing else, my interviews with them meant time out of their cells. When I returned as a postgraduate it appeared that my work began to be taken much more seriously by staff. Perhaps this was why on occasions I sensed a degree of hostility from some staff; whatever my findings, they would be more readily accepted than as the work of a lowly undergraduate. At the same time I was no longer a novice whose mistakes or misconceptions could be excused and I was expected to be more knowledgeable regarding prison matters. Inmates, however, were beginning to get excited about the end product of my research and looked forward to reading my thesis. My role as witness to an execution had little effect on staff except for displays of patriarchal concern; I might faint. It did cause some problems with the inmates, two of whom were unhappy that I would want to do this. I explained to them that it was not a role I took lightly and that execution is, after all, the final product of life for DSIs and that the experience would qualify me to



write about it first-hand.

All four roles had two further dimensions: I was female (I have described being a female researcher in a man's world in the next section) and I was a foreigner. As for being a foreigner this added novelty value. Inmates and staff alike asked questions about the Royal Family, particularly "Princess Di" and talked about some of the British comedy shows being broadcast on American television such as *Are You Being Served?* More importantly I gained the impression that my being British warranted a degree of respect and courtesy from staff and inmates.

### **Access**

Prison research is fraught with difficulties and hurdles; the biggest hurdle, of course, being access. As previously mentioned I was denied access to seven of the prisons with large DSIs. One of the reasons why I was granted access to Utah State Prison may be the fact that outsiders are not an uncommon sight; the prison relies quite heavily on an established volunteer programme. I think, however, that more than likely access was granted because it was negotiated with the assistance of a family friend, Professor E B Firmage of the University of Utah's Law School.

Although clearing the hurdle of official access is the way in, it is no guarantee that the fieldwork will progress smoothly. There then follows a series of obstacles, one of which is gaining the support and cooperation of prison staff.

### **Trust**

At my first meeting with the prison warden I told him that I would like to talk to DSIs and that my research was purely for academic purposes. He, surprisingly, readily agreed and went on to tell me that he referred to these men as "men of a thousand days"; they could be perfectly well behaved for nine hundred and ninety-nine days but that on any one day they could 'go off'. He warned me to be very careful. The next day I was put through a security clearance procedure, provided with an identity badge, and then referred to the deputy warden of the section of the prison which housed DSIs.

The deputy warden seemed untroubled by the presence of an outsider in his

section of the prison. Indeed, towards the end of the 1997 period of fieldwork he provided me with my own office, computer, telephone and transcribing machine! When I asked if he would like a periodical report on my fieldwork he simply smiled and said it wouldn't be necessary as he had nothing to hide. I explained that the events that had led to the capital conviction of each DSI were not relevant to my research and that I was only concerned with how DSIs and staff coped with life and death. He, nevertheless, provided me with a dossier on each condemned man and insisted that I read them saying he wanted me to be fully aware of the crimes that each man had been found guilty of and stressed the importance of never, for one moment, letting my guard down. At this point he also decided that it would be prudent for me to spend a short period in the company of another member of staff prior to approaching the DSIs so that I could familiarize myself with the layout of the prison and its regime.

Accordingly the deputy warden assigned me to the care of another member of staff who clearly was not overjoyed by my presence. I came to realize very early on in the fieldwork that to some members of staff I was a nuisance. Not only did staff have a job to do, they did so under the very strict security regime of the housing unit where DSIs were housed.

### **Man's World**

I should mention that while the above meetings were in the prison complex they took place in the administration section of the prison; I had yet to enter supermax, the latest refinement on what Jack Abbot regarded as "the belly of the beast" (Abbott, 1982).

Entering a prison proper for the first time, especially as a novice, a 'wet behind the ears' criminal justice researcher is an extremely daunting experience. All the ease and skills with which we negotiate our way around the 'real' world disappear. Demands by uniformed authority figures for identification, giving up of personal property (albeit temporarily) orders to move or be still, imposition of a dress code, all have very disturbing and unsettling effects. These feelings become more intense as one is shepherded through the security maze of a prison. They



heighten further as one approaches the supermax security facility, the carceral maze of which presents yet more obstacles, more demands for identification and further explanations of one's presence.

It was in this alien and almost surreal world that I spent most of my fieldwork. At the outset I felt highly conspicuous in the "social world of a men's prison" (Genders and Player, 1995:33); female with a British accent and no knowledge of the real prison world. I realized that I as the observer was, in turn, being observed (Genders and Player, 1995). I also felt like a nuisance. I was a nuisance and my research, quite rightly, ranked extremely low in the list of priorities for staff. Moreover, I gained the distinct impression at this early stage that I was regarded as an "interfering do-gooder" particularly in view of the fact that I was a female and was opposed to the death penalty; all this in an extremely patriarchal society that has strong support for the sanction. This hurdle was overcome to a large extent by being completely honest with staff. I explained my views on the death penalty but said I was new to prison research and was perfectly happy to be shown why I might be wrong in some of my views. This tactic worked well and people often went out of their way to explain things to me. Two staff members in particular, however, remained uncooperative throughout the entire period of fieldwork. Had this been the case with the majority of staff my fieldwork would not have progressed as well as it did, if at all. The security regime for the section of the prison which houses DSIs is such that I relied solely on the cooperation of officers to escort inmates to and from interview booths. An uncooperative staff member could, for instance, tell me that it was inconvenient because of security to allow me to interview. Or, keep me waiting in an interview booth for an inmate for hours, or, and even worse, keep an inmate locked in a very small interview booth for hours after the interview before returning him to his cell, thus causing the inmate to be reluctant to come out for further interviews. These types of situations can only be dealt with by playing down the inconvenience caused; I soon learned to smile in the face of adversity. As mentioned, however, these situations were not common; most staff members were helpful. I very soon settled into the role of prison researcher and it was not long before inmates and staff came to regard my presence as routine

(Genders and Player, 1995).

### **Meeting the Guys**

There was yet another hurdle to overcome, a vital one; having gained access did not mean that the DSIs were obliged to talk to me. However, at this stage I was reassigned to yet another staff member; the caseworker responsible for supermax inmates and DSIs. I accompanied him on his daily rounds and in this way became familiar with the layout of this section of the prison and learned the procedures for getting in and out of the facility. Nothing was too much trouble for this person who answered all of my (sometimes incredibly naïve) questions in detail. He also allowed me to attend OMRs (Offender Management Reviews), which were opportunities for the staff and inmates to review inmates' progress. Typically those present would include the deputy warden of the Uintas, the captain of Uinta One, the lieutenant and/or sergeant, line officers, mental health worker (if required), the caseworker, and, of course, the inmate. I decided that OMR's would be a good place to be introduced to the inmates even though there was the possibility that for some prisoners I could have been identified with management. The great advantage, however, was that I was able to give my version of what the research was about unmediated by the staff.

Before each OMR began the deputy warden introduced me as a research student and asked the inmates if they had any objections to my being present (nobody objected). At the conclusion of the OMR the deputy warden then gave me the opportunity to explain the nature of my research and to ask the inmates if they were willing to take part. I assured them at this very early stage that the research would be used for academic purposes alone, and was not in any way political. I also made it quite clear that I was not interested in their offences. These introductions at the OMR's were also an ideal opportunity for the inmates to assess me face to face. I am fairly confident that certain novelty factors influenced their decisions to talk to me: I was female; I was British; and, I was not interested in the offences they had been sentenced for. What I was asking them to do was to talk to a British woman about their daily lives on death row and, of course, this meant they could leave the



confinement of their cells for periods of time. This preliminary introduction had another bonus; the inmates did not come to the first interview “cold” - they had some idea of who I was and what I was doing at the prison.

It was vital that I gained the trust of the inmates quickly; something which usually is earned over time. Time, however, is not always on the side of the researcher but, although my first period of fieldwork at the prison lasted only six weeks, I was able to establish a degree of trust with the inmates. This was to some extent influenced by my returning transcripts to them for validation (discussed below). In so doing I demonstrated that the inmates’ participation was being treated with respect and professionalism. Further, since my research focused solely on aspects of their daily lives and not their criminal history the inmates were not entrusting me with information of a highly personal and potentially litigious nature. Also, as noted by Genders and Player, “gender was clearly an influential factor in shaping the nature of the rapport” (1995:43) and in relation to their research inmates generally found “less need to construct and maintain defences when talking to women rather than men” (1995:44). For some of the men in my research it had been a very long time since they had been in the company of a female, other than staff members, and I sensed that they viewed me in a maternal regard. This was not only because of my gender; I was also older than them.

### **Respondents**

Sampling was never an issue with the DSIs. Of the eleven DSIs at USP in 1997, seven agreed to talk with me. The four who refused, I was told later, were the inmates who typically did not talk to any outsiders. Of course, I will never know how many would have agreed to talk with me had I introduced myself by other means, such as talking to them at the cell doors, or writing them letters; I suspect not as many. All were provided with a letter of introduction and a request for them to take part in my research (Appendix 8)

Very early on in the research one of the DSIs demonstrated an unwillingness to talk about issues relevant to my research and insisted on talking in quite zealous terms about religious matters and so this inmate was dropped from the research. The

total was brought back to seven when in August 1999 one of the inmates who initially refused to take part changed his mind. In May 1999 there was a new DSI who agreed to take part in the research, and in October 1999 one of the inmates was executed.

Dates of birth of the DSIs ranged from 1960 to 1973, and had been under the sentence of death since between 1985 and 1999. Since Utah has a small DS population I decided to include little in the way of biographical data about any of the DSIs in order to protect anonymity.

The Lifers sample started with two inmates who had been under the sentence of death at the time of the 1972 death penalty moratorium and whose sentences were reduced to life with the recommendation that they never be released. I asked these two inmates who fully expect to spend the rest of their lives in prison if they could give me the names of other inmates who knew they would never be released. In this way I ended up with a population of twenty-two Lifers who ranged in age from twenty-one to sixty-three. Time in prison ranged from 2 to 32 years.

Sampling was not an issue for staff respondents. I simply interviewed staff who, at some time in their careers, had worked with DSIs and were willing to talk with me. Staff rarely spend prolonged periods of time in one particular section of the prison and so it was not necessary to limit staff to those working in Uinta One. Staff were included if they had, at some time, worked with DSIs. The ages of staff ranged from twenty-five to fifty-eight and all were Caucasian, except for one who was Hispanic. Years' service ranged from six months to sixteen years.

## **Interviews**

Interviews with DSIs in 1997 took place on a one-to-one basis in a non-contact booth (I was separated from inmates by a toughened glass window). Not only were interviews hampered by the poor sound quality but there was no way of passing interview transcripts directly to the respondents. A transcript of each interview was returned to the inmate for approval to ensure that it captured as far as possible the experiences and sentiments of the inmates; what Walsh (1998) calls "respondent validation" (Appendices 10 and 15). The transcripts had to be passed back and forth



through a third party such as an officer or the caseworker. The respondents, not surprisingly did not trust staff not to read the transcripts and so naturally this placed limits on the length and quality of interviews. From 1998 onwards, however, I had proved trustworthy enough to conduct interviews with DSIs in contact booths and was given permission to tape-record interviews. From this point on interviews began to yield extremely rich data.

These interviews required “active listening” (Walsh, 1998) and lasted from half an hour to more than three hours and were recorded by way of notes taken in shorthand and longhand and tape-recorder. Following the second round of interviews in 1997, I used a semi-structured interview consisting of a list of topics so as to canvas emerging issues, and also to organize some of the data, such as age and length of time under the sentence of death, much in keeping with what Seale (1998) calls a “topic guide” (Appendices 13, 14 and 16).

During the summer of 1998 I worked as an intern for Utah Department of Corrections employed to prepare a report on the quality of programmes available to inmates but was given permission to carry out interviews in relation to my own research. These interviews were much shorter and fewer in length, and were more like “catch-ups” of what had happened to them since my last visit to the prison. I consider it, at this point, worth describing the time-consuming process involved in my interviewing DSIs. This not only illustrates the limitations involved in carrying out interviews with DSIs but the burden I placed on staff.

- Enter prison complex checkpoint, present identification
- Enter Uinta Compound, identify over loudspeaker to guard in tower
- Enter Uinta Administration building, present identification
- Enter Uinta One building, identify over loudspeaker
- Enter horseshoe area, identify over loudspeaker
- Enter control room, identify over loudspeaker
- Request DSI interview
- Staff call inmate on intercom to announce interview

- All inmates in Section 1 return to cells
- Two officers enter Section 1 and cuff and shackle inmate
- Escort inmate from Section 1 to interview booth
- Escort inmate back to cell at end of interview.

1999 was the longest single period spent on actual fieldwork - February to August, with a two-week return visit in October of that year. This time was spent interviewing inmates and staff (both unstructured) at a time of the forthcoming execution of one of the DSIs. Considerable time was also spent on observation in a general sense, and observation of events leading up to the execution, the execution itself, and events of the following two days (during which time I interviewed some of the DSIs). This period of intensive fieldwork provided an opportunity to discuss their experiences in much more depth. In the previous stages precious time was wasted in interviews because I often had to interrupt to ask for explanations and clarifications. For instance, I now knew when inmates talked about an OMR that they were referring to an Offender Management Review. I understood all about matrix levels, I knew the staffing structure of Uinta One and was familiar with the names and ranks of most staff members.

Also, by this time I had come to know more about each man: his concerns and hopes. At the same time the men had come to know more about me. They were relaxed during our conversations and seemed to take a genuine and healthy interest in the research. Often they would tell me about news articles, which they thought I should read, and when possible, they would let me have copies. Conversation flowed freely and openly.

Interviews with Lifers were also conducted on a one-to-one basis (except for the interview discussed in Chapter 9). These were usually on a contact basis and conducted in private in an office or unused room. Often these interviews took place in the evenings because several Lifers either worked or attended school during office hours. The majority of Lifer interviews were semi-structured so as to cover issues raised in earlier interviews with DSIs and staff (Appendix 9).



Interviews were held with staff where and whenever it was convenient for them but always in private. Staff were interviewed in my office, in the control room, in the captain's office in Uinta One, the Department of Corrections headquarters, and very occasionally over lunch. A topic guide was used so as to cover issues raised by Lifers and DSIs, and other issues raised at various periods of the research (Appendix 16). As with all respondents the interviews were recorded, transcribed and returned for validation.

### **Ethics**

All subjects in this research were provided with a letter of introduction in which confidentiality and anonymity was promised . A signed form of agreement was also completed by each subject.

All interviews have been transcribed and stored but tapes have been destroyed in the interests of confidentiality. The transcripts were returned to all respondents for validation because I wanted to be very sure that what was reported was a true account; the spoken word and the written word often are not the same. Further, these respondents had little recourse to correct inaccuracies once I left the prison and this was an opportunity for them to make amendments whilst I was on site. Equally important is the sense of respectability given to the privileged and valuable information contained in the interviews.

Anonymity, although promised, is difficult with any small population and sample and in the interests of this I have sacrificed publishing biographical data would without a doubt would have enriched this thesis but which may have led to the identification of respondents.

### **Data Analysis**

Data included over 200 interviews and numerous field journals and observation notes and produced a vast amount of quotations organized around pertinent themes. One has to balance overburdening the reader with repetitive quotes on the one hand or appearing to be too selective in supporting a particular viewpoint on the other. But selection has to take place, and in making the selection I have been guided by the principle that I should remain as faithful as possible to the main points raised by

my respondents while striving for an uncluttered text. In the interests of objectivity I have tried to draw attention to alternative interpretations, either in footnotes or where it seemed appropriate in the main text when this seemed sufficiently justified by the variability of the data. Ultimately, however, the reader has to place some trust in the professional judgment of the researcher and I can only hope that trust will not have been misplaced.

At the outset I resisted the advice of my supervisor, Professor King, to use a qualitative data computer analysis programme, believing it would distance me from my data. It did not take many attempts to manage, access, and analyze over two hundred documents before I capitulated! The vast majority of interview transcripts and field journal entries were imported into NVivo. Documents were then coded at what NVivo calls nodes (holders for each concept). I was then able to explore the concepts in many different ways. For instance, I could search the database for DSIs who were suicidal. I was able to refine this by searching, for instance, for DSIs who were suicidal and who had no family support.

This is the study of a small DS population and so it is not possible to say whether larger DS populations with different probabilities of execution would respond in the same way. On reflection, such a study would almost certainly be beyond the resources of a lone PhD researcher, but there are certainly interesting questions for further research.

Certain kinds of background data were not collected because of judgments made at the time about whether these might have negatively influenced the willingness of respondents to take part. Criminological data, biographical data, and so on would have helped round out the picture. In a situation that was inevitably highly emotionally charged some topics were too painful to explore: in such circumstances the human being took over from the researcher and I backed off. But in any research study the researcher always has to live with the consequences of decisions which sometimes have to be taken on the hoof. Therein lies part of the excitement of doing social research and the strengths of the study remain: a study of



how DSIs coped with life and death and how their responses compared with those of life sentenced inmates in similar and different conditions of confinement.

## **Chapter 6 - Death-sentenced Inmates at Utah State Prison**

### **Introduction**

This thesis is the first account of survival over a period of time for DSIs and its purpose is to examine the experiences of DSIs at USP. Although it is impossible to fully understand this without living the experience, this research fulfils the commitment of social research to “illuminate ... the social world as it is experienced on a day-to-day basis” (Sparks et al, 1996: 299) as it is based on accurate observations and descriptions told to me over several periods of time by DSIs and staff of the Utah Department of Corrections.

The research seeks to explain how DSIs at USP cope with life and death. Prior research falls short of any in-depth accounts; the only academic work to date in a similar vein is that of Robert Johnson (1982, 1990, 1998) who was allowed only limited access to DSIs. This study goes further than Johnson’s work as it consists of many interviews with inmates and staff, over a period of four years.

Analysis of interview transcriptions revealed several themes which are discussed in this and the next four chapters.

The results presented in this chapter are in two parts which relate to two periods of research at Utah State Prison; 1997 and 1998. The findings describe the experiences of DSIs over periods of significant changes. During the period of the study there were three different Executive Directors of Utah Department of Corrections. There were three different wardens and four different captains of DSIs. These changes brought about different management policies and philosophies which had a profound impact on the quality of life for these inmates.

### **Part One: 1997**

The initial period of fieldwork (which formed the basis of my undergraduate dissertation) revealed an air of resignation and futility about conditions and the oppressive nature of the regime at USP. The Executive Director of the Department of Corrections for the State of Utah during this time was a supporter of the



warehousing philosophy of imprisonment and was not in favour of programming for DSIs. The Deputy Director justified the situation regarding the punitive segregation of DSIs in his assertion that this was necessary for those whom he called “men of a thousand days”. He elaborated by saying that, in his opinion, although these men could be perfectly well-behaved for this amount of time, it was possible that on any one of these thousand days they could “go off” (present problems). Further, it was his view that these men had nothing to lose – they were already under the maximum penalty the state could impose, and therefore additional penalties arising from institutional misconduct had little meaning. This commonly held perception is extremely important to how DSIs live because it is the reason that most are kept under such close confinement.

### **Living with the death sentence**

Given the views of the Executive Director and the Deputy Director it is hardly surprising, therefore, that conditions for DSIs at the time of this fieldwork were bleak and minimal. Out of cell time was limited to one hour a day which was typically used to shower (in a cell within the section), make telephone calls, exercise (in the communal day room, or in the outside yard 10 x 20 x 27) and talk with other DSIs at cell doors. This recreation period was taken in rotation so that each inmate had an equal chance of recreating both early and late. Meals were delivered in heated carts from the main building in the prison complex to Uinta One served on insulated plastic trays and were eaten in cells. The library consisted of three milk crates each containing fifteen to twenty books which were circulated among the 96 men housed in Uinta One. For those inmates who liked to read the library fell far short of what was needed. The books were few, well worn and of limited appeal:

Paul: We have had the same library books for three weeks. The library consists of a milk crate and there may be one or two that I haven't already read.

There was no law library.

Those DSIs who had one of the few jobs available to them<sup>0</sup> earned somewhere in the region of \$50/60 per month. The jobs were carried out within the

section and consisted of menial tasks such as delivering meal trays to cell doors (food-handler) which took about half an hour, three times a day, allocating supplies (for example, toilet paper, writing paper), cleaning the section shower, and keeping the section tiers clean.

DSIs had the most restricted level of commissary privileges of all inmates at Utah State Prison and were only allowed to purchase hygiene products, writing materials, and a few basic food items such as potato chips. They had little with which to supplement the prison diet. Well-behaved DSIs had the option to rent televisions for \$10 a month on payment of \$195 deposit, and to purchase a radio for \$45. Headphones and adaptors could be purchased at additional cost. Visits took place in non-contact booths and were limited to one per week for one and half-hours. Phone calls and mail were not limited provided the inmate had adequate funds to pay for the services.

The men, in 1997, were unhappy with several aspects of their confinement. They were dissatisfied with the poor quality of meals, particularly in view of the fact that they had limited commissary privileges with which to supplement them:

**George:** There is no good food here and I am burnt out on commissary items. Perhaps this is part of the punishment.

**Cody:** The food is horrible and I have to supplement this with commissary items. I give about half of my meals away.

Incoming mail, a precious link with the outside world (for those inmates who had contact with friends and family), was eagerly awaited. One inmate complained that he had gone without mail for three weeks because of an error in the mailroom. Another inmate complained that nobody had been to check the air conditioning, which had been broken for three months (this may sound like a country-club type privilege but temperatures in Utah in the summer months often get into the 100s, and cells do not have opening windows). These inmates were locked down in isolation for twenty-three hours a day with very little with which to occupy this heavy time.



The frequency and length of visits were accepted with little complaint but the fact that visits took place in barrier booths was a source of immense frustration:

**George:** Visits are more painful for my visitors than for me ...they don't get used to it. My two year old granddaughter can't understand why she can't touch me ... she thinks the barrier is a door or window and looks for the handle to open it.

However, and as stated above, the DSIs were mostly resigned to the conditions of their confinement. They were aware that they were considered "unattractive in terms of public and political support for innovative policies" (Flanagan, 1995:109). One DSI commented:

**Paul:** Nobody cares about us. We are animals. So what? So what if the dessert is served on top of the beans. Who cares?

Further, they were aware that what privileges they had were just that – privileges, and not rights:

**Cody:** I have no real problem with conditions other than I would like to be allowed out for a few more hours a day to associate with other inmates and perhaps play checkers or handball. I would also appreciate a video game. I know I have no right to ask for these things but I do hope for these things.

The importance of privileges in prison cannot be overstated. They represent the difference between an existence which, according to Sykes "can be borne, painful though it may be, and one which cannot" (1958:51). One can only imagine the difference between being locked down in isolation for twenty-three hours a day with or without a television or radio. Further, one must be aware that in discussing total institutions:

"the very notions of punishments and privileges are not ones that are cut from civilian cloth"; privileges are "not the same as prerequisites, indulgences, or values, but merely the absence of deprivations one ordinarily expects not to have to sustain" (Goffman, 1961: 51).

These privileges, such as they are, had to be earned and were highly valued for DSIs in Uinta One. The granting or withdrawing of privileges was recognized by both inmates and staff as a valuable management tool which was used to modify behaviour. But, for privileges to be effective as such they must represent a profound difference in the quality of life. Nor must they become taken for granted and meaningless. During this research a DSI regularly requested, and was granted, permission to move for short periods to another section in Uinta One where privileges were non-existent; TVs and radios were not allowed. By doing this he claimed he would not take for granted the privileges afforded to him; they would not become meaningless.

### **Keepers**

In any prison the relationship between inmates and their keepers is vital in order for inmates to maintain an acceptable quality of life. The relationship is even more so for DSIs in a supermax setting who rely on their keepers for contact with life beyond the four walls of their cells. Although the DSIs were under constant surveillance in a classic Foucauldian sense, they were somewhat ambivalent towards their daily observers; line officers, sergeants, lieutenants, and captain.

Cody: Officers have a job to do. I have no real problem with them, but I stay away from the bad ones.

Michael: I don't have a problem with the officers - they are just doing a job to earn a pay-check. I feel no animosity, and regard respect as a mutual thing.

Undoubtedly, the attitudes of officers play a significant role in the alleviation, or otherwise, of the pains of confinement. However, there were no significant accounts of deliberate attempts to increase suffering. In fact, the captain of Uinta One went out of his way to ease some of the suffering. For instance, the SWAT (Special Weapons and Tactics) team (referred to by the inmates as the "goon squad"), often came into the Unit to carry out random cell searches of the other seven sections in the Unit. This team of men, dressed in combat uniforms, was trained to detect and deal with the search for contraband in a none too subtle manner and cells were often ransacked with little regard for the property of the inmates. A degree of sensitivity,



however, was exhibited towards the DSIs in that their cells were searched by the captain and his regular line staff in a much more considerate manner. In this way petty contravention of contraband regulations could be overlooked. I saw that this indeed was the case when I accompanied the officers on a cell search of one of the DSIs. A stinger (device made from scraps of metal used to make hot drinks) was found and was simply removed from the cell. The inmate was made aware of the finding and was given a verbal warning but no disciplinary action was taken.

Nevertheless the men were conscious of the potential consequences of provoking hostility from the line officers. Their daily observations on the DSIs were recorded and, much in keeping with Foucauldian theory, were concerned not with the criminal record of the inmates, but with the moral makeup and lifestyle (Foucault, 1977). The officers were therefore extremely instrumental in the construction of their delinquent careers:

Michael: At one time I hated all of the officers ... it pays to be somewhat submissive, but I have no personal hatred.

Any resentment by the DSIs towards their keepers was directed more at administration, and for the purposes of this thesis this includes the rank of deputy warden up to Executive Director. These individuals were responsible for the implementation, or otherwise, of policies and procedures which determined the conditions of existence for the DSIs. For instance, during 1997 the men were given a glimmer of hope for better conditions: they had been told that a death row programme was being drawn up. This programme, they were informed, would provide, among other privileges, more out of cell time. More importantly, the out of cell time would be spent with another PDSI. The prospect of being allowed to socialize with others was significantly meaningful in view of the fact that some of these men had been without physical contact for many years (apart from when being cuffed and shackled and the occasional handshake with an attorney). They did not, however, believe that a programme was being devised, and were reluctant to even hope that it would be implemented. They expressed frustration at what they

considered to be the capricious attitude of management who controlled and regulated every aspect of their daily lives:

Paul: We were told in January this year that the death row programme was almost ready and would be up and running in three to four months time. Here we are in July with still no answer or information on the programme.

Although the captain of Uinta One assured me that there was a programme being drawn up there was nothing I could say that would convince the inmates that this was actually going to happen. They remained sceptical and very reluctant to get excited about possible improvements in their quality of life. This distrust of administration was a source of anxiety which was at its highest when there was any change in the staffing arrangement:

Paul: When new people come in I think they will take something away from us and they haven't given us anything yet! They enforce petty rules, start shit, show who is boss. We already know - we haven't forgotten!

### **Pains of confinement**

Relations with staff, however, were not the most painful aspects of confinement, nor were the material conditions. For instance, the fact that all meals had to be eaten in their cells in close proximity to an open toilet was not mentioned. For one DSI the control aspect was cited as a major source of pain:

George: I am concerned with the control aspect of life on death row - things such as having to ask a guard for toilet paper. You could ask ten times in a period of three to four hours for such an item. Things like this amount to cruel punishment.

Supermax prisons are, of course, quintessential control facilities. Inmates are there for this very purpose and because of the extreme custody regime they are almost totally dependent on staff to provide their daily needs. One can only imagine the



demeaning effect of having a request for such a basic essential such as toilet paper denied or delayed. However, the relationship between staff and inmate, and management and inmate were not cited as pains of confinement.

Among the pains cited was the inability to contribute to society in any meaningful way. One inmate said he would like the opportunity to talk to youths in an effort to dissuade them from a life of crime. Two men found that living apart from their families was extremely painful which is, of course, one of the pains of imprisonment in a traditional prison environment described by Sykes (1958).

Although Sykes did not write about isolation from other inmates as a pain of imprisonment simply because he was writing before the advent of supermax facilities, it was the single major source of pain for the DSIs at Utah State Prison in 1997 whose days were spent in isolation from other human beings:

George: I miss contact with people.

Michael: The most painful aspect of doing time is lack of contact.

The prolonged periods of isolation threatened the ability to socialize. Losing the ability to socialize was a very real fear for Paul:

Paul: feel there must be more than existence - inmates need to use their minds, talk, shake hands and be human. They need stimulation. There is a real fear that inmates become desensitized and forget how to interact.

The layout of Uinta One, as discussed in chapter 3, is designed for maximum surveillance and has the effect on the inmates of self policing (Foucault, 1977). The inmates were aware that most of their behaviour was capable of being observed and behaved accordingly. For instance, although the men were cuffed and shackled before entering the horseshoe (described in Chapter 3), on one occasion this was overlooked and the effect of this Foucauldian concept is typified by one inmate:

Paul: On one occasion the officers had forgotten to restrain me. I felt like a normal person. But I felt really uncomfortable and was aware that others were feeling uncomfortable too. I don't want others to feel this way. It had a psychological effect on me. These people believe I should be restrained to such an extent that I believed it too for a moment. I don't want *them* to believe it. I'm damned if I want *me* to believe it too.

Under the regime of supermax a sense of dignity was difficult to maintain. Cody explained how, in spite of the isolation, he was beginning to come to terms with himself and his crime after many years:

Cody: I am just starting to like myself. I used to get written up for not shaving. This was because I couldn't bear to look in the mirror. I didn't like who I was. I was really ashamed of myself. That has changed immensely ... I don't like what I have done but I like who I have become. It's taken a lot of hard work to get where I am.

On occasions, and despite his efforts to retain his dignity and sense of self, he was reminded of his prison master status:

Cody: To some extent I have lost my identity. Often when writing I will automatically add my inmate number. I know who I am, but my number is who I am too. My name and number cannot be separated.

Another fear was that of deterioration (Cohen and Taylor (1981) and Johnson (1990):

Michael: I used to be sharp and could recall most things but after years of being on death row I am losing this ability which I consider humiliating. I have difficulty recalling what I ate today.

It was difficult for Michael to see how he could retain his dignity if he deteriorated. This was also a concern for Keith, a young man who wanted to present himself in a positive way:

Keith: If I hang in there for five more years will I get to being extremely dependent on the staff for things such as hygiene? Will my ability to take care of myself be desensitized? People get to thinking it doesn't matter if they get washed and change their clothes, and it is real strange to see this developing in people.



Paul: I used to be able to rationalize but can do so no longer - I have been stripped of my emotions.

Foucault (1977) reminds us that while power targets the body, punishment now targets the mind. For the DSIs while the destruction of the body was the end product, it was the mind/soul that was the target of punishment by the isolation, loss of identity and fear of deterioration. This was also evidenced by the pain caused by the perceived inconsistency of administration:

Paul: I'm not very happy today. It's the games they play. We were told by prison staff that we could have Nintendo games. The ACLU [American Civil Liberties Union] said they would donate them, but then the prison wouldn't give permission. I think they said yes just to see a positive reaction. If they see us being happy something is wrong. They tell us we can have things - the lieutenants and captains - and then when the warden says no they haven't got the balls to speak up for us.

Consistency and a routine lifestyle is important to most inmates because it breaks time into manageable chunks. For the DSIs this was also the case:

Keith: [a routine] keeps my mind stimulated ... I don't dwell on depression and dwell on things that bother me. I keep my mind occupied where it doesn't have a chance to think about that [life in here] , or at least the time frame is minimal to think about that kind of stuff.

### Coping

These men had served between two and fourteen years. On the face of it they seemed to be coping with the extreme restrictive confinement of Uinta One despite there being very little light at the end of the tunnel. They woke up each morning in a concrete cell to face another day of the same restrictive regime, day in and day out. Yet they managed to get through each day. It was a constant source of bewilderment during interviews how articulate, polite, informative and cooperative they were in the face of what lay before them. I wondered whether rebellion would be one way of coping but only one DSI talked of resistance:

**George:** The guards hate it but I call them by their first name - I suppose this is a kind of resistance to institutionalization. It's a way of staying back and not accepting it.

Indeed there was little evidence of the men coping or adapting by slotting into describable roles (Sykes, 1958; Goffman, 1961; Sapsford; 1983). This is hardly surprising bearing in mind that in Uinta One there were extremely limited opportunities for social interaction and cohesion - each man was doing his own time with very little interference or influence from other inmates:

**Paul:** I could talk to the others in the unit if I screamed at the top of my voice.

**Michael:** There is no bonding whatsoever, compounded by nothing to do whatsoever in our cells.

**Alan:** We have no interaction and nothing to occupy our time.

Watching TV, listening to the radio, playing chess, sleeping, and reading were mentioned as ways of coping. However, these ways of coping have limited effect after a while. One inmate spent time trying to reason that conditions would get better. The most significant coping technique, however, was tripping.

### **Tripping**

During the first twenty minutes of my first interview in 1997 the interesting technique of tripping was disclosed:

**Cody:** I manage some of my time by tripping - walking up and down my cell for hours - anything between two and four hours. I would go nuts if I didn't do this because it's like . . . when I do this my mind is in other places. For example I go to the mountains, lakes, go hunting - mainly places I have been to before. When I do this I am not in prison.

This technique was also mentioned by Paul:

I walk up and down my cell a lot day dreaming . . . I do this mostly at night when it is quiet . . . the slightest noise can bring me back. I trip on places I remember and add to it with my imagination.



He added:

I was in prison for about two or three years before I realized this could be done - throwing your mind somewhere else. I saw someone pacing and I told them it must be boring - he said it was better than doing nothing so I tried it. Each inmate has his own way of doing it and the amount of time varies. I do it at night when there is less noise, although I do it in the daytime sometimes. It is important just to get away. You can't ever get away from the pressure - the pressure is still there when you get back. Perhaps pressure is the wrong word - monotony might be better.

Two other inmates told of the difficulty acquiring this learned technique:

Keith: It took me five or six years to learn how to do this . . . it is about deliberate thoughts and channeled thoughts. Power is lost if you let your mind wander. I trip for anything between one and four hours. It is necessary for me to do this during the day - in this way I can have social interaction with family and friends.

Michael: You have to learn how to do this. It took me a couple of years.

Not all inmates called it tripping, but the technique was the same:

George: I visualize - similar thing to tripping - I just call it something else.

It seemed that once the technique is mastered the effects are profound. There is also a control element in that the "tripper" plans and prepares for the time out of prison. He chooses which friends he will be with, what type of beer he will drink, what he will drive, and where he will go:

Cody: I was at Lake Powell before I came to the interview - I had a good time and had a few beers. . . sometimes I go back and do what I've done before. I go to my dad's cabin, cut some firewood, have a couple of beers with him out on the deck. I didn't do this in [general prison] population - I was totally occupied . . . tripping keeps me sane and keeps me happy . . . Its hard to trip when I'm angry - it's hard to go and hard to stay and its frustrating because I keep coming back. On

a normal day it's easy for me to go. Bad news makes it harder. I usually take a friend with me.

Tripping, for some inmates, was an extremely important coping mechanism and was a way of exercising autonomy:

Paul: As for tripping, you wouldn't survive for long if you stayed here all the time.

All six of the DSIs interviewed at this stage said they tripped. Asked when they started to use this technique five said since being in Uinta One under the sentence of death. Only one inmate differed in that he tripped wherever he was in the prison, regardless of the regime, although he had spent most of his prison time in maximum security or supermax. The findings, therefore, suggest this coping technique is related to the isolation of restrictive custody and the consequent lack of socialization.

### **Suicide and Voluntary Execution**

One way of out of this soul-destroying life was suicide but only one inmate had given this option serious consideration:

Alan: Confinement isn't a life. Existence isn't a life. You need a goal ... something constructive and if society has no use for me and I have no use for society there is no reason why I should stay.

Two inmates talked of the ramifications of suicide by a death sentenced inmate:

Paul: Those inmates who cut themselves ... who are they [people on the outside] going to believe?

In essence, what this DSI is saying that suicide would do little to draw attention to conditions of confinement. Inmates have a credibility problem with the general public who would more than likely side with the official side of a suicide event. Another DSI shared this sentiment:



Alan: I don't think about cutting myself or hanging myself [because of the conditions in here] that would let them [prison officials] off the hook. They could say what they like about why I did it.

These inmates felt that although suicide would put an end to the suffering it would draw little attention to the plight of DSIs. They also realized that they had limited opportunities to commit suicide and were aware of the complications that could result in a failed attempt. One such complication would be the possibility of surviving but with some sort of brain damage. This would leave the inmate even more helpless.

Two inmates talked of taking control of their own fates by dropping their appeals. This course of action forces the state to intervene and is sometimes called "state-assisted suicide". These inmates felt that state-assisted suicide had more impact than suicide. The state, and to a large extent the public, is forced to take notice and has to take responsibility for the execution.

When I discussed the likelihood that I would do a further period of research during the summer of 1998 Paul told me:

I may not be here next summer - don't be surprised if I'm gone. I still need something to live for - I still need that certain something. If you put a person in a box and leave them in that box for ten years that person will think about killing himself. We all need something to live for. The little things to look forward to like commissary items, mail, TV, football on TV are enough for some - not for me. I have to have more human contact. It gets to you. How do you act when it does happen [human contact] - you'll be like a scared little animal.

He added that by dropping his appeals he would be in control; he would be forcing the state to assist in his death, at a time of his choosing.

This short six-week period of fieldwork yielded limited but extremely interesting and valuable data. Although the DSIs were dissatisfied with the material conditions of their existence they were aware that they were unlikely to improve and knew that there was little in the way of public sympathy.

Material conditions, however, were not the main source of pain. The most painful aspect of their confinement was the isolation. Although they reported no symptoms of depressive illness they feared that a consequence of the restrictive regime would be mental deterioration to the point where they lost their dignity and sense of self. For these inmates bodily resistance was futile under the extreme security of supermax. Even if they wanted to they had no opportunity to physically vent their frustrations on officers or inmates, nor was there any realistic chance of escape from such a secure facility. Hence, with possible avenues of resistance and rebellion cut off and with severely limited opportunities to form or subscribe to any type of subculture one way to cope was to trip.

This stage of the research was further valuable in that it was the beginning of trusted relationships with staff and inmates which provided “ins” to further issues. For instance, during the summer of 1997, Pete Haun, the newly appointed Executive Director of Corrections granted me an interview during which we discussed in some detail the quality of life for the DSIs at USP. I told him that in my view they were simply stored away out of sight until execution. He confessed that as he was new to the post he knew little about the conditions of confinement for DSIs but made me a very firm promise that he would look into the matter as soon as he could. Accordingly I finished this period of research with some degree of optimism about the conditions of confinement for Utah’s condemned men.

## **Part Two: 1998**

During this second period of fieldwork I was employed as an intern with Utah Department of Corrections. I was granted further, albeit limited, access to the DSIs. Although interviews were shorter and fewer in number I was able to catch up on what had happened in their lives during the past year.

There had been little change in the political climate regarding the death penalty, and the mood of USA in relation to punishment remained influenced by the philosophy of just deserts. The same was true of Utah; living with the penalty of death was considered a natural consequence of being convicted of capital homicide. However, the appointment in 1997 of a new Executive Director of Corrections, one who was allegedly concerned with humane treatment of prisoners, augured well for



the DSIs. I was particularly interested to know whether he had kept his promise made to me in 1997. He had. Under his leadership, a programme for well behaved DSIs was established in February 1998. The programme was fronted by two individuals, the Deputy Warden of the maximum security facilities and the Captain of Uinta One who had both spent time during 1997 at the Texas Department of Corrections looking at the way over three hundred of their DSIs there were managed. They were impressed with some of these policies (at that time Texas allowed certain DSIs to work in a factory) and returned to Utah with ideas for the reformation of conditions for DSIs at USP. Changes were made (although they did not go so far as to provide meaningful employment for the DSIs). They did however mean improvements in conditions for nine DSIs – the ones regarded as ‘well behaved. These inmates had demonstrated their ability to live trouble-free in Uinta One. Five of these were respondents in this study. The remaining two DSIs, because of their records of poor institutional behavior, were considered by management unsuitable for inclusion in the programme.

My research was therefore, albeit somewhat serendipitously, enhanced by the separation of the DSIs into two groups. I could now compare the experiences of two distinct groups. From hereon in and for the sake of clarity, I have separated the DSIs into PDSIs (programming DSIs), and NPDSIs (non-programming DSIs).

### **Life for PDSIs in 1998**

Human contact is something most of us take for granted. We give little importance to a handshake, a pat on the back or a hug, and it is therefore difficult to imagine an existence completely devoid of such simple but meaningful gestures. In January 1998 two “well behaved death-sentenced inmates, who had been neighbours on death row for more than three years, faced each other for the first time for a handshake and game of handball.” (Salt Lake Tribune, 2 February, 1998). PDSIs were now allowed to recreate two at a time and for two hours a day. This was considered a huge improvement in conditions; especially in view of the comments made by DSIs in 1997 regarding isolation. The reforms had brought about the relative freedom to socialize for the first time in many years:

Cody: It seemed strange being out with somebody else but I wasn't fearful.

A further reform meant that PDSIs no longer needed to be cuffed and shackled when entering the horseshoe area:

Paul: Now I feel less like an animal - more human, part of the human race, part of society - damn near a person.

Michael: It took me a while to get used to it ... it was weird at first, but now I like it.

Cody: It was strange not being cuffed and shackled.

It was also decided that staff could enter the section while programming DSIs were out on recreation. Initially, this significant change in the regime was not popular with officers and some officers voiced their reluctance to enter the section with unrestrained programming DSIs. An astute move on the part of the Deputy Warden in collaboration with the Captain resolved this issue; they simply let it be known that officers would not be allowed in the section saying only the Deputy Warden and the Captain could do so. Within several weeks officers began to see this decision as an assault on their capabilities as correctional officers, and very soon they were asking for permission to be able to enter the section!

### **Keepers**

Staff were now allowed to enter Section 1 which caused a change in the power structure between staff and inmates. They were no longer separated by reinforced glass and steel doors. Naturally, this created a tension among staff and inmates, a tension which did not go unnoticed by inmates:

Cody: I think they [officers] were the nervous ones ... there had been a kind of barrier for such a long time. All of sudden it was no longer there and you don't quite know how to react ... it was strange for both of us.



The impact of this change in the regime on Paul was profound:

What was strange was being in contact with no door between us any more. It was kind of frightening. It was strange not being cuffed and shackled. There had been a kind of barrier for such a long time. All of sudden it was no longer and there and you don't quite know how to react. It was also a first time for the officers. Two sides of the fence coming together in unexplored territory, and it was strange for both of us. Even now, six months later, it's kind of weird. It is a good feeling, a positive feeling to know they trust me – it's a privilege. It's something I've worked towards, but it's still strange although I'm not afraid.

The most significant effect of being allowed to associate with other programming DSIs and officers, however, appeared to be the impact on their dignity. They were now able to demonstrate they did not pose a threat to security:

Cody: With the officers it was even more strange, more intense somehow [than being out with other inmates]. I looked forward to showing the officers that there was no problem.

### **Pains**

The changes brought about by the programme meant that this group no longer lived in isolation. They no longer suffered this major source of pain cited in 1997 for all DSIs which was isolation. This period of research found that although the men welcomed the changes in their lives they were unable to relax in the new regime. It was their experience that things could change at any time and they found this inconsistency of life to be painful.

The PDSIs were reluctant to accept that these improvements in their daily lives were a permanent fixture. This air of suspended and cautious hope is of course related to the significance of privileges. The men were well aware that privileges were tools of control, which could be used by staff to reward or punish. One PDSI said sometimes he thought it might be better to have no privileges at all:

Michael: If they don't give me anything they can't take it away.

Another remarked:

Keith: You want as much as you can get but ...they can use it as a tool for harassment. If you don't have anything they have no recourse. You get what they give you and then they use it as a control mechanism.

The reluctance to relax within their new regime could be attributed to the appointment of a new Executive Director. As previously mentioned, change was something that caused unrest and suspicion and the men had no guarantee that changes would be for the better, or permanent.

### **Life for NPDSIs in 1998**

Life continued as before for this group with one significant exception. They were no longer housed alongside other DSIs. All inmates in Uinta One (apart from Section 1 which now housed only PDSIs) were there for administrative reasons; their behaviour was such that they could not be managed in general prison population. This is how the two NPDSIs continued to live (each in separate sections of Uinta One). They were, however, different from the other inmates in these sections; they were extremely unlikely ever to leave the regime of Uinta One or USP. With the exception of the handful of men living with the sentence of life without the possibility of parole the other inmates were working towards eventual release from prison. Whatever sense of camaraderie these inmates felt when living with other DSIs was now gone:

George: I'm worse now than when you saw me in 1997. Then I was on DR and the atmosphere helped me to relax.

They felt they had little in common with the other inmates in their sections:

Keith: I'd like to be with the DR guys. It's psychologically painful because I'm around people [in my section] who are going home. My neighbor goes home in three weeks. Life for me now is worse than it was before.



The quality of life for these two was more or less the same as before the introduction of the death row programme. They remained locked down for twenty-three hours each day on weekdays, and although recreation time had increased on weekend days from one hour to two, it was still taken in solitude. They were, however, around inmates would could talk of one day getting out.

### **Keepers**

Any ambivalence towards their keepers by NPDSIs had disappeared by 1998. Understandably, the men were not happy with the new arrangements and while they did not begrudge their fellow inmates an improved quality of life they saw the reasons for their exclusion as an assault on the self:

Keith: They think I'm so irrational and a hateful person with no regard for human life. There is no recourse for me - they will decide when and what I can do.

Furthermore, they blamed staff for their part in excluding them from the programme. One NPDSI could not see the justification for his exclusion:

George: Their reasons are not justified. Regarding my history - I have always been a renegade, and always will be. I'll never conform because my dignity is all I have left. I haven't been violent since 1994. I have had a couple of disciplinaries – that's it. I stabbed someone five years ago in self-defence; I had to defend myself against a guy who weighed 100 lbs more than me. I have changed since then and they only have to look at my history to see this. I used to get disciplinaries every day, used to head-butt the officers and kick them in the nuts. I don't do any of that any more -I don't even yell at them anymore.

The us/them divide had widened between NPDSIs and staff, with little reason to suppose the rift would be healed.

### **Pains**

For these inmates the isolation remained the most painful aspect of confinement:

George: We need contact, and not just when we are being handcuffed. I was going to see the dentist the other day (I have to be escorted by the SWAT team). One of the SWAT team members was joking with

me, and he walked up to me and put his arm around me. It was a trip!  
The physical contact shocked the hell out of me.

Furthermore, this group of DSIs faced the grim prospect that life would not get any easier for them. They were extremely unlikely to ever socialize with other DSIs during their periods of incarceration.

### **Coping: PDSIs and NPDSIs**

Life was just about as bleak as it could be for these two inmates who were utterly desolate. They lived in isolation, they had extremely limited commissary privileges, and were not allowed televisions or radios. Twenty-three hours of each day was spent in a small prison cell. Although both groups of DSIs continued to trip two of the NPDSIs had no real idea how they would cope with their situations and both found it difficult to remain positive:

Keith: I have no idea how I'll cope with this. It depends on how they do things. They feel giving me life is not enough in the sense that they want to attach a lot of psychological and physical bullshit.

George: I would rather be dead than live like this for the rest of my life.

The only realistic hope they had was of one day being included in the death row programme.

For the PDSIs, conditions had improved at the beginning of this period of fieldwork. Although these changes were welcomed by the men, they did not have the effect I had expected. I had expected the PDSIs to talk at length about the relative freedom to both recreate with other inmates and socialize with inmates and officers. It appeared that the men included in the new programme were finding it difficult to get enthusiastic about something that might be taken away from them; they referred to what they considered to be the mind games and inconsistency on the part of administration. That is not to say they would prefer the existence of the NPDSIs for whom nothing had changed.



In August 1998 a PDSI was found hanging in his cell. As I watched him being rushed out of the prison on a gurney to a waiting helicopter I recalled his words to me in 1997:

When I wake up in the morning I know there is nothing to occupy my time. If I thought every day before I am executed would be like this I don't think I would be around very long. I would probably attempt suicide. They seem concerned with punishing me while they are waiting to kill me. It's hard enough waiting to die, without being punished all the time. I try to get through the days but staring at the walls is hard.

The improvements in his quality of life were not enough. Following his recovery he was returned from the hospital to Uinta One, but was excluded from the death row programme which meant that conditions were even worse. Another programming death-sentenced inmate, Paul, who when told that I hoped to return to the prison for a further period of time in 1998 responded that he might not be there. This inmate was referring to his right to drop his appeals thereby accelerating his execution date. When I saw him again in 1998 I had fully expected that he would have changed his mind. He now had human contact; the "certain something" that he needed. The certain something was not, however, enough and he had not changed his mind despite the improvement in conditions. On 22 April 1999 Paul gave formal notice of his intention to withdraw from the appeal process to the Court. On Friday 14<sup>th</sup> May he appeared before U.S. Magistrate Ronald Boyce who, on 6<sup>th</sup> July, granted his handwritten motion to withdraw his federal appeal. The offence in this case had taken place in 1987 and his appeal had been with the court for almost four years. Eventually he got weary of waiting for a decision. On 15<sup>th</sup> October 1999 Paul was executed by lethal injection, the subject of the next chapter.

## **Chapter 7 - The Execution System**

### **Introduction**

In some regards the execution system is similar to what Kastenbaum (1989) refers to as “death systems” in society (1989). As the manner of death in death systems is sometimes negotiable, for those sentenced to death in Utah prior to February 2004 there is a choice of execution method; lethal injection or the firing squad. Suicide as a manner of death, is also an option although under the constant surveillance of a supermax regime this is not always easy. During my fieldwork at Utah State Prison a PDSI attempted to hang himself but was life-lighted by helicopter to hospital where he was “saved”. Ironically his efforts at leaving what he considered an intolerable existence resulted in his being returned to prison as a NPDSI where the conditions were worse. Voluntary execution (where the condemned waives the right to further appeals) is another manner of death that inmates can opt for. Suicide and voluntary execution are both ways of controlling the timing or manner of death and is often the first time in many years that DSIs have any control over their destinies.

It was never the aim or the desire of this research to examine the execution system at USP, but circumstances prevailed; during the 1999 period of research Paul was given leave to drop any further appeals. This chapter examines, in three parts, the execution system at USP. I discuss, in the first part, the experiences of Paul and the other DSIs. The second part describes events leading up to the execution. Finally, the execution itself and the events following it are discussed.

### **Part One**

Execution is the end of a journey along a long, lonely and debilitating road and is the end product of the machinery of death which most DSIs hope never to experience. Yet, for some it signifies the end of a life which can no longer be borne and so it was the case with Paul who in early 1999 instituted proceedings for leave



to drop out of the appeals process. On October 15<sup>th</sup> he was executed by lethal injection.

### **Voluntary Execution**

Paul's decision to force the hand of the state has been made by other DSIs.

According to a report by Amnesty International last April, 90 DSIs (12% of the total DS population of the USA ([www,amnesty-usa.org/news](http://www.amnesty-usa.org/news) ), including convicted Oklahoma City bomber Timothy McVeigh, had "volunteered" for execution since the Supreme Court paved the way for the resumption of capital punishment in 1976. Gary Gilmore was the first DSI in the USA to demand death and he was executed by firing squad in 1977 in Utah. Indeed, in some states it is difficult to be executed unless one is a volunteer. For instance, of the three executions in Washington State since 1993, two have been volunteers. In Nevada, eight of the nine executed were volunteers. Of the seven executions carried out in Utah since reinstatement of the death penalty, five had been voluntary.

This course of action may be considered drastic but there are several reasons why the condemned would wish to 'fast-track'. Psychiatric studies have suggested that long-term isolation causes humans to suffer anxiety, confusion, a sense of unreality and depression. The switch in most states to lethal injection may also have spurred volunteerism as prisoners who previously feared the electric chair or the gas chamber now regard lethal injection as a painless escape. However, many lawyers working on death penalty cases point to the increasingly harsh environment for DSIs as a primary reason for the jump in "volunteer" executions.

Since reinstatement of the death penalty in 1976 there have been six executions at USP. The first was Gary Gilmore on 17<sup>th</sup> January, 1977 followed by Dale Pierre Selby on 28<sup>th</sup> August 1987, Arthur Bishop on 10<sup>th</sup> June 1988, William Andrews on 30<sup>th</sup> July 1992. The last execution in Utah, before Paul's, was the firing squad execution of John Albert Taylor on 26 January 1996.

Unlike more active states, such as Texas where executions take place on a regular basis, an execution in Utah is a rare occurrence. Utah has always had a comparatively small DS population and even though there is little opportunity for

social intercourse the condemned know each other fairly well. It was unlikely therefore that the DSIs in Utah could remain totally unaffected by Paul's execution. One of the PDSIs in this study had been in Utah State Prison for a period long enough for him to recall four executions:

Michael: I was here when Gary Gilmore got killed, back in 77. I was here when Andrews, Bishop and Taylor got killed - I was on DR when the last three were done. I felt bad about Andrews but I just put it out of my mind. They had a special movie when he died - they got on the speaker and said they were going to show a movie called *The Hand That Rocks the Cradle* and it had two of my favourite actresses in it, but I wouldn't watch it because they showed it just to placate us because they were going to kill him. Most everyone else did. I felt bad about it.

### **Rationale**

As discussed in the previous chapter, I was surprised that the improved conditions had not caused Paul to change his mind but he remained steadfast in his resolution to put an end to his life. Moreover, he was an upbeat type of person not given to displays of unhappiness and appeared to cope in a remarkably level-headed fashion.

It was in April 1999 that Paul began to talk seriously about dropping his appeals. He had been waiting to hear back on his latest appeal for over three years and was getting extremely weary of the whole process.

I believe I will be executed. Oh yes. I believe its close ... they said that they heard a rumor, got a bit of inside information that the judge had made a decision in my case and that it would take another few months to write it up. They said it's over a hundred pages long. A normal decision is about twenty. It's not my last shot, but to me there are no more.

Life had gotten a little easier for Paul, and the other programming DSIs, yet he remained adamant that the changes were not enough. I wondered whether an event in March 1999 had influenced his decision. Paul had been escorted under heavy guard from the prison to a hospital in Salt Lake City for an emergency



appendectomy and had spent several days in the hospital prior to his return to the prison. I wondered how he reconciled this brief taste of life on the outside with his return to the prison regime.

It was pretty cool [being in hospital] because [following the surgery] I had to walk around and I couldn't be handcuffed. There were two members of the SWAT team there all the time. I was walking around the halls talking to people. It kind of felt like I was a human being. I almost felt like I was normal. Of course, it is not normal procedure for hospital patients to be kept under constant surveillance and security. What was cool was that after the initial threat "Just to let you know that anything happens, any kind of move you make, we're going to put you down, we're going to put you down hard and I'm aiming for that spot [site of the surgery]." I told them "No problem." The way you treat people is most of the time the way people treat you. I was OK and so they were pretty much OK. There were two officers with me at all times - three teams of two. They were in my room all the time - they were never far away from me.

During his stay in hospital he was not just another patient, he was also a DSI under extremely close guard. Nevertheless it was not the role of hospital staff to police him, and for the first time in many years he was able to stand apart from his master status of a DSI. He was able to experience simple pleasures such as apple juice:

I got to drink apple juice, which I haven't had in a long time. The hospital staff were good to me, and their attitude was that I was a regular patient. They were pretty nice to me actually. Being able to get up and walk around was what made me feel real good. They were talking and bullshitting with me and making me laugh. The experience was good, but the end result wasn't - I had to be cut open. Besides that everything else was OK.

Clearly, this brief interlude in the real world was a bittersweet experience: Paul was only too aware that he would be returned to prison to face life under the sentence of death:

I had more physical contact than I had in years. The bed was comfortable. I felt like I had woke up from a nightmare and I was back

where I was supposed to be, back in reality. Now I'm back in the nightmare.

He had spent several days in an ordinary environment, in a hospital room filled with natural sunlight, he had eaten meals which had been prepared in the spirit of caring for others, he had socialized with people whose purpose it was to provide care; all this in stark contrast with the cold and punitive atmosphere of prison. One would hardly be surprised if this experience had prompted Paul to drop his appeals, but during the interview carried out shortly after his return from hospital he pointed out:

Don't think this hasn't made me want to go - I told you way back how I feel.

His brief taste of life outside the prison was, therefore, not the reason for bringing forward his execution date:

There has to be something better than this. Nothing could be worse than this. I'm not a religious person - I'm not into God and all that and the Devil and all that stuff. But if you want to use a good analogy this has got to be hell right here. There can't be anything worse than this. What they say is hell, the fire burning, the torture and everything else, well at least you're doing something! Here ... it doesn't make any sense to me.

Not only was he tired of the futility of his existence; his weariness was exacerbated by the inconsistency of daily life, an issue typified by the suspension of the death row programme in April 1999. This was undoubtedly unsettling for the programming DSIs. Once again they found themselves unsure of the future of the programme and their quality of life. They had no idea when, or indeed if it would be reinstated. I asked Paul if this was the final straw:

How is it [suspension of the death row programme] affecting me? I'm done. I already fired my lawyers and I'm ready to go. I sent the motion in and letters to them and the courts on Thursday last week. I've been thinking of this for a while. Even if they do get the programme back what's going to happen next? My trust is gone. It's all gone. All that they said before is all lies. And when I went in and



mentioned this stuff they said that things change. When the programme first started ... they said that even if there were only two people in the programme the programme won't ever be shut down. This is not a catalyst, it's not even the final straw, it's just another straw. Before this happened I was already hoping this guy [judge] makes a decision at the beginning of the month whether the programme was here or not. Whether this had happened or not at the beginning of May I was going to do this anyway, you know, get rid of the lawyers and everything else because I'm tired of waiting.

At the beginning of May the programme was reinstated but Paul was still determined to go ahead with his plan of action and remained vocal about the pain brought on by the inconsistency of life:

If we were at war the tribunal of the war council would surely say its torture. Would surely say so; you take this away, you give it back. You tell them that it's different from what they were told the day before. They are keeping us off balance. They are trying to find a soft spot to get us to react in a certain way. Why? Why are they doing this? What is the reason for it? I have no idea, because we [PDSIs] haven't done anything. We don't yell at the cops, we don't throw anything or scream, we don't get write-ups. I've had one write-up in the last ten years and it was for a stinger. BLANK hasn't ever had one. BLANK hasn't had one since he's been on DR. BLANK had, I think, a couple when he first got here before he adjusted to DR life. BLANK - I don't think he's ever had one. The majority haven't had any write-ups. The mind games, that's the reason I'm going. I'm just tired of them ... not only here, but the court system too. You get bombarded from all sides. That's what I feel like - like I'm bombarded from all sides. In here, these people tell you one thing - they don't do it ... I can't come up with anything that would make me change my mind. Thinking that it will be overturned is not going to work. I'd have to see the paperwork. Show me that it's going to be overturned. Put the paperwork in front of me saying that it's going to be overturned. ... the judge asked if my decision would change if the conditions were better. What if I said yes if the conditions are different - what is he going to do? Is he going to postpone it until he finds out if he can do something about it? He's not going to look into things and make changes. Then you have the wild cards - the guys in here that just don't like death row or just don't like inmates - and they're going to do everything in their power to disrupt because maybe they had their lunch money taken when they were kids and this is a way of getting back, or maybe one of their loved ones was killed or robbed.

Paul doubted that the judge could bring about changes for DSIs at USP. In any event he was of the opinion that there would always be staff who would stand in the way of improvements for life for DSIs.

### **Making it Happen**

One would suppose that the death penalty is not handed down lightly. One would hope that the decision has been reached after careful and considerable deliberations. Why then when a condemned person decides to go with the decision of the court and withdraw from the appeals process is there such a long drawn-out process involved? It seemed as though the judiciary were doing all they could to prevent the execution from taking place. Paul filed his handwritten motion on April 22<sup>nd</sup> and was required to attend court on several occasions to apply for permission to withdraw from the appeals process.

On May 12<sup>th</sup> he appeared before a federal magistrate who delayed the action because he wanted Paul to have one last conference with his leading attorney. The judge wanted to be sure that Paul had the full benefit of all possible legal advice before he granted his wish and so ordered the attorney to attend at USP the following week for a conference with Paul. Paul told the judge he didn't need this and that it would not change his mind. Nevertheless the meeting did take place the following week and he did not change his mind.

On Paul's next appearance in court on June 1<sup>st</sup> the judge delayed matters further by ordering a psychiatric evaluation be carried out on Paul, the results of which found him to be perfectly rational. The death row phenomenon continued; Paul still did not know when or if he would be executed. Paul's frustration was exacerbated by the fact that this federal magistrate had been considering his latest appeal for over three and a half years:

The three and a half years I have been sitting here [waiting for the judge's decision] have been useless. No matter what I do I can't speed the process up. My lawyer told me in February that he had some inside information that the ruling would be in ninety days. So there should have been a ruling in April - where is it? Now he [judge]



comes and says in April that the ruling is not going to be for another ninety days. What's going on here? I mean, come on, I've talked to my lawyer and he's talked to other lawyers and nobody has ever heard of a case going three and a half years in front of Boyce - nobody, except for me and Blank. They don't see it as cruel and unusual, they see it that we should live as long as we can ... keep going on your appeals as long as you can ... live as long as you can. Well, they're not in here. They're not doing time in here. They're out there eating dinner in restaurants, getting married, having kids. Stay on death row for seventeen, eighteen years. They'll kill you any way but stay on death row for seventeen years.

Only when the judge was satisfied that all was in order did he grant Paul leave to withdraw from the appeals process. Paul was then required to attend the court where the death penalty was originally issued to be served with the death warrant, and a date for execution.

### Concerns

If Paul was in any way concerned about the execution he did not show it:

I'm not scared about the time between now and my execution. It's easy. The hard part is living every day here for the last eleven years. I went to prison when I was eighteen so I'm 34 now - that's 16 years. I'll be 35 in July - that will make it 17 years. Seventeen years in prison except for seventy days! That's way too much time. Even veterans don't do that long. Even murderers don't do that much time. Most of them are let out in ten or fifteen years. See that's what pisses me off because I tell you there's child molesters and rapos that have a country club over there [general prison population]. They have a volleyball court and a tennis court and contact visits and everything else. That pisses me off that they get that and we don't get it. If they get it we should get it. We're not saying take that away from them. If you are going to give that to molesters and rapos who, to me, are the worst ... people disagree when I say they are worse than murderers. Their victims, a big percentage, end up doing other things which spread. When I killed somebody it didn't spread. If I kill someone's dad or brother or sister or whatever it doesn't go to where the brother or the sister or whoever go and kill somebody because I killed their father. It doesn't work that way. That's not the way the pattern works. Actually it's the opposite. If I kill this guys' father he would usually turn against violence. He would be an advocate against violence ...

...I'm looking forward to this. The situation I'm in now is horrible. To me, I can't think of anything worse than this. I mean there are things worse; having muscular dystrophy, that's worse. But to me, in my situation that I am in right now, this is the worst it could possibly be so it's a relief to know that I'm not going to be here no more ... the next journey has got to be better than this one. All my bad karma came and hit me hard in this lifetime. I believe good karma and bad karma. I got to figure in the next one I'm going to have a chance to do a little bit of good.

Paul was no longer simply a DSI. By making the conscious decision to end his life he was now in control of his destiny, something which set him apart from the other DSIs. While the other DSIs undoubtedly had some understanding of his reasons for doing so it was as though he was no longer one of them. He was leaving which was going to make a difference to the others and he would be missed. I asked if he thought the other DSIs would treat him any differently:

I'm not worried about the way people are going to treat me between now and then. I'm pretty sure it won't change. I'm just going to be the same as I am now. Just like when I came back [from court]. I always joke with those guys, I still joke with them, I'm not going to stop.

He detected no difference in the way staff were treating him:

Is the staff treating me any differently? Not really, although they may be a little more accommodating

### **Arrangements**

As in most death systems, imminent death calls for arrangements to be made and Paul's situation was no different. He had to inform his family of his decision.

Paul's family lived out of state and although his family visits had been infrequent he had maintained regular contact by telephone and there was a strong family bond. He worried about how his family would deal with his decision to but realized there was little he could do to ease the pain for them. Earlier in the year he had intimated to his mother that he was getting tired of life:



I worry about my family. But, I can't do anything about that. They have to deal with it. I'm dealing with it the way I'm dealing with it. They have to deal with it the way they deal with it. Just like my mom. When I talked to her last time she was kind of upset and everything. She is a lonely old woman and she's a hermit and even though she says she wants to be alone she really doesn't. She'd like to have family around her. But, I can't do anything about that.

Nevertheless, it was not easy for him to tell his family but they respected his decision:

It went all right actually. I was surprised. I was expecting a little hysteria from my mom and a lot of hysteria from my sister but they were OK with it. My mom already kind of knew - I'd been hinting for the last few years about this. My little brother knew because I already had told him. Men take this differently than women, and so I had already told him that this was the way it was going to be. He said it was up to me. When I told him I was going through with it he asked if I was sure. I said I was sure. He told me it's my life and that he's not in here doing the time - I am.

He was adamant that he did not want his mother to visit prior to the execution or to witness it, and explained the reasons for this:

I understand I'm part of the family, but why would you want to come? I don't know. You see that's one thing I don't get. Are you going to feel more pain? Because that's what's going to happen. Isn't that what's going to happen? When my mom comes and sees me in here and knows I'm not going to be here for much longer even though there's a little bit of happiness in seeing me, there's more pain. We had a great visit the last time. We can remember that visit. And we talk on the phone every other week or we can say goodbye on the phone. There's going to be pain there. I understand that. But it's not going to be the same hurt and pain that you have here. It's not. Would I rather hear them cry than see them? Of course I would. Anybody would. You don't want your mom to sit across from you and start crying or your sister or your cousin.

Arrangements for disposal of his remains were something Paul discussed as a matter of fact. He had no particular concerns:

He [brother] said he wants to come and I can't stop him. He said he's getting me out of here. I don't know why. Once you're dead, you're dead. To me the memories are what we treasure. A grave or an urn? If that's what they want to do it's up to them. If they want to take my body back and bury it or whatever ... I'm not going to say no. I'm gone.

### Last Wishes

On July 19<sup>th</sup> Paul started to talk to me about his last wishes:

I'm hoping to talk them into some stuff but I don't know if it's going to happen. I was wondering if they'd let me go play on a basketball court for a couple of hours. Even if they wanted to the guards could shoot some baskets. I want to be taken over there forty-eight instead of twenty-four hours so I can watch some movies. I'm almost positive they'll do it - set up a TV with a VCR and let me watch movies. I've got ten movies picked out so twenty-four hours will be kind of not enough because that's about thirty hours of movies give or take a couple. There's movies I'd like to check out before I go! *Armageddon* and all the others - *Starreck*. I'm a big sci fi fan.

A contact visit with him family was high on his list but he doubted this wish would be granted:

Maybe having a visit with my brother in this [contact] booth but it's a big no-no. Look what you had to go through and you're someone I don't know. That's a whole different thing than a family member because they believe that we'll pass stuff or do some crazy stuff. I'm not looking to do crazy stuff. If I wanted to do crazy stuff I would have done it a long time ago, or be doing it right now.

He was hopeful that as the time got nearer management would at least consider his request, especially since he had a record of good institutional behavior:

I'm hoping they'll have an open frame of mind. So, I'll wait until I get my death warrant and then I'll say "[deputy warden], can you come and talk to me?" and sit down with him and talk to him.



One of his dearest wishes was simply to walk on grass, something he had not done for over eleven years:

Ask can I go walk on the grass for a while. I don't care where it's at.  
Just go outside and walk on the grass.

He was asked to choose a liaison person. Paul chose the Deputy Warden not only because he considered him fair but because he had got on well with him during his years at USP:

The Deputy Warden is my liaison person. He told me that everything that I have asked for looks pretty good, and that there was no negative reaction. He had me make a list and sent the caseworker to notarize it

The document set out his last wishes in his usual courteous way (Appendix 18)

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### **Witnesses**

An execution at USP is witnessed by four groups of people: state, media, victim's witnesses, and inmate's witnesses. Paul was able to choose his witnesses; the deputy warden, the mental health workers, and me:

It's up to you if you want to be at my execution. It's not up to me. I wouldn't want to go through it but if you do ... I'm not the one going through it. Other than me dying, you're the one that's going to be going through it so it's not really whether I make up my mind or not. It's whether you make up your mind or not.

I am still not sure why Paul would name me as a witness. There was never an appropriate opportunity to ask why but another DSI said the reason was that he wanted to do all he could to make a contribution to my research. On Monday 30th August 1999 I completed and signed the witness execution form.

### **How the DSIs Coped**

Paul was a very popular inmate with both inmates and with staff and it was not going to be easy for the other DSIs to cope with the execution. Regardless of his relationships with the others Paul's execution was a grim reminder that the state is serious about judicial killing. Although Paul's execution was voluntary, the events leading up to it were very much the same as for any other execution. Not only were the DSIs faced with the reality of the death penalty, they would also lose one of their number. This was not such an issue for the NPDSIs since they remained isolated from other inmates. For the PDSIs, however, the loss of Paul would diminish the already small pool of inmates they socialized with. Paul talked of how he thought the other DSIs were dealing with his forthcoming execution:

I think Michael will miss me. I give him back what he gives me and that's one of the things, the friendly adversarial thing. Cody? I'm going to feel bad because he's not going to have anybody else to hang with in there. Me and Cody are pretty smart individuals and our views are quite the same on how to live life in here and on the street. Cody keeps trying to talk me out of it.

Cody, the person Paul spent most of his time with however, was experiencing mixed emotions:

As for Paul, I always kid with him. As far as I'm concerned they can take their time. I get along better with him than anyone else in here. Part of me is happy he can get the hell out of here but for selfish reasons I want him around. I think about it all the time. We're buddies and that's why the captain allows us extra time to clean. I think we'll be able to rec more together when it gets nearer the time. I often think how I'm going to say goodbye to him. But it's not like he's kicking and fighting for his life. This is something he wants.

He coped with the situation in the same way he coped with life under the sentence of death; tripping:

Tripping is still helping me. I still manage to get out hunting and fishing. Thing's, like Blank's attitude, mess with my tripping. So does what's happening with Paul. It's good he's getting what he wants. But



what happens if they sometime put a hold on the death penalty - like Nebraska?

These comments were made in mid June. As time went by, however, Cody became more anxious. In early July he admitted:

Paul is kicking my butt. I have been half tempted to write the judge and tell him to postpone it because he's a nut! When you make a decision to do something I guess you feel OK. I think I'd be the same. But I just don't want it. Paul is the only one in there I connect with. I wouldn't say he's my best friend, but I'm so used to him. We've been coming out together since January 4 1998. I'm happy for him and his decision to do what he's doing and I understand it, but that doesn't mean I have to like it. If I didn't feel I was going to win my case I'd join him.

It was particularly hard for Cody to understand Paul's decision now that life was a little better for the programming DSIs:

Things are getting more and more comfortable in there. He should have done this three or four years ago when everything sucked.

Cody had been in Uinta One at the time of the last execution. He had witnessed John Taylor's move to the death watch cell in 1996, and he took comfort in that he seemed to be at peace:

I saw Taylor when they pulled him out for his execution to take him to the chamber. He was at peace. He looked at me and said "Take care." Once they've made their mind up they seem peaceful.

The friendship between Paul and Cody was something the captain of Uinta One was mindful of. He had made arrangements for the two men to have more recreation time together in the time leading up the execution, something Cody was grateful for:

The captain has said that Paul and I can rec together for Paul's last thirty or sixty days or whatever time it is. I thought it was pretty good of the captain to do that ... the Captain says once the warrant has been

issued for Paul then we can rec together. He says this is kicking me more than it's affecting Paul.

Michael felt a degree of responsibility for Paul's decision because he had helped him draw up some of the legal papers and had been giving him advice:

Personally, the execution will screw me up because he's my friend. Even more screwed up because I wrote the papers for him. No one else in there [Section 1] knows. I've been trying to talk him out of it for two years. I wrote them up once before but I talked him out of sending them. This time they just happened to start screwing with us at the wrong time.

It was not solely the fact that he had helped with the paperwork that troubled Michael. He was going to miss Paul:

I don't know how the other guys feel about it. I don't think a lot of them talk about it. I think it'll bother me and Cody more than anybody. I like Paul - he's my friend. I know this is going to sound stupid but I understand what he's talking about. He wants a little bit of say-so. It bothers me because he is my friend. I think it'll bother me the closer it comes seeing him every day. I don't want them to know that it'll bother me, or anyone else because we want to try and keep him on the section so he can keep what he has, and I'm afraid that if they knew that it bothered people even seeing him there. As it gets closer and I get more fucked up in my mind.

Nevertheless, he was supportive of Paul's decision:

We have to do this for him ... if that's what he wants in his heart then that's what he's got to get, and I'm all for it. I don't like it personally; him dying. It's going to be weird not having him around.

He explained how Paul's execution was affecting his own situation:

Every time they kill someone it brings it home [my own execution].



This was a time of reflection for Michael who talked at length for the first time about his chosen method of execution:

When they shoot me I want them to not make me wear a mask. I want them to shoot me looking at me. If the bastards want to kill me at least they can be man enough to look at me. I chose the firing squad because, and I don't know about England, but here in the good old USA when you have a dog you don't want or a cat you don't want you take it to the vet and they give it a shot. I'm not a dog. I want them to look at me. If you want to kill somebody don't cover him so you can't see who it is. Look at the man. Look him right in the eye then shoot him ... you see, back in the old days when they had a hanging they'd make the jurors hang on to the rope - to show that they agree with the death penalty. My way of looking at it is if these people agree so much that they want to come out and shoot me don't make it a sneaky thing - look at who you are shooting.

Keith also talked of his own fate. He was aware that Paul was liked not only by inmates but also by staff, a point he was sure would make a difference in the way Paul's execution would be dealt with:

It's going to be interesting with Paul. You see, he's one of the good ones. He's one of the good guys on death row - it sounds like an oxymoron I guess but they have a rapport with him. With me it's like "Get rid of him as fast as you can" but with him they're different.

Keith was a security and safety risk, and while he was a very personable individual, staff were extremely aware of his history of institutional violence.

Like the others, Andy reflected on his own situation:

What's happening to Paul is affecting me. It has got me thinking about how I'd like to leave this place too ... I have chosen the firing squad - I'm not going out like an animal although the lethal injection would be the easier way to go ... One of my last requests will be for a jigger of tequila. I will also ask for a contact visit with my family. I don't want them [family] around when they execute me. The press and everyone else will bother them. I've told them that when it's my time they should pack and get out of state until it's over.

Michael found it difficult to maintain a positive attitude towards Paul's situation. Perhaps, for him, gallows humour was one way of staying upbeat:

They're going to do what they are going to do and I can't let them get me down. Obviously it will. At a certain point. With Paul now - I'm probably more depressed about it than he is. I make little smart ass jokes with him already. The other day he asked if he could use my extension cord. I said sure. He said when I get my boxes I'll give it back. I told him it was OK - you can use it until they kill your fucking ass. He said OK. He laughed because he knows I don't mean anything bad. Cody doesn't joke too much about it at all I don't think. You can either let it bother you or not.

One of the NPDSIs was not so sure Paul was doing the right thing:

Keith: How do I feel about Paul dropping his appeals? My advice to Paul would be ... he's submitted his case before this judge - this is what he's been waiting for - the federal ruling in his case. Let it take its course. Let the appeal go through.

He was many years away from execution because of the lengthy appeals system but he understood Paul's frustration and anger with the delays he had experienced:

He's frustrated. He's angry at the court for being slow. They blame the inmate all the time ... the prisoners are dragging their appeals out. Well, that's funny because the fucking judge has had it for three and a half damn years. Who's dragging whose boots around here? He [the judge] couldn't run that little song and dance with me. I'd say "What the hell you been doing for three and a half years? Reviewing traffic tickets? I mean, come on. What's your pay? You get paid a salary or what?" I would irritate the hell out of him because he isn't going to do anything. Either shoot me or overturn my case, one or the two. Don't just sit have your donuts and coffee for four or five years. But three and a half years? No way.

He wasn't sure how Paul's execution would affect him:

I've only been on death row since June of 1996. So there have been no executions while I've been here. If Paul is executed I don't really know how it will affect me. I haven't experienced that yet. I consider



him an acquaintance. I don't know him good enough to be a friend. Loose term friend – yes. Although I don't know him personally as an individual on how he is and how he's not because I'm not around him.

Again, it was a dismal reminder:

It's real [an execution]. I mean that's what it sheds light on. It's real. They play for keeps and there's no second chance.

Because Keith was not in the programme he had no contact with Paul which meant he would not have an opportunity to say goodbye and so he asked me to do this for him, which I did.

Harris, the newest member of the DS population, and who was new to prison life, had no idea how he would cope with the execution and was beginning to show signs of stress:

I don't know how I'm going to feel when they take him out that door and he's not going to come back. At night I lay awake thinking about that. I wonder how it's going to feel. I think it's already affecting the guys in there. It's getting close and everybody's quiet. I've never, ever been through this stuff in my life. A lot of things are going through my head right now. Mainly Mr Paul. I'm thinking - what's going on? How am I going to feel? Right now he's getting rid of his stuff slowly. This morning he gave me a pair of sweat pants. That made me wonder. I wonder how I'm going to feel when I'm at the same exact point he's at right now?

More than any of other DSIs, he expressed regard for the awesome courage and dignity with which Paul was handling the situation:

Why do I call Paul "Mr Paul"? I have a lot of respect for the guy. To me he's handling this real, real good. If it was me I would be going crazy. They would have already had to lock me down in a cell by myself - no contact with nobody because I might go off on a guard or something. I have a lot of respect for him because I kind of look at him and say that's the way I have to take it. He's taking it as a man. Then I start wondering - how? How? I am hoping I won't be there but one day I might be. That's why I call him Mr Paul - because I have a

lot of respect for him. I have a lot of respect for Michael and Andy but to me we're in the same boat. Mr Paul has maybe a month left.

Of course, it may well be that the other DSIs, who were older and had more experience of prison life simply adhered to the inmate code and therefore kept their emotions to themselves. Andy, who had served nine years for his crime, did however resent the sudden concern of outsiders:

Now that Paul has an execution date more and more people [media] are wanting to come in here. They didn't come in before when they could have helped with appeals and the like. Why come in now? I don't like it.

He was concerned also about the attitudes of some staff members:

It makes me sick when cops ask to be on the death watch. They don't care, they just want to be where the action is. The good ones, the ones we've lived around, will be affected, but to some it will be a game. I was around when Andrews was executed and when Taylor was executed - both times I saw the officers hugging each other and giving high fives after it was all over.

### **Waiting is Over**

Although Paul had put the wheels in motion for leave to drop his appeals in April he was still waiting for an execution date in June:

Waiting and waiting is a pain in the ass. It's kind of funny - all this time they have been saying "We're going to get you. We can't wait to get you. We'll do everything in our power to get you." For eleven years they've been saying this. But, when I tell them "Hey, bring it" they say "Let's slow it down and make sure it's all done by numbers."

The wait continued and on June 21<sup>st</sup> he still had not heard from the court:

I don't know when I'll hear from the court. I'll call my lawyer again Thursday and find out if he's heard anything. When they take me out who do you think they are going to put in the newspapers? Magistrate [Blank] has been lazy and has sat on his fat ass? I mean, come on, it



doesn't take three and a half years to make a recommendation. It doesn't. I don't care who you are. I don't care if you are the stupidest judge or magistrate in the whole world. I didn't have a grey hair when this started. I got all kinds of grey hair now."

But, by August 16<sup>th</sup> the waiting was over:

I feel alright. It's about time. The judge asked me a few questions but I wasn't going to have conversation with the guy. I was only there for a date. He asked did I want a lawyer and I asked him what would I want a lawyer for? The date set is October fifteenth, but it will actually be midnight on the fourteenth.

Undoubtedly the end of the wait was a relief for Paul:

How do I feel now that the reality has set in? I'm happy that I'm finally going. I'm happy. I'm almost done ... I think it takes more courage to go on. Dying is easy. They underestimate humanity because the suicide rate is not as high as it should be. Wouldn't it be easier, on the streets, for a woman to die rather than go on living with a man who beats her up? It takes guts to keep plodding along. I'm not talking about people with money. I'm talking about people like waitresses and janitors who only make enough to make ends meet and who have to keep on doing the same things over and over every day. The easy way would be to take a handful of pills.

He had no doubts regarding his decision:

It's not scary. I'm just glad it's about over - I'm tired of sitting and waiting. They did everything in their power to stop me. They don't like it when you go against what they want. I think this will affect the people around me more than it will affect me. It's really not affecting me too much. I'm not depressed and whatever else goes with that. I feel the same way I did yesterday. I'm just glad they got off their lazy butts and got this thing going.

He was remarkably tranquil more relaxed than at any time since I had known him. I asked him why he thought other DSIs were not taking this course of action:

Why aren't the other DSIs doing what I'm doing? Probably because we need to give credit for the survival instinct and the guts to keep going. I'm done with guts.

Suicide had never been a serious option for Paul. Supermax confinement limits the opportunity and conditions for a successful suicide bid and Paul was aware that things could go wrong. He wanted nothing to stand in the way of his release from the pains of life under the sentence of death under the regime of Uinta One:

I don't want it [suicide] to go wrong. It has gone wrong in here and I don't want that to be me. I'm looking to make sure I go. No hesitations or any of that kind of stuff.

He was content for the state to take care of his demise because there would be no last-minute change of mind on the part of the state:

It's a little different [from suicide] because I'm not the one who will be pressing the button. They're going to be putting the drugs into my system. Maybe that makes it a little easier because I might hesitate.

He knew that he could change his mind at any time during the procedure but, in a similar way to death camp prisoners facing death, he wanted to retain his dignity:

I'd look a damn fool if I stopped them at the last minute. I'm already a damn fool for having the death penalty and being here.

### **Six weeks prior to execution**

By this time Paul was making sure he had attended to matters he was responsible for. For instance, although his mother knew of his intentions he called her to inform her of the execution date:

She's dealing with it OK.

The Department of Corrections also had arrangements to make:



Paul: [The Warden, Deputy Warden, and a few others] all came to see me. He [Warden]gave me the death warrant and we talked about who I wanted to see, who is coming to visit and stuff like that. I was surprised they came this early. I figured a couple of weeks or a month before. He said everything I asked for is pretty much OK.

Paul was satisfied with arrangements but was astonished when staff asked him if he would like to know who would be administering the lethal injection:

I don't want to know! Why would I want know the specifics?

He was particularly happy that his family visit prior to his transfer to the death watch cell would be in a contact booth :

My brother will be over to visit here [Uinta One] the day before and for the time over there [death watch]. It will be contact so that's cool. They said unlimited time. It'll be cool to have my brother here. Supposedly when I am over there he gets to come in. He'll be with me up until about an hour before.

He savoured the last wishes granted to him and was took care in arranging the final hours leading up to his execution:

I will be with my brother all day but you can come and say hello if you want between 12 and 4. They wanted him to leave between 12 and 6 but I said no because ... he doesn't want to be gone that long.

Any concerns were not for himself, they were for others:

The other thing I worry about is the vultures from the press trying to get hold of him [brother]. The press want to ask him "How does it feel for your brother to be killed?" and there's no discretion. You never know how these guys track people down and take pictures. I would hate for him to have to go through that. Probably because he won't talk to them they'll write anything they want. And that's even worse.

Paul remained resigned to his course of action and four weeks before the set date he was as adamant as ever that he would not change his mind:

Have I had second thoughts? No. I'm tired of being here, tired of having to deal with all these people and some of them idiots in there. There's always idiots; inmates and officers. But it's been pretty cool on the officers' part. They've been pretty cool and mellow recently. But that's just a phase. They can't fool me. I've been here too long to know that that's just a phase, just like them [officers allegedly trying to sabotage the death row programme] being assholes is just a phase.

### **Five days before**

On 10th October 1999 Paul told me there had been a change of plans regarding his last wishes:

They're not going to let me play basketball. They said that it's a kind of a political thing. The public will see them being too nice to me. Sooner or later the public will get to know. I'm sure there are people who don't like me having a contact visit with my family or them giving me them movies. They'd rather just see me be taken out in the public square and lashed until I die.

Paul could see the sense behind the decision and did not seem too perturbed. Instead he looked forward to the wishes he was granted:

They're going to let me watch five movies on Wednesday night. They will take me over at ten on Wednesday. My brother is coming tomorrow night - eight to ten. He will be coming Wednesday with my cousin, here, between one and two until eight thirty. Then the next day when I am over there [death watch] he will be there all day except between 12:00 and 4:00. They kind of want to give the men a break, I guess. He gets to stay till eleven on Thursday night. They have set up a phone where I can talk to my Mom too about 9 o'clock.

Both the DSIs and staff had commented that Paul was doing all he could to make the situation tolerable and that he was going out of his way to make light of the situation. However, Paul was bewildered that anyone would see him any different from the person he had always been:



You see this is the thing that I don't get. I'm not any different than I've been for the last five, six, seven, eight years - I'm not any different. I know that cops are cops - you treat them good, they'll treat you good. What do they want me to do? Get on a table and dance or start yelling and screaming or something? If that was me I would have been doing that before.

In fact he was not behaving any differently than he had for the past eleven years. It was, however, difficult to imagine how he could remain calm and so much in control and when asked about this he responded:

[Laughter] I don't know how to answer that. I stopped the acting thing when I got my death sentence - almost twelve years ago. I can understand if this wasn't what I wanted and I was fighting and scratching and yelling and screaming trying to stay alive. But that's not what I want. I'm "Come on, lets go!"

There was no doubt about it; he was looking forward to his release.

### **Feelings of other DSIs**

If any of the other DSIs had doubts that Paul would go ahead with his execution by September they all knew he was serious and only one DSI claimed to be unconcerned:

Alan: I really don't care if someone is going to be executed.

Four days before the scheduled date for the execution the newest member of the DS population was very concerned:

Harris: I'm thinking about Mr Paul all the time. I try not to but I do. He's ready to go. He wants to go. I'm not close to him. But that's the way it has to be. It makes me think about myself. I wonder how he is feeling. He has four days of life left.

Paul's positive attitude was helping Harris cope with the situation:

He's in there laughing and joking. That's what's helping me out.

Nevertheless, he was very apprehensive:

Everybody in there is thinking about it but we don't really talk about it. This is my first execution. I've seen the SWAT team going around out there in the grounds ... when they come to get him what's he going to be like? In some of the books I have read they say when they came to get him to take him to the death chamber he didn't want to walk. It took so many guards to carry him and he was crying. Damn! I'm doing OK but the execution is weighing on me.

Michael, with much more prison experience than Harris, was also concerned. He was not convinced, however, that Paul was not just putting on a brave façade for the benefit of those around him. In any event, he was impressed:

They'll take him at 10 o'clock tonight. I'm not going to like it. He's doing much better than anyone else. I don't see how anyone could be as happy as he is, for his own benefit or others. I honestly believe that most of his happiness is for those around him. For the guards and the other prisoners. I know he's tired of this place but I think his attitude is mostly for people around him. Which to me is pretty classy ... he's behaving real classy, even to the guards. He's going out of his way to be nice to them and making them feel comfortable so they don't feel bad about doing it, which is good.

The loss of one of their number was troubling him especially since he regarded Paul to be a friend:

If I had a choice it wouldn't be him going. There are three or four I wouldn't care about one way or another. I'll miss Paul and all that.

The waiting was clearly getting to Michael:

Don't get me wrong, but I'd much rather get this over with. For my sake!



Since there would be no funeral to attend it was left to the DSIs to pay their respects in their own way. Michael had planned his own farewell ritual to Paul:

I'm going to have me a couple of cans of chili (I don't normally do this) and some rice and a root beer (and I don't drink root beer) and at the stroke of midnight I'm going to eat it and salute him. It sounds weird but what else can I do?

### **Moving to death watch**

Prior to Paul being moved to death watch, on October 13<sup>th</sup> he was visited by his brother and cousin in a contact booth. A staff member was outside the booth at all times. I heard peals of laughter coming from the booth and a staff member told me that Paul and his family had laughed all day long. As I walked past the interview booth Paul beckoned to me to enter and he and introduced me to his family. There were no long faces or tears, just a good old family visit. He talked about moving to death watch:

Paul: Who is going to walk me over? I don't know. They're not being too specific on that stuff. They don't want the officers around me involved because they know me. Someone said that the Deputy Warden would be taking me over. He's the one getting me the movies and the bubble gum. He's OK.

Paul knew every inch of the small prison cell that been his home for over eleven years. He also knew his neighbours. Whatever comforts he had were in Section 1, and the prospect of moving to the icy cold comforts of the death watch cell was not pleasant:

They say that place is horrible. They say the bed is like ... four foot long. But, it's not like I'm going to be sleeping. I'm going to ask them to bring a TV in and bring me some videos. What would be the point of just laying there with nothing to do? Bring an officer that knows how to play chess. I don't want to just sit there and do nothing. That would be kind of cruel. I would want do to something.



Paul was moved to death watch in Uinta Three on October 13<sup>th</sup>. The windows of Section 1, in Uinta One face the entrance to Uinta Three and so the PDSIs were able to watch Paul being walked over (from left to right between the two crosses marked on Figure 7.1).

**Figure 7.1: Uinta One and Uinta Three**



In accordance with one of his last wishes, he walked on the grass which was fairly close to the windows of Section 1. He asked the officers if he could turn and face Section One. They agreed and Paul turned towards the Section and gave the NPDSIs “the bird” (a one-fingered gesture).

Cody related this to me during my visit to him that afternoon, twelve hours before Paul’s execution. He laughed heartily and said:

He just had to have the last word. He was like that, the son of a gun!

Cody then asked me if I would be talking to Paul again. I said I was going to the death watch cell later that afternoon. He asked me if I could do him a favour. This



was despite the fact that at no time during this research had an inmate ever put me in a compromising situation by asking me to do something for them. Warily I asked what the favour was. He said:

Just tell him you have a message from Cody. And then give him the bird! He will be so ticked off that I got the last word in.

I said I couldn't promise but I would think about it. The camaraderie was there even in the face of death.

### **Final interview with Paul**

Most of the afternoon of the 14<sup>th</sup> was spent observing events in the death watch area. At approximately 4.30 pm I interviewed Paul for the last time in the death watch cell. Things were very quiet in the death watch area. Conversations between Paul and his visitors took place at the cell door which had a window and a small hatch (to facilitate cuffing and the passing of meals). It was necessary to bend down and converse through the hatch (which must have been extremely uncomfortable for Paul and his visitors during their lengthy visiting times). I placed my tape recorder on the ledge of the hatch but it fell to the floor with what seemed like an almighty crash. Everyone in the vicinity jumped, such was the tension. I picked up the offending object and carried on with my interview not knowing that the tape recorder was no longer working properly and that only part of our conversation was being recorded.

I asked Paul to what extent, over the years, he had managed to adapt to life as a DSI:

Paul: You're right. We do adapt. The same thing out on the streets. There's miserable people out there. There's probably a hundred times more people on the streets that are more miserable than us. A thousand times. A hundred thousand times more people. Look at it this way. Them guys in Kosovo. Come on! This is small compared to that. This is minuscule compared to that. Think about what those people went through. This is easy living. We've got three meals a day. We got a TV and a radio. We got air conditioning in summer (sometimes). We don't get tortured. They might mess with us in a way where it

could be a form of torture and stuff like that but come on there's things out there much worse than this.

I asked again why then if conditions were not so terrible he had chosen to die. He said he was tired of the inconsistency. He said it was like constantly walking on thin ice, looking for cracks in the ice so that he didn't fall through. What was OK one day wasn't the next, what was OK with one officer wasn't with the next. He said you can only do that for so long and then you simply can't do it any more; you simply run out of energy.

Although I rely on memory for the remainder of this interview, these events are unlikely to be forgotten. In any event there was little of substance left to say at this stage. I asked how he was doing. He smiled and said he was just fine. Having spent some time that morning talking with Cody I decided to pass on his message to Paul. I said something like "Cody asked me to give you a message." He smiled and asked what it was. I simply did what Cody asked me to do and flipped him the bird. Paul laughed extremely heartily for some while.

I asked if he had any doubts about what he was about to go through and he said he didn't. He said he had enjoyed his time with his brother and had appreciated this privilege that the prison had allowed him and that when the time came later that evening to part company with him he would be ready. There seemed little left for me to do but say goodbye. It's not easy saying goodbye to someone knowing they are about to be put to death. I simply shook his hand and said that I considered it a privilege to have known him and thanked him very much for all the time he had given me. Finally I promised him that I would do my best to ensure the results of my research made a difference somewhere down the line. He smiled and waved goodbye.

The next time I saw Paul alive he was strapped to gurney in the execution chamber.

The decision of one of the PDSIs to opt out of the appeals process, thereby accelerating his execution date, was based on what he considered to be the inconsistency of life; and not, as claimed by many lawyers working with DSIs,



simply the material conditions. He was tired of “constantly looking for cracks in the ice”.

Although no real emotions were expressed this was a man who was going to be greatly missed by his fellow inmates, especially the man with whom he had spent most of his out of cell time. There were no attempts on the part of the others to make him change his mind and they supported and respected his decision. there was some mention of how this affected them in relation to their own situations only one DRI went into this in any length. They were, however, undoubtedly more uneasy about the situation than Paul, particularly Harris, the most recent member of the DS population.

## **Part Two**

### **Preparations Begin**

Paul had made the decision to hasten the date for his execution as far back as 1997 and had been considering necessary arrangements since then. The Department of Corrections, however, had much less time in which to prepare for the event.

Although staff was aware of Paul's intentions it wasn't until 16<sup>th</sup> August 1999 when an execution date had been set by the court for 15<sup>th</sup> October that preparations began in earnest. Paul had the right to change his mind right up until the last minute but there was not much doubt among the staff who knew him that the execution would go ahead.

The Deputy Warden outlined some of arrangements that had to be made at this stage:

Deputy Warden: The warden has to start putting together the execution process itself. He has certain responsibilities that have to be handled. You have to have notification of an execution, purchase of the drugs for the actual execution, notification of the witnesses, last meal notification, family notifications for the victim as well as the inmate's families. You have accommodation of the press and other dignitaries who will be coming out here. You have the establishment of teams who are involved in the death watch, who are involved in the actual tie-down and the security of the inmate within the execution chamber. You have the media report that has to be developed and the individuals who are responsible for that. You have the security that takes place on

the outside just prior to the execution and sometimes that involves road blocks. You have to set up staging areas and make sure they are secure well in advance and they meet the needs for the transportation of those people who will be participating in the execution, whether as witnesses or medical, coroner, or whoever else is involved. You have to get staff alerted and get them acclimated to the fact that an execution is going to be taking place and as such our routine for at least the twenty four hours in advance. We will be locking the facility down. That creates some concern for the inmates as well as the staff that are on duty. We will also be pulling staff who would be regularly scheduled for other shifts to provide death watch security, tie-down security, clean up team security, escort duties, perimeter security, as well as other law enforcement agencies, the public, the press.

Whatever preparations were made they had to be fine-tuned so that mistakes were not made:

Deputy Warden: So an execution itself is extremely involved and when you carry out an execution you want to make sure that it is well rehearsed so that you do not make any grievous blunders because that can happen so easily in a situation where so much stress and tension can be generated. You need to make sure that at least for your own individual part, like in my case where I have to supervise some of the functions for that particular event. I have to make sure that my staff have trained and are ready to accommodate whatever requirements are made for them.

While these arrangements were being made it was business as usual for staff whose job it was to manage, on a daily basis, inmates in Uinta One with its ever changing population of non-conforming inmates. Inmates continued to present management problems which resulted in their being escorted to OMRs. Staff also had to escort inmates to interview booths for attorney and family visits. Laundry, commissary and meals had to be delivered to cells. All of these duties took place under extremely tight security in an extremely volatile environment and, on the face of it at least, little thought or time was given by staff to the forthcoming execution.

### **Choosing Sides**

On 20<sup>th</sup> August the Warden issued a memo to all staff at the Draper site informing them that a death warrant had been issued. Given that few staff members were



opposed to the death penalty several had reservations about becoming involved in an execution. Staff who were prepared to assist in carrying out the court order were asked to email his office, with a copy to their immediate supervisor and their facility administrator. Under Department policy staff are not obliged to assist in an execution. Those who do, however, are expected to perform their duties in an exemplary fashion. Teams were drawn up to cover various duties relating to the execution. One team job, for instance, was to escort witnesses to and from the execution area. This team was also responsible for making sure the four groups of witnesses were kept separate and apart during the execution period so as to avoid any unpleasant confrontations between, say, inmate witness and victims witnesses. There was a team of officers assigned to the death watch area to ensure security and to observe and log all movements up to the time of execution. A member of the death watch team was on duty at all times in close proximity to the condemned. A team of officers was drawn up to clean the execution chamber, once the execution had taken place. In the case of a lethal injection execution this is a simple task; making sure the floor is clean and removing any litter. In the case of a firing squad execution there will be blood to clean up.

All are handpicked for the job and the Deputy Warden explained how individuals were selected for this task:

What happens is that the warden goes ahead and pulls together a committee, or a group of individuals, to start working on the execution process. There are certain individuals who are in charge of various areas like in my case being Uinta Correctional Facility Administrator. My responsibilities include the tie-down team foreman and the tie-down team themselves, the death watch individuals as well as the clean-up crew which is part of the tie-down team. So what the warden will do is say its time to start preparing in these areas. He will have us check the policies and general orders and the technical manuals to make sure that they accurately reflect our operational procedures as they are today, and to amend and make those changes as well as make the selection for the teams. Once those teams are selected then you begin whatever you need to do in order to have the supplies on hand that you'll need or make sure whatever rehearsals or trainings that teams need to do are taken care of prior to the execution.

The captain of Uinta One seemed confident that the right people would be chosen:

Assignments haven't been given out yet. The people that will be participating will be seasoned staff so I have confidence that they will handle the job with decency and respect.

I asked him if safeguards were in place to prevent those whose motives might not be appropriate from taking part:

Absolutely. For two reasons. It's not healthy for them. I would not do anything that would put a staff member in harm's way and if that includes pulling them in and saying "Hey I don't think this is good for you, and I'll tell you why." As the captain I get to make those decisions and so I have no problem with that. Second, they're not good for the camaraderie, the spirit of the teamwork and they would embarrass the Department as well. I mean this is a very difficult situation for him. Yeh, maybe he's [Paul] putting on a good facade that this is hunky dory, but he deserves this execution to go on flawless and with the utmost decency and respect. We owe it to him. I mean, if you believe in the next life, and I don't want to get real religious here, but he's closer to God maybe than me.

The Deputy Warden said that the last word in who takes part in an execution rests with the Warden. He explained:

[warden] can take a look at the names that we prioritize, and if he's not comfortable with an individual he will say "No, I want this individual removed and this other individual selected to take his place". Because they want to make sure that they pick staff who are professional and staff who can function because this is going to be a stressful situation and they want to make sure that everything goes off without a hitch.

The Deputy Warden and the Captain were determined that those under their command would behave in a professional manner, although the captain conceded that not all staff members could be relied upon to behave professionally:

Staffs going to say some inappropriate things that I'll have to deal with. Whether they be intentional or not, but I'm going to have to deal with it. People are people.

When Paul's execution date became known the captain issued a letter to Uinta One staff members setting out his expectations; at this time more than any other it was



essential that the building be kept clean and orderly and that staff were to conduct themselves in a highly professional manner (Appendix 17). He also stressed that inappropriate behaviour would not be tolerated.

### **Concerns for inmates**

The captain was acutely aware that this was also a difficult time for inmates, especially the DSIs:

We're heading into this period of time, this dark period, this gloom I guess, of execution and so I offered them that I understand this. We have a lot of difference of opinion, feelings and emotions, and I am just saying "Hey, I understand the sensitivity of it and I understand that possibly you are going to go through some changes.

On August 30<sup>th</sup> he issued a memo to all inmates in Uinta One:

" On August 16, 1999, Inmate BLANK was issued a death warrant. This date of execution is tentatively scheduled for October 15, 1999. Obviously this occasion will bring to surface many emotions, feelings and opinions. I have instructed the Uinta One staff that they are to continue to conduct themselves in a manner of professionalism ... should you have any questions or any other concerns, caseworker BLANK, mental health provider BLANK are available upon written request."

As far as I am aware none of the DSIs requested counselling. One reason may have been the unpopularity of the caseworker.

The findings demonstrate that an execution was something that was not taken lightly at USP and attention was paid to detail so that nothing would cause embarrassment to the Department of Corrections. Furthermore, the Warden and Captain were sensitive to the feelings of staff, inmates, especially DSIs and more particularly those closest to Paul.

## **Part Three**

### **Countdown**

On the eve of the execution there was a very sombre atmosphere in the prison.

Inmates and staff alike went quietly about their business in the knowledge that the machinery of death had been set in motion and it was highly likely that a life was going to be taken. Preparations continued and because I had been allowed to attend some of the pre-execution meetings I was aware of the events that were taking place around the prison complex that day and from this point on things became extremely surreal.

Security was extremely tight; only those on the Master Pass List were allowed in to the prison that day. The warden and various team leaders made a final walk-through of the procedure and made an inspection at 11 am. They then met with medical staff to make sure the medical supplies were in place and in order. At one o'clock there was a final briefing with the Executive Director for all involved staff.

Staff members were going about tasks they had been assigned and although they were carried out with military precision there was a sense of discomfort; a sense of removal from their comfort zones. These were people doing jobs far removed from their usual tasks. This was particularly so with regard to staff closely involved in the execution procedure. For instance, a lieutenant manned a computer and telephone just outside the death watch cell so that Paul's movements, no matter how trivial, could be logged and faxed to the command centre. He appeared to grapple with striking the right balance between being cheerful and being respectful.

At 6:00 pm the entire Draper site was placed on lockdown status and road blocks were set in place around the prison and on the prison complex. The death watch area, immediately adjacent to the death watch cell was under constant surveillance. The Execution Area (comprising death watch, the execution chamber and a temporary base from which Paul's activities were faxed hourly to the Command Center) was searched by staff with sniffer dogs.

Also at 6:00 pm pharmacy staff, supervised by the Medical Administrator, began to mix the drugs for the lethal injection which were delivered to the Warden at 9:00 pm by the pharmacist and placed in the ante-room adjoining the execution chamber. At 10:00 pm the executioners arrived at the death watch area.

At 10:00 pm the Executive Director contacted the Attorney General's office



to determine the status of the execution. At the same time the doctor arrived at the execution area escorted by the Correctional Medical Administrator, and all execution site staff assembled for final instructions by the Warden.

At 10.45 pm Paul's visitors were asked to leave and were given 15 minutes to say goodbye. Emergency generators were started at 11.10 pm at which time the Warden met with Paul and explained the process to him. The physician's assistant visited Paul and asked if he wanted something to take the edge off; he refused.

The Executive Director arrived at the execution site and at 11.30 pm began monitoring the phone line to the Attorney General's office in the event of a last minute stays of execution. At 11.55 pm the Deputy Executive Director and the tie-down team entered the death watch cell. Paul was strip-searched and given clean clothes. He was then restrained and escorted by the tie-down team and the Deputy Executive Director to the execution chamber.

### **Witnesses**

Meanwhile the four groups of witnesses; victim's, state, media, and inmate attended at their designated meeting places. These groups were kept entirely separate throughout the procedure. As an inmate witness I reported to the Timpanogos facility early that evening immediately following my last interview with Paul. I was provided with a special identity badge and spent an hour observing events before joining the other inmate witnesses. There is no little etiquette book on appropriate behaviour at an execution and staff and witnesses did not know what to say, other than attempts to try to lighten the mood. There was much small talk and the occasional remark about what would happen if the inmate changed his mind and called off the execution. There were no off-colour comments. Nevertheless, my anxiety level increased by the minute. There is no way of knowing how one will react in an alien situation but there is no doubt that had I not been about to witness the execution I would have been a much more efficient researcher at this stage of the fieldwork. I was about to witness the end product of my research but was afraid I would make a fool of myself by fainting or breaking down thereby giving substance to the paternalistic attitudes of some staff members. My mind busied itself

with inane matters. For instance I wondered whether I should have worn black. I knew meals would be provided for witnesses and staff but I became very concerned that napkins might be in bright colours. I need not have worried on that count – snacks were in white cardboard boxes which were stacked in a cupboard. I recall overreacting to the words of one of Paul's other witnesses (who was probably just as nervous as me); "It's spooky to think we are going to watch someone die." I felt the need to point out that we were not there to watch someone die; we were there to witness someone be killed.

Five very long hours before the execution were spent in the office of the associate warden who was Paul's third witness. Time dragged. Someone put a video on; *The Matrix*, which went largely unwatched. I recall hoping that my self-control would hold out. Within the final hour there was an atmosphere similar to that one experiences at the funeral of a loved one; while one wants to get the painful and traumatic ordeal over and done with one does not want to face the reality and finality of the situation.

At 11.40 pm the four groups of witnesses were loaded in their respective vehicles ready for transport to the execution site. As one of Paul's witnesses I waited in the vehicle assigned to inmate witnesses for what seemed like an eternity, but which was, in fact, just over ten minutes, until 11.55 when the Warden gave the order to the Command Post to begin transport of witnesses to the execution chamber. On reaching the building housing the execution chamber I waited again in the van for the order from the Warden to escort witnesses into the respective viewing rooms. At midnight all witnesses were ready to enter the witness viewing rooms.



### **Execution Chamber**

By 00.03 the tie down team had secured Paul to the gurney and exited to the waiting area. The Executioner then entered the execution chamber and prepared him for execution.

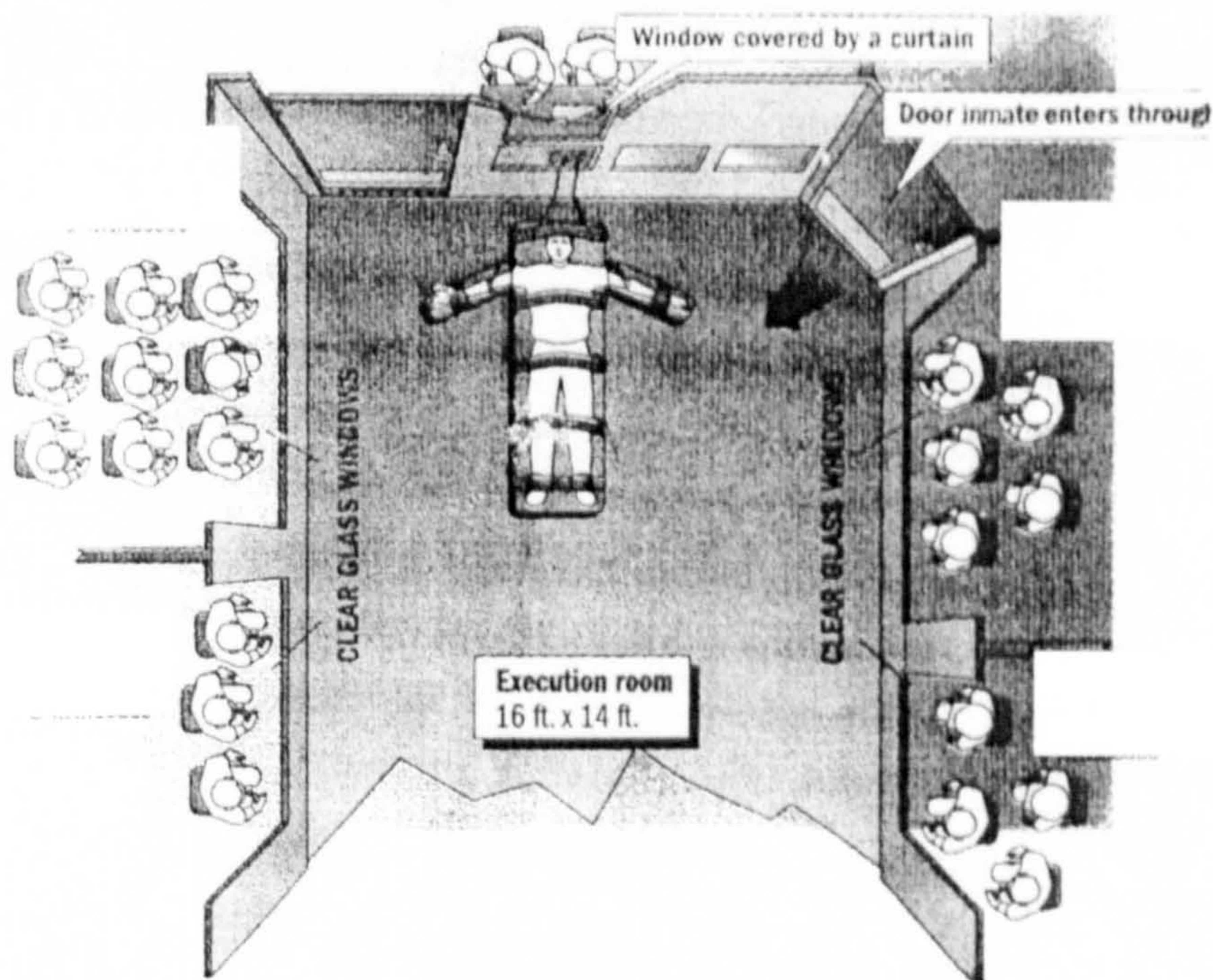
**Figure 7.2; The Gurney**

**Third Party Material excluded from digitised copy.  
Please refer to original text to see this material.**

Once all witnesses were in place the Warden was notified and the executioners left the chamber. The warden then admitted the Deputy Director of Corrections and they opened the witness curtains. When the curtain went back I could see Paul lying on the gurney, covered up to his shoulders by a white sheet.



**Figure 7.3: The Execution Chamber and Witness Rooms**



I was aware that there were restraints concealed by the sheet, but knew that there was no real need for these in this case even though he had not been sedated. I think he had his eyes closed.

The Warden asked Paul for his last words. He said goodbye to his family and friends. The warden then asked if he was ready to proceed. He replied clearly and calmly "Yes, I am." The Deputy Executive Director, on a signal from the warden, ordered the executioners to proceed. The lethal chemicals began to enter Paul's bloodstream. I couldn't look at Paul. I felt a sense of voyeurism. Instead I looked at the warden's shoes. Nobody moved and after a very long six or seven minute period a medic entered the chamber, checked Paul's vitals and then pronounced death. He covered the body with the sheet and the curtains were closed. For Paul, it was over.



The machinery of death, however, continued. The executioners entered the execution chamber, cut the clamps and IV tape and prepared Paul's body for the medical examiner. They secured the drug box and gave it to warden.

The warden, Medical Examiner and Tie-Down Team removed Paul's body and prepared it for transportation. The death certificate signed. When the clean-up team and Infectious Disease control nurse had cleaned the execution chamber the warden permitted the media to take photographs of the execution chamber and death watch cell (Figure 7.4).

**Figure 7.4- The Execution Chamber**

**Third Party Material excluded from digitised copy.  
Please refer to original text to see this material.**

Once Paul's witnesses had been transported back to Timpanogos facility we were introduced to a prison psychiatrist. He said that because Paul had asked us be his witnesses he assumed there was some kind of a relationship and as such he offered counselling. None of us had any questions or problems. The associate warden had been through this before, and the other witness was a mental health worker. For myself, I was still experiencing a sense of surrealism but assured him that if I needed help I would contact him. We were given his business card and told that if we needed any help during the forthcoming days or weeks, or even months, not to

hesitate to contact him any time, day or night.

I left the prison at approximately 1.30 am emotionally drained.

That day there was a sense of relief that the procedure had been carried out without any problems. In a peculiar way the execution had gone too smoothly and things had gotten a little ahead of schedule. This was because Paul was as anxious as the next person to get the ordeal over and done with as quickly and painlessly as possible. Later that day a member of the tie-down team told me:

Captain 4: He seemed very calm. I have carried out this duty before and so I know that there comes a point when the inmate first sees the execution chamber and ... let me explain ... each member of the tie-down team has a place to be during the escort of the inmate from the death watch cell to the execution chamber. My duty was to hold the inmate's left arm. On the last occasion at the point when the inmate saw the execution chamber I could feel the pulse in his arm quicken and felt his legs go weak. There was none of this with Paul. He seemed keen to go. He was kind of quiet but he didn't hesitate. He walked without a problem and I didn't notice a change in his pulse. He walked right in there and we got him on the gurney. I sensed that we were a little bit ahead of schedule because of his attitude.

### **DSIs Immediately Following the Execution**

The DSIs had told me that they didn't think they would feel like talking with me immediately following the execution and so I had planned not to visit the DSIs on 15<sup>th</sup> October.

However, an incident occurred upon which I felt obliged to act. Before he was put to death Paul was asked for his final words he said "My love to my family and friends. And Woody, the Rainbow Warrior rules!" Members of the press at a conference immediately following the execution (which I did not attend) asked what he meant by referring to the Rainbow Warrior. The prison spokesman said Paul "was referring to himself as the Rainbow Warrior – a warrior who killed a homosexual. The rainbow flag is a symbol of the gay community." The matter may have ended there had Paul not been convicted of killing a man who Paul claimed had made homosexual advances to him. When I read this in the newspaper the next day I knew they had got it wrong. I was fairly sure it had something to do with car



racing. I also knew that it was Paul's way of getting back at Cody by getting the last word in. Woody was a nickname given to Cody by the other inmates following a bad haircut. The Rainbow Warrior was the nickname given to auto racer Jeff Gordon. Paul bet candy bars with Cody on races and always bet on the Rainbow Warrior.

I therefore decided to visit the DSIs to see if I could help resolve this matter. I was right. The DSIs were incensed that the press had got this wrong. They were concerned that the victim's family had been caused more suffering. I told them I would do what I could to try to put matters right. This was the one and only time I had acted as mediator between inmates and staff and called the prison spokesman to tell him the correct version of the story. He published an article in the daily paper the next day, but in my view it was too little, too late.

The DSIs were taking Paul's execution hard. Cody was particularly distressed and although it appeared he wanted to talk it was clearly a painful time for him and he asked that I not record much of what we discussed at this interview.

Unfortunately, I had to return to the UK on October 17<sup>th</sup> and so it was not possible to observe the mood of inmates and staff or hold interviews.

At USP it was business as usual.

## **Chapter 8 - Life Goes On**

### **Introduction**

Although the most dramatic occurrence of 1999 was, without doubt, Paul's execution (the subject of the previous chapter) it was also a period of in-depth interviews with the DSIs during which time I came to know them much better. It was the first opportunity I had to talk to them at any length about the changes in their lives. In August 1998 a PDSI, Alan, made an unsuccessful suicide attempt. On return to Uinta One from hospital he was removed from the death row programme and moved to another section of Uinta One. He was returned to Section 1 later in the year but remained excluded from the programme, bringing the total number of NPDSIs in 1999 to three.

In May 1999 a defendant in a capital homicide case received the death penalty. Twenty-three year old Harris was housed for a short period in Uinta Five (Reception and Orientation) and was then transferred to Section 4 ("the hole") of Uinta One for six days, and then to Section 8. He remained there until his transfer to Section 1 in mid July thus bringing the number of DSIs to twelve. In October of the same year, however, Paul was executed bringing the number back to eleven.

The PDSI sample during this period of study consisted of Michael, Cody, Harris, Andy and Paul (until his October execution). These men had been sentenced to death in 1988, and 1999. The NPDS sample which consisted of, Keith, George and Alan had been sentenced between 1985, and 1997.

There were also staffing changes; a new deputy warden was appointed to the Uinta Facility and in the same year a new captain of Uinta One was appointed.

Part One of this chapter examines how life had changed for both groups of DSIs, programming and non-programming, since 1998. Part Two looks at the experiences of those who were not death-sentenced, yet would more than likely spend the rest of their lives in prison; Lifers. The fundamental



difference between these two groups is, of course, that the DSIs face the probability of execution. Both groups are compared to examine whether there was any difference in the pains of confinement and coping techniques.

## **Part One: 1999**

### **Conditions for Both Groups of DSIs**

PDSIs continued to experience life under the reformed conditions of the death row programme. One PDSI had even been trusted to buy scissors and tweezers though not all aspects had improved. For instance food remained unappetizing and inadequate although their increased commissary privileges enabled PDSIs to supplement meals by buying food items such as canned drinks and potato chips. For the NPDSIs nothing had changed. Material issues for both groups of DSIs, however, were not a prime source of pain at the beginning of this research and nor were they at this stage.

### **Relations with staff**

#### **PDSIs**

In the 1997 period of research there were no accounts of deliberate attempts on the part of staff to increase suffering. At the beginning of this period of research PDSIs' views on their keepers had not changed in any great detail, despite a major change in the regime which meant that staff now came into the common area of Section 1 while unrestrained PDSIs were out on recreation. Prior to this the only contact with officers was via the intercom system, when they were being escorted in or out of the section, or when an officer passed by cell doors. Initially this change did not adversely affect inmates' views of staff. Indeed, it was a welcome opportunity for the PDSIs to demonstrate that staff need not be afraid of them. This was extremely important for their self-esteem:

**Michael: Before we came out together officers were leery of us. Now they realize we are just inmates. It was a process. First the captain and lieutenant, then sergeants, and then the officers.**

**A new relationship between staff and PDSIs began to develop. Prior to the reforms for PDSIs staff went into Section 1 of Uinta One only when absolutely necessary; delivery of meal carts, mail, and so on. Interaction therefore was minimal. Now, staff and inmates came into contact with each other. Staff went into the section while inmates were out on recreation. Although staff and inmates remained cautious of each other this was not always apparent and while it would be incorrect to say that there was a mutual respect, staff and inmates developed a regard for each other. The regard on the part of staff was partly because these men were facing execution, and partly because their good behaviour had earned them the reforms they now enjoyed. For instance, they were allowed to use an empty cell as a games room in which to store board games and were allowed to take recreation time in twos and threes. Consequently a community atmosphere had begun to develop in Section 1. Prior to this at recreation periods one would have seen a solitary inmate in the common area of Section 1. Now inmates would be seen sitting at a table together or grouped in the "outside" recreation yard, and sometimes in the company of staff.**

**Unfortunately, however, this new relationship began to have a perverse effect on the PDSIs. This was because of the extra privileges provided for under the death row programme. Prior to the implementation of the death row programme the quality of life for all DSIs was minimal. The DSIs were entitled to very little, they asked for very little and the social structure was simple. Staff now had more interaction with the PDSIs in providing the extra privileges, such as allowing inmates extra time to clean the cell used to store games. In the opinion of several PDSIs some staff were being deliberately obstructive:**

**Paul: They test you to see how far you'll go. How far you'll react. For example, I pressed the button when I was in my section. We're**



allowed to have [cells] 2, 3 and 6 open for library, storeroom for books and games room. They usually open them and then we flush all the toilets to keep fresh water in there. A few days ago I asked them to open 1, 3 and 6 ...[Blank] was in there and he says "in a little while" and I looked in the control room and I could see all he was doing was sitting there<sup>1</sup>. I thought maybe he was on the phone. He wasn't. He was sitting there looking at me. He was waiting to see what I would say. I said, "OK" and turned around and walked away because I knew he was waiting for a response. But I knew what he was about.

The shift in the social structure between staff and PDSIs caused confusion and distrust. The men said some staff considered them to be demanding and by July of 1999 there was obvious tension between particular officers and PDSIs:

Cody: Last night there was more trouble. It's getting a lot harder mentally to deal with the officers than it is with my own death sentence. It's just crazy. They will antagonize us to a point where it will get out of hand. This has been going on for three or four months - just out of the blue - and only four officers.

Michael mentioned what he considered to be mind-games on the part of staff:

When I get on the speaker to ask for something I can't ask until I tell him "good morning, how are you today?" Like I give a fuck how he is! But, unless I do that he won't even respond. There's no need for stupid games like that. That's not the way it should be. They should be professional. They don't have to be assholes to be professional, should be straight up.

It was much easier for him to deal with a life that had probabilities and patterns:

Some of them you ask for something and no problem. Like [BLANK] if you ask him something, he likes to joke but he won't play games -either he'll do it or he won't do it ...

The attitudes of these officers were considered as psychological abuse:

Michael: Physically, they're not abusive at all. When they run in on somebody they make it to where they're justified - the

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<sup>1</sup> Inmates maintain they can see outlines of people in the control room even though staff say this is not possible.

may agitate us a little bit to be justified. But, they don't bother the DR guys at all. I think mental health games bother me, but I'm used to it.

For the most part, however, staff and PDSIs went about their daily lives with little unnecessary involvement between the two. The majority of staff were regarded as average guys just doing a job who exhibited little hostility and very often behaved in friendly way. There was always, however, a professional distance between staff and PDSIs.

### **NPDSIs**

Contact with staff for the NPDSIs remained as limited as before; officers were quintessential "intrusive waiters and unwanted escorts" (Johnson, 1998:109). The NPDSIs had restricted commissary privileges and were unable to supplement meals to any meaningful extent with extra food items. Therefore, the food they ate was what was brought to the cell by officers. If meals were delivered late to the cells, or were cold, these inmates had no choice but to tolerate the situation or go hungry. They also relied on officers as their link with what was happening in the rest of the building, the rest of the prison and the outside world. The NPDSI/staff social structure was therefore different from that of the PDRI/staff social structure in that even though there was more dependence on staff there was much less interaction. Further, the NPDSIs sensed they were not treated as fairly as they might be.

**George:** The staff here are negative towards me and Keith.

**Alan:** Regarding the officers, some are OK. Some I don't even know why they are working here. If I need something I will ask an officer who is in the section. Some respond OK, some just look at me but don't answer me.

But there were no accounts of physical abuse although Keith felt that there was some degree of psychological abuse:

The abuse is more psychological than physical. Again, it depends on the individual. I don't know if this is continually deliberate ...they won't leave me alone. Their job is real



boring. They come here for eight, ten, twelve hours, whatever their schedule is on their work, but they have bad days just like everybody else. Things irritate them and stuff, and you have certain ones who deliberately want to irritate people. So it'll never get where they just leave somebody alone. Because that isn't what they believe is the punishment. They believe the punishment entails all sorts of psychological bullshit, and that their job description is more than just keeping this person from society - their job description is making this person's stay unpleasant. Which is fine, I guess. I try not to personalize it too much. He is going to do what he is going to do or whatever, but it's like selective. He picks his shots. He wouldn't do it if we were in an open room because you just don't do that to people without a person approaching the guy about the situation, about the shit that he does. He won't do it like that. He'll try to act like he's cool - that it's not his fault - I mean, that's just bullshit. That's the way I see it. I can't do nothing about it. I don't even trip on it.

Although it was the institutional behavior of these inmates that excluded them from the death row programme Alan could not understand why he should be treated any differently:

They treat everybody differently. They have preferences, who they can, and who they can't accept.

Keith, on the other hand, was well aware of the reason for his exclusion: It's not like I didn't get myself in this position from my behaviour.

The decision to exclude this group from the death row programme was to a very large extent determined by the captain. No captain since that time, and there had been two new ones, had given serious reconsideration to this state of affairs and so it was no surprise that one NPDSI had little time for captains:

Keith: Most of them are stuck up assholes.

There was, however, no significant change in the inmate/staff structure for NPDSIs. They remained totally dependent on staff to provide their daily needs

and had little face-to-face interaction with them. The biggest change was for the PDSIs whose entitlement to extra privileges had caused a perceived resentment among particular staff members.

### **Pains**

The 1997 period of research found the most painful aspects of confinement for all DSIs in this study to be fear of deterioration, isolation, and inconsistency. By 1998 the newly created groups, programming and non-programming, began to experience the pains of confinement in different ways. There was one common area, however; fear of deterioration.

### **Fear of Deterioration**

Fear of deterioration for inmates has to do with the concern for being the same person when released (Cohen and Taylor, 1981); but for the DSIs in this study, who, more than likely, will never be released, it was more a concern with retaining dignity and autonomy in the face of extreme conditions of confinement. As with death camp prisoners it was all they had left (Todorov, 1996).

### **NPDSIs**

Two NPDSIs talked of their concerns in this regard:

George: I don't want to grow feeble, don't want to be treated so bad that I lose my mind.

Keith: Being so withdrawn that I'm just an asshole all the time. No communication, no contribution, no love for life and the experiences that life brings ... there are times when the prison can make you withdrawn. You no longer want to be active with your family in society and then eventually this will carry over to no longer being socially compatible with the guys in the prison either, a hermit outlook, anti-social. I don't want to see that happen.

Keith was, however, concerned that under the non-programming regime he would not have an opportunity to demonstrate any improvement in his behaviour:



I'm still trying to change their opinions. I can't do it. There's no way because the information that they're getting is a lot more influential than any information I can give them ... my own experience is that they don't want to be around me if they have a choice ... [I am regarded as] a piece of shit. At least the majority of them think this way ... but they don't understand - they don't understand at all.

Furthermore, he was afraid that his longstanding reputation was something that he might begin to live up to, thus creating a self-fulfilling prophecy and a threat to his identity:

All the time I find myself thinking I'm the way they think I am ... after a while you start to live up to how the guards see you.

George had a strong sense of self and regarded himself as "normal":

We are normal people in here. It's just that we fucked up sometime. We are not animals.

During this period of fieldwork Alan became noticeably withdrawn and showed marked signs of deterioration. His botched suicide attempt in 1998 had left him confused and with substantial memory loss and so it is difficult to attribute this deterioration solely to conditions of confinement. During my last interview with him he accused me of being a spy for the FBI and of putting laxatives in his toothpaste. His behaviour became increasingly more erratic as the year wore on and he was moved to a constant surveillance cell in Section 4 of Uinta One.

### ***PDSIs***

Even though PDSIs spent less time in isolation, deterioration also remained a concern for Paul who described his fears in this regard:

Losing my mind. A person loses their mind when they do something that traumatizes them. In my case it's like being tortured, like a dripping tap, dripping all day and night. After a while you lose your mind ... For instance, I used to have a very good long-term and short-term memory, but now I can't tell

you what I read a month ago. I use the toilet, flush it and go back to whatever I was doing but I can't remember if I flushed it and so I have to get up and look. The same things go on in your mind over and over; then things get blurry. There are no ups and downs; you are on an even keel of boredom. There is no input enabling you to do something. I love to read and play chess. There is no one here to play chess with so I play by myself. Games occupy space and time. Its hard now for me to write letters because it's hard to keep a train of thought and I have no long-term concentration. I don't know why but things are less meaningful than they used to be. Things that at one time could relieve the boredom don't work any more. I got tired of working out, not tired, just bored. There are things to do but I know they will become boring so I don't do them. I don't not do these things because they will become boring but because I don't want to taint them with boredom. Am I on medication? I wish!

Michael was the only PDSI to show signs of depressive illness. He was not his usual upbeat self. He was lethargic and downhearted and my notes, taken on seeing him for the first time in six months, recorded that he seemed a different person than the one I met for the first time in 1997. In February 1999 he told me he felt worse now under the conditions of the reformed regime than under the more restrictive custody of the old one:

The last six or eight months even [BLANK] knows there is something wrong with me ... it bothers me that people notice these things. Little things bother me lately.

A few weeks later I asked him if he had any mental health problems. His reply was:

I honestly believe I am now manic-depressive. I'm not on any treatment.

But by July he was on anti-depressants and as far as I am aware he was the only DRI on such medication. I asked why he felt the need for this form of treatment:

You can't have the death sentence and not have mental health dysfunctions ... you can't be in prison and not have some kind of mental problem ... I've been weird lately. I'm serious ... I'm taking nut drugs now. Prozac. Why I'm taking it I have no idea



but I'll try if for a while. I've been taking it for just over a month. It hasn't made any difference yet. I want to see if it changes my outlook. [Blank] and [Blank] keep saying "What's up "Zac"?" Instead of getting mad I just say "yeh, yeh, yeh. If you don't shut up I'll put some in your food." I don't get as mad at people since I've been on the Prozac. There is a lot of psychological stress in here.

The psychological stress of living under the sentence of death in supermax (even though the conditions had improved somewhat) was too much for Michael who was unable to cope without the help of an antidepressant. Fear of deterioration undoubtedly remained a concern for both groups of DSIs even though I had expected this to be less of a concern for Michael and the other

Living in isolation for long periods of time hinders social recognition which Todorov (1996) reminds us is necessary for the preservation of dignity and self-respect. Johnson (1998) also argues that a sense of self and identity are also essential in the struggle for survival. The findings of this research show that how others saw them was important to the majority of the DSIs. Todorov, in writing about death camp prisoners, claims we "delude ourselves if we think we can substitute our own opinions of ourselves for those that others have of us" (1996: 59) and it was important to the DSIs that they were regarded as ordinary people. Most of them had been under the sentence of death for some considerable time and while the enormity of their offences was still fresh in the minds of all but one inmate (who denied his offence) they considered that they had moved on from that particular time. They also maintained that they had given staff very little trouble and could not, therefore, understand their attitudes towards them.

Paul: We've got death sentences, but were still normal.

Michael was quick to point out that there were inmates in general prison population who had committed equally serious, if not worse, offences:

I think we are more trustworthy than some of the guys in population.

This point was also mentioned by Andy:

We're not special people. I hate it when they say that. They have brutal rapists out there in population; they're special.

The DSIs resisted their prison identities and clung to their own perceptions of who they were. Indeed, they would often warn me to be careful when interviewing other inmates in other sections of the prison. They were of the opinion that those who had killed were not necessarily the most dangerous prison inmates.

Fear of deterioration and loss of dignity was painful for both sets of DSIs.

By 1999, however, the newly created groups, programming and non-programming, began to describe what they considered to be the most painful aspects of life under the sentence of death in supermax in different ways.

### **Isolation**

In 1997 isolation was an extremely painful aspect of confinement for the DSIs. They were all at that time spending twenty-three hours a day in isolation cells, and recreation time was also taken in isolation. The introduction of the death row programme had, however, changed the level of pain associated with isolation for PDSIs.

### ***PDSIs***

Although the PDSIs were isolated in a small prison cell for twenty-one hours a day, which by any prison standard is a tough regime, it was an improvement on their previous conditions of confinement. Up until 1998 they had spent twenty-three hours a day in isolation. Consequently, on my return to the prison in 1999 I fully expected this reform to be a topic of much discussion for this group. For one PDSI, however, this was not the most significant change brought about by the death row programme:



Cody: The most significant change for me has been the commissary - even more significant than contact. This is because I am such a picky eater; my mother was an exceptionally good cook. Some days I pass up meals because I just can't eat them. I can supplement this with commissary items - chili, tuna and so on.

Nevertheless he and the other PDSIs cherished the increased out of cell time and looked forward to one of the aims of the death row programme which was for all PDSI to recreate together for longer periods of time. Isolation was no longer the most painful aspect of confinement for this group of DSIs.

### ***NPDSIs***

The new warden and new captain had made no changes in the way this group of DSIs was managed and they continued to live under the strictest regime in the prison, each in different sections of Uinta One. They continued to spend twenty-three hours a day in small isolation cells. Their recreation time was also spent in isolation. Isolation, understandably, remained an issue. Time for these men was broken up by mealtimes and the long hours in between were absorbed by reading, cleaning their cells, and exercising. Their accounts of a typical day illustrate the sterile, meaningless conditions of existence:

George: Wake up at 5:30. I used to work out but I have a back problem right now. I listen to the radio to check out the news. I eat breakfast at about 7:00 and then just hang out. I read quite a bit and sometimes I walk, although not as much as the other guys - I'll do maybe 15 or 20 minutes ... It's boring here. Even if I had a TV it would still be boring. I'd like to be out playing handball. I base my day on waiting for three meals. I get quite hungry because I'm a selective eater and the quality of the food in here is bad. When I'm out reeking I'll sometimes play cards. I have to deal and it's a pain. Over here there is no handball, no basketball hoop. We don't get anything. Maybe they assume we get stuff, but we don't.

Alan: I wake up between 5:00 and 6:00, before count. I don't know why I wake up at this time. I stare at the wall until breakfast comes. Normally I'd watch TV but they won't allow me a TV. After breakfast I try to find a book that I haven't read

before. I've been here so long I've read most of them. I'll read until the next meal, read some more, eat the next meal, and then read again until its time to go to bed. Somewhere during the day I will clean my cell; it doesn't take long. I do exercise - usually sometime in the morning. There is not much else I can do. There is no sense in talking to guys who are going home - it's not something I want to talk about.

Keith made attempts to interact with other inmates in the section. Of course these were not DSIs and at some point they would progress back into general prison population and in most cases back into society. They were people with whom he had little in common but nevertheless he welcomed the opportunity to exercise with them in the following way:

After lunch I relax and may read a magazine or newspaper until my workout. I do this with another guy ... we call each other ... for instance he'll say "set" or "go" and I'll do pushups or jumping jacks. Then I'll do the same. It keeps the workout consistent. By yourself you tend to slack off - take time off or stop for a drink. This way it stays disciplined. I'll do this with anyone who will do it. It doesn't have to be a friend or acquaintance. I'll work out till 3 or 4. Then I'll have a birdbath and relax until dinner.

He also called on (literally) inmates who were able and willing to play chess:

After that I'll either read or write letters or occasionally play chess by calling out the moves.

His days, however, were also lonely and meaningless:

I have been five years this June without contact ... I haven't had any contact with anybody for five years and that's strange.

Isolation was indeed a painful aspect of confinement for all DSIs, but for the NPDSIs this was particularly the case.

### **Inconsistency**

The death row phenomenon is about not knowing and, understandably, any changes in the routine for DSIs were disturbing. When a new captain was



appointed in 1999 the men were extremely apprehensive. The outgoing captain, along with the previous deputy warden, had both spent time with the Texas Department of Corrections looking at their programme for DSIs. They were the individuals who had lobbied for the introduction of a programme and so understandably, the PDSIs had faith in these two people and were extremely sorry to see them go:

Cody: Captain [Blank] gave me a lot of hope.

Once more the PDSIs began to fear losing what privileges they had especially as it was rumoured that the incoming captain was not supportive of the death row programme:

Michael: I thought this guy was going to be a piece of shit, I really did, because I heard he was against our programme. I hated to see Captain [Blank] leave, and I'd still like to see [him] back because I like him.

But the new captain soon gained the trust and respect of the PDSIs. Further, he approved of the death row programme:

Michael: Captain [Blank] told me "I'm not an asshole unless you make me one. As far as your programme goes, I was totally one hundred percent against it. I was the most vocal person they had because I didn't understand it. Now I've been here a few months I've made a hundred and eighty degree turn. I'll tell you the reason I was against it - I was ignorant. I didn't know and understand but now that I have seen how its working I'm totally for it." To me, especially for a captain, that takes a lot of character to be able to admit that. So, yes, I have a lot of respect for this one here.

One of the provisions of the death row programme was that PDSIs who got along came out together for recreation. However, in April 1999 it was decided that recreation would be taken in rotation. The reasoning behind this, according to the inmates, was so that they could demonstrate to staff their ability to all get along together. If they were able to do this then consideration would be given to all programming DSIs in the section recreating together for longer periods of time. This

change, however, was a cause of concern for some inmates. Their recreation time was the high point of the day and they did not want to spend this precious time in the company of someone with whom they had nothing in common. Some liked to play handball, others chose not to. Some liked to sit and talk, others wanted to play cards.

Michael: For example they [two PDSIs] sit down and they talk. If they got problems they talk with each other. Me and Andy ... if I'm in a bad mood I can argue with him. If I want to talk to him I can talk to him. And they're saying to make my life better they took that away from me? Having somebody to talk to once every two months? I'm not going to talk on the tier or at the door. I was talking to Andy here five cells down and I was pretty quiet - they could hear me and the reason I know that is later on that night I heard a guy saying I heard Michael tell Andy this. They could hear me five cells down. When we are out we talk in the yard or at someone's [cell] door when the doors open ... you can walk in the house and talk, but you can't do that now. I don't like it at all now ... you're really not going to find a lot of positive attitude right now.

They were not happy with how this valuable recreation time was managed, and resented the implied mistrust on the part of officers:

Paul: They want to see if we can all come out together. They don't understand that if we wanted to get somebody or wanted to do something or take care of business ... no problem. Just because we killed once doesn't mean we're going to kill every single time we get a chance.

Once more the PDSIs were unsure of the status of the programme and grappled with inconsistency and uncertainty which was found to be the most painful aspect of confinement for this group. This pain was exacerbated in mid April 1999 when there was a major setback; the death row programme was unexpectedly suspended at a time when it had progressed far enough to allow three inmates to recreate together for three and half-hours. The suspension of the programme meant a total reversal to the old regime: one hour's solitary recreation, cuffs and shackles, and my interviews with DSIs, programming and non-programming, once more took place in barrier booths just as they had in 1997. The reason for the suspension, according to the deputy warden and the captain, was that the men wanted too much control and it



was decided that they needed time to adjust their attitudes. The inmates' understandings of the reasons for this were that first they were becoming too demanding, and second they weren't recreating well together.

Paul: They're pissed off because they are saying we demand stuff from the guards? Wait a minute! I've never demanded anything from a guard. I *ask* the guards because I know if I *demand* stuff I'm not going to get it.

Cody: They said we were demanding – to go to work and stuff ... we ask them half a dozen times a week to go to work. There is a difference between asking and demanding. They say when we are complaining we are demanding, but I don't see it like that.

The inmates did not understand how their requests could be interpreted as demands but in any event they felt that they at least deserved notice of the intent to suspend the programme:

Michael: Sunday was the first we knew anything was wrong. Lieutenant [Blank] came into our section and barked "you guys better quit sniveling and complaining or we're going to take all your commissary, TVs, radios and everything".

Paul: The programme was suspended because we didn't rec the way they wanted us to. We didn't socialize with the other people we were reeking with. But they didn't give us any warning. They didn't say, "hey this is what we want." Didn't say what was expected of us ... "either you do this or there are going to be problems." They just took everything there and then and told us later what they wanted.

Paul indicated that notice to suspend the programme would have provided an opportunity to clear up any misunderstandings:

Paul: I get some of what they are saying – some of their rationale. They wanted us to get along and communicate with each other and everything else because they were giving us UCI [Utah Correctional Industries] jobs, ironing on patches and stuff. People would be going out there four at a time and they wanted to be a hundred percent sure that with all the tools and irons and stuff there were not going to be any problems and stuff like that. But there was no explanation.

We're getting an explanation after the fact. The explanation was not before the fact; it was after the fact. I'm not saying that I didn't do what they're saying I did – I did that. I did my own time, but the reason I did that was because I thought they wanted to see if we could come out without any trouble. They didn't say "no, that's not all we want. We want more than that. As you know, when you first meet somebody you are not buddies with them right away. We hadn't been out with each other for a long time. I hadn't been with anybody, except for BLANK, for six or seven years. When they put me out with somebody else am I supposed to be friendly right off?"

The programme was reinstated in May but this incident left the men once again feeling very insecure and once again feeling the pain caused by inconsistency. They felt that the programme was suspended because of unfounded complaints made to administration by particular officers. These officers had a significant influence on whether or not the programme stayed and the PDSIs considered them out to cause trouble by provoking incidents that could result in disciplinary action for the PDSIs:

Michael: They like to make their little remarks. For example, the other night, probably about a week ago, the lieutenant on night shift and one of the cops were counting. The cop says "Oh, so they rotate them every week [for recreation]?" and he says "Yeh, just like pigs." So, they are still making their stupid shit, but that's OK.

Those not included in the programme did not complain of inconsistency. Life was excruciatingly consistent and was as good as it was going to get for them. The most painful aspect for the NPDSIs was isolation, for the PDSIs it was inconsistency.

### **Cold Comforts**

Fear of deterioration, isolation, and inconsistency were making life extremely painful for the DSIs and it is difficult to imagine what comforts there would be in such an existence. There were, however, some things to look forward to.



## **PDSIs**

The things that three PDSIs looked forward to, however, were not necessarily a product of the changes brought about by the death row programme:

Andy: What do I look forward to? Phone calls to my family.

Phone call privileges were the same now as in 1997.

Harris: I look forward to letters from my pen-pal. I look forward to commissary. I look forward to visits. I look forward to talking to you.

Even though commissary privileges were higher, mail privileges were the same as in 1997. Visiting privileges remained the same, on-contact, yet family visits were something Cody looked forward to:

Visiting with my family.

He dreaded:

“Them [family] leaving.”

Michael, although he was taking an anti-depressant, said there was nothing to look forward to except:

In this place? Dying.

And for Paul, the thing he most looked forward to was his release from prison; his execution.

## **NPDSIs**

It is even more difficult to imagine what NPDSIs found to look forward to living in total captivity with little to pass the time. The routine, for these men, was broken only by mealtimes and sleeping. Mealtimes for most of us involve food of our own choosing prepared to a certain standard; nutritious and appetizing. The food certainly was not of the men's choosing nor was it nutritious or appetizing. A night's sleep for all of us brings us a day closer to death, but for these men it means a day closer to judicial killing. One is sorely

pressed to comprehend what there could possibly be to look forward to.

Nonetheless one DSI in such confinement took pleasure in small comforts:

Keith: They change. Sometimes visits with family members. Sometimes I hope for mail. Mail comes between 8.30 and 12 at night and everyone is at their doors like puppies waiting for biscuits. Pictures are something to look forward to - they are a real cherishable commodity.

Whatever they looked forward to they were little things. The comforts for all DSIs in supermax were cold comforts.

### **Confiding in others**

There was little to alleviate the pains of confinement for the DSIs. Furthermore, it is important to remember that inmates feel different levels of pain at different times (Rolston and Tomlinson (1986)). For instance, Christmas is particularly painful for those in prison and bereavements can also be difficult to deal with. Times such as these often call for a sympathetic ear but for those segregated from the prison subculture there is little available in the way of support and understanding. With this in mind I asked the DSIs who they were able to confide in.

### **Staff**

#### ***PDSIs***

Now that they spent more time in the company of staff I wondered if PDSIs would confide in staff :

Michael: I get along with some of the officers, but as far as telling them things, no.

There was a recognized need, however, for staff to remain detached:

Michael: ... if they really have a good heart they have to [keep their distance]. You get to be good friends with somebody, whether you are prisoner and guard, and if something happens ... Officers have told me they would have a hard time being around when they execute me. [Blank] put in for extra time when they killed a couple of the prisoners here to work over there [death watch area] when they did it. But he said I was one of the people he could not be there



when they execute. We did become friends. I think they shouldn't [get involved]. They should get along and should have a good rapport but I think its bad for them - how would it be? I like you but if you have any heart at all I think it would be hard for you to sit there and help them kill me now.

Paul: I would [maintain an emotional distance]. I've thought about it, and I would. I'd keep me at arms length. You never know if they are going to be killed, taken to the execution chamber, and if you become friends and close to them isn't that going to hurt?

It is not easy for those who spend long periods of time in isolation to get help as and when they need it and for the same reason it is not always apparent to staff that there is indeed a problem. The role of the caseworker is, in the case of inmates in all prisons, a vital one. It is even more so for those in supermax facilities and in many instances is a role that provides a life-line to available sources of assistance. The caseworker for Uinta One kept office hours Monday to Friday, and was responsible for all 96 occupants of the building, 84 of whom had behavioral problems; a demanding job. If an inmate needed to consult the caseworker other than at regular meetings he would submit a request in writing which could take several days to process. Although the caseworker stated he met with DSIs regularly Michael disagreed:

Michael: Like our caseworker. How do you trust him? He told us he would down to us once a week. He has been on our section once in the last four or five months, and that's only because he had to come in with the captain. How do you trust people like that? You can't.

Michael did not trust him. Furthermore, the caseworker assigned to Uinta One was not held in high regard by another PDSI who expressed little confidence in his willingness to deal with problems on their behalf:

Cody: I have no relationship with this caseworker but we have had them in the past who were approachable and would do things. It's kind of like with the officers - depends on the caseworker. I still have a memo from this caseworker here sent to me after I had asked

him for cell study. He said I have a death sentence and he didn't want to invest time and money on a DSI. [The previous caseworker] for example, got me relaxation tapes that I had asked for.

The PDSIs did not see the caseworker as someone who would deal with issues on their behalf, and considered him to be simply another staff member:

Michael: caseworkers [laughs]? Do you know what? When they have a good caseworker they run them off - the staff does. My way of looking at a caseworker - he's one that's not for the prison at all. He's not a guard. He has to work within security, but he's not for the prison at all, he's for the prisoner as long as anything he does is within the parameter of security. When we've had them [like that] they've run them off. They want ones here that are asshole cops and I don't think that's right. I think the one we've got now - I get along with him only because I know what he is.

Paul: We have no spokesman. The caseworker is no good. I put in a request for visitors two and a half month's ago to have my mother, brother, sister-in-law, aunt and cousin on my list. A month went by and I asked if it had cleared. Visiting had just lost my request. I gave another copy there and then to my caseworker thinking that involving a third party would help. Another month went by - still no approval. The caseworker checked - my mother, brother and sister-in-law were approved. The caseworker said there was no record of my uncle and aunt. I told him the reason I gave the form to him was so it wouldn't get lost. My aunt and uncle were on the same form. The caseworker said he didn't have time for this. No time? I've never said no to him to discuss the programme. I ask one thing and he doesn't have the time? It's his job.

The PDSIs were found to be reluctant to confide in staff.

### ***NPDSIs***

There were very few opportunities for the NPDSIs to confide in staff, at least in a face-to-face way. They were able to communicate with officers via the intercom system but the inmates could never be sure who would be operating the controls or who else would be in the control booth; not the ideal situation for an inmate who wanted to discuss personal feelings. In any event George was not likely to confide in staff:



**They are my enemy. We don't have that type of rapport.**

**Nor was Keith:**

**I've never had a relationship like that with staff. It's very hard for a staff member to care and still keep their job because they always want to be us versus them. They want to have it professional, and not have it personal.**

**Keith also recognized that staff kept a distance:**

**They are vulnerable and don't want people to know their personality. They don't want involvement.**

**The role of the caseworker, for the NPDSIs, was even more vital than for PDSIs. However, the person designated as a mediator between them and the prison was also unpopular with this group. One problem was he appeared to work for the prison rather than as mediator:**

**Keith: Professional bullshitter and liar. It was different in Nevada - they worked for the prisoners, here they work for the state. They are supposed to be mediators, but here they do write-ups and testify against people. They are company men and women. They all think they are intellectuals.**

**The caseworker was clearly unpopular and not someone they were likely to confide in:**

**George: I try not to hate people but that piece of shit [caseworker] – he just laughed at me when I tried to explain [something]. I don't even see him on my own terms. I have no respect for him ...**

**Alan: There's no sense talking to the caseworker - he won't even talk to me about my commissary ... and he's the guy who is supposed to be teaching communication as part of the programme! I tried to talk to my caseworker once, but he got upset. He acted like I was personally taking something out of his skin when I asked to go back to death row. Whatever I say is wrong.**

Both groups of DSIs in this study found it difficult to discuss their feelings with staff.

### **Inmates**

The barrier between staff and DSIs is understandable but one would expect inmates to confide in each other in times of trouble.

### ***PDSIs***

These DSIs had more opportunity to socialize with other inmates; three hours out of cell time. Of course, this time was not always spent in the company of their own choosing, since recreation was not taken on a rotating basis, but they could, if they so desired, confide in each other. However:

Cody: There aren't many inmates I can talk to, and none on death row.

Michael: I wouldn't. If I told people my real thoughts it would cause arguments.

Paul: No. That's not the way it works - not in here. I'd have to be really close to somebody to talk about these things, and I'm not. I have too many wounds in my back figuratively speaking. You cultivate friendships and when they go down the tubes ... well, I've been burned a couple of times and that's enough for me.

This finding was surprising. I had expected that this group of DSIs would have capitalized on their opportunity to socialize and would confide in each other.

### ***NPDSIs***

Of course it would not be easy for those who were denied access to the prison subculture, the NPDSIs, to confide in each other. They could shout to inmates in other cells and they could talk at cell doors on recreation time, but of course there would be no privacy. In any event, Alan doubted he would confide in another inmate:



I don't talk to anybody else about my feelings ... I might talk to others if I have problems regarding my sentence. Problems regarding family I deal with myself. Information can be used against you and you have to be real careful who you tell things to. You need to be selective. You watch who talks to who.

It would be particularly painful for a DSI to discuss their feelings with an inmate who was facing eventual release from prison:

George: No. Not now. I live around people who don't know [what it's like being on DR].

Neither group of DSIs confided in other inmates.

### **Coping**

Survival in supermax with so little, if anything, to look forward to and nobody to confide in required coping skills.

### ***NPDSIs.***

One NPDSI had no idea how he coped other than strength of mind:

George: I don't know [how I cope]. I think I've built up a strong tolerance.

For another the hope of one day being back in Section 1 with the PDSIs was all he had left and this was one way of coping with his life:

Alan: I'm running out of things to help me cope. I tell myself I have to wait and see what the captain says about moving me back to death row, but I'm running low on hope. All I got is the hope they'll put me back on death row.

No television, no radio, little in the way of reading material, no human contact; one can only imagine how difficult it would be to cope under these circumstances.

### **PDSIs**

Michael, despite the reforms for PDSIs, remained unenthusiastic about life, and was not sure how he coped. He expressed renewed concern about his state of mind:

Michael: I don't do a whole lot. I think all the time. I'm not focused and sharp any more. Two weeks ago I watched an actress on TV and then after the show I couldn't picture her. When I thought about it I couldn't even picture my own sister - I couldn't even describe her to you. I can't even describe myself. That's why I think I am losing my mind.

The newcomer to the DS population did not know how he would cope:

Harris: I'm hoping I don't have to go through that many years of appeals because right now it's really, really eating at me. It's tearing me apart. I might not show it, but it is. To see a bunch of guys in there condemned to die - just sitting there more or less rotting away. Another day goes by and I think to myself that I am another day closer to death. To tell you the truth I don't know how I'm going to deal with it right now. I do not know. I play mind games with myself. I cope with it one day, the next day I don't. It really is scary.

The majority of PDSIs had televisions and/or radios and could socialize to a limited degree with other PDSIs. For Paul, however, these things were not enough. Seemingly they were also ineffective in preventing Michael's declining mental health.

### **Tripping**

When the technique of tripping as a way of coping was discussed back in 1997 DSIs claimed they did not do this when they were in general prison



population. It was used and perfected whilst in the lockdown regime of Uinta One or in isolation in other parts of the prison.

### ***PDSIs***

I would have expected, therefore, that PDSIs had less use for this coping technique now that they were locked down for twenty-one hours a day and were spending recreation periods with others. Cody, even though he was one of the most upbeat of the DSIs, and who had strong support from his family and regular visits, continued to cope in this way:

Cody: Tripping helps my running - the hour just flies by. An hour in the section is not just physically tiring - I get bummed out running on concrete all the time. It's depressing. If I can trip while I'm doing it, it makes it so much easier. I have to be in a pretty good mood, but that might change in a year or two. I couldn't trip while running at one time, so maybe in a couple of years I'll be able to trip while I'm in a bad mood. Sometimes it's mentally exhausting and it's good to be able to lay down and sleep. I don't worry about losing the ability to do this. If I didn't trip they'd get to me.

Cody also provided the most graphic descriptions of the technique:

Cody: Do I do this as much as I did two years ago when I was in a stricter regime? I think I do it as much, but the thing is I can do it easier - even when I'm running. I'm not so sure I could do it so well two years ago. Maybe it's because I've done more of it. Maybe one day I'll be able to do it when I get in a bad mood. I can decide where I'm going to go. Today I wanted to go hunting in the mountains for trophy bulls in a trophy area. It probably sounds weird because it's not really happening. I don't like to make things perfect. Today, for instance, the truck broke. We were looking for a six-point [elk] or better and we ended up shooting a four-point. By the time we got it caped ... cut around eyes and mouth ... it had taken so long the bad weather had started to come in. When we got the elk to the truck we had to quarter mount it. The bad weather started and the truck got stuck in a small overflow creek ... probably caused by a beaver dam. Instead of getting the pulley out we snapped a cable and we were there for a while. It ended there. If I'm interrupted I come back. Sometimes I don't go back because by that time I might be in a different mood - I just leave the truck stuck in the mud. The truck was a 78 Ford, three quarter ton, and baby blue. I drove. We met three other friends when

we got there - they went in a separate vehicle. I didn't know two of them. I just put faces on the ones I don't know. I go to places I have been before, or haven't been - like the elk hunt. The gun and truck and two of the guys were familiar. The other truck and two of the guys and their equipment were just done in my mind. How intense is the tripping? I can smell smells in my mind. I can smell what it should be like - just like a campfire or coffee spilling over in the fire. The truck gets scratched, coffee gets spilt - it's not perfect. Sometimes I come home empty-handed.

Interestingly, the other PDSI who talked at length of tripping was, like Cody, still visited regularly by his family:

Andy: I trip all the time. I pace when I do this. Most of the time I listen to ambionic [sic] music. I can go pretty far with that. I just let it take me as it comes. Sometimes I focus on certain places. Sometimes I have a hard time because there are a lot of distractions in my head. I try to do it at night - after ten o'clock when it's quiet. We have a lot of respect for each others space at this time of night - we all do our own thing. I escape from here. Tripping keeps me going, that and my family.

The new DSI, however, was still in the process of learning and perfecting the technique with the help of another PDSI:

Harris: Something that will put me in a different place; put my mind in a different place. That's what I'm trying to do right now. One of the guys was trying to teach me to put my mind somewhere else ...I pace at night. Paul told me that. He said when it's quiet to walk back and forth. I did it the first night and I thought what the heck am I doing? I'm walking and not getting anywhere. Where am I going? I sat down. The next night I caught myself doing it - walking back and forth. Last night I told myself this is stupid. But, anything to take my mind off this place.

The improved conditions for this group of DSIs had not, as I would have expected, affected their use of tripping as a coping technique.



## **NPDSIs**

Since the PDSIs continued to trip it was no surprise that all NPDSIs continued to trip:

Keith: Tripping is therapy – pacing back and forth in my cage.

The finding in 1997 was that all respondent DSIs tripped and until the end of this period of research the finding was the same until Cody was given permission to have a typewriter in his cell. This was to facilitate an in-cell study programme (paid for out of his own funds and with help from friends). His time was now spent in a meaningful way and he stopped tripping.

## **Voluntary Execution**

As 1999 progressed it became common knowledge throughout the prison that Paul was seriously considering giving up his appeals. Two of the NPDSIs talked of the hopelessness of their own situations:

George: If my habeas corpus gets denied then I'm through, regardless of the programming issue. The only thing that would make me not drop my appeals would be contact visits. I'll probably get my habeas corpus hearing in May. I can't live like this for another two or three years - maybe over there [Section 1] I could - but I can't maintain my spirit here for three years. If something doesn't happen by April then its over - living like this.

Alan: I'll probably be dead in six months because I have given up my appeals, or else I will kill myself. It doesn't matter any more - they're going to kill me anyway.

There was, however, no mention of any immediate and definite plans to take similar action to Paul although it did seem that George and Alan were running out of hope. None of the PDSIs talked of voluntary execution.

## **Summary**

This period of research yielded a wealth of data concerning how DSIs at the prison coped. The separation of the inmates into two groups enabled a comparison between those living under improved conditions and those who continued to be housed under severely restrictive confinement.

There were similarities between the groups. All DSIs were unlikely to confide in staff and were dissatisfied with the services of the caseworker, someone they claimed was supposed to be their mediator and who they saw as a company man. They had little regard for those higher up, except for the deputy warden who they saw as a fair man. The DSIs sensed that staff avoided involvement with the inmates and recognized the need for this. Any abuse on the part of staff, they said, was psychological rather than physical. Neither group talked to other inmates about their concerns. All continued to trip, except for Cody, and no DSI talked of genuine intentions of committing suicide or opting for voluntary execution, save Paul. All inmates feared losing their dignity and autonomy as a result of deterioration. Only one inmate, programming, had a mental health problem that warranted medication.

There were however differences. In spite of the reforms for PDSIs they were, ironically, more unsettled than the NPDSIs. Some of the old fears remained, notably frustration with the inconsistency of life. In order for the benefits of the programme to stay they were constantly adjusting and adapting to changing policies as well as officers' quirks and personalities. There was a deterioration in staff/inmate relations and there were allegations that a handful of officers were out to cause trouble which could possibly lead to a suspension of the death row programme. Like most inmates, they simply wanted to do their own time, but the inconsistency of life as a PDSI got in the way. Inconsistency was not the major cause of pain for the NPDSIs whose lives were painfully consistent. It was found that the most painful aspect of confinement for them was the continued isolation; the lack of human contact.



## **Part Two: 2001**

Both groups of DSIs were interviewed again in 2001 using structured interviews (Appendix 13) to ensure, as far as possible, all emerging themes had been canvassed with all DS respondents. Then, equipped with this information and the comprehensive and detailed data collected over the previous periods of research on how DSIs coped, another group of USP inmates were interviewed using the same structured interview utilized for the latest round of interviews with DSIs. In this way I was able to examine whether the pains of confinement, attitudes towards their keepers, ability to confide in others, coping techniques and identity concerns were similar for those who were not living with the sentence of death but, nevertheless, would spend the rest of their lives in prison; Lifers.

### **Lifers**

Lifers for the purpose of this study were those who would more than likely never be released from prison. The court sentence of life without the possibility of parole was introduced in Utah as a new sentencing option in 1997. However, there were other inmates who also would never be released from USP. They would either die before being considered for release due to their age or state of health, or were unlikely to ever be viewed favorably by the Board of Pardons.

Lifers were dispersed throughout the prison in three different levels of housing.

One group of Lifers was housed in maximum security which is located in sections of the prison called Uinta Two, Uinta Three, and Uinta Four, the austere and restrictive conditions of which have been described in Chapter Four. The buildings and layouts are more or less the same as Uinta One (supermax) and inmates can earn only limited privileges. At the time of the interviews there had been an incident in one of these sections which resulted in disciplinary action and inmates were only allowed out of their cells three at a time for one hour a day three days a week. Prior to which it had been three hours each day. All visits were non-contact. They were denied any real

education or work privileges and commissary privileges were restricted. So, in this regard they lived under very similar conditions to DSIs, particularly NPDSIs.

Medium security Lifers were housed in various locations throughout the prison. Some were in units in the Wasatch facility, the oldest part of the prison and others were in units in Timpanogos, a newer addition to the prison. They had work and education opportunities and spent longer hours out of their cells and were allowed access to indoor (gym) and outdoor recreation, and contact family visits. Commissary privileges were determined by behaviour but in most cases they had liberal access to commissary items. Visits are contact and more frequent than those for maximum security lifers.

The smallest group of Lifers was housed in dormitory-type housing and was allowed liberal access to a large exercise field. Like medium security inmates they had work and education opportunities, liberal commissary privileges and contact visits. Also, much less time was spent in their dormitory than DSIs or maximum security Lifers.

Eleven of the Lifers were living in maximum security, 8 in medium security, and 3 in minimum security but it should be remembered that all inmates in this group have the opportunity, based on institutional behaviour, to progress, or otherwise, through the system. Their quality of life at USP no matter how grim, or for that matter how tolerable, was not permanent. Most Lifers had lived in at least two, if not more, different security levels of housing at USP, although five out of the eleven had yet to progress out of maximum security. The institutional behaviour of inmates, not the sentence imposed by the court, determined where they lived.

Lifers are also referred to by pseudonym and in the ethnographic tradition I have let all respondents tell their own stories, and where possible I have used direct quotes.



## **Relations with Staff**

Lifers in maximum security were in a similar situation to DSIs, and in particular NPDSIs, in that although they had little direct contact with officers they relied heavily on them to provide basic daily needs. Medium and minimum security Lifers were not so dependent and were able to interact much more freely with staff.

Only three Lifers complained about staff attitudes. Two had lived in maximum security since coming to prison and both had served a relatively short period of time:

Gene: Unprofessional for one, childish too. They play games and try to get to people and have them go off or get in trouble. That's how I see it.

Brian The vast majority take out their grief on us. If they have a bad day at home they come here and take it out on us. I think they're perfect for doing the job - they are just as childish and uneducated as we are.

The other Lifer was a medium security Lifer. Other Lifers expressed no real negative feelings. It was found that almost half of the Lifers sample had both good and bad to say about staff and almost half regarded staff in a positive light.

## **Most Painful Aspect of Confinement**

The most painful aspects of confinement for DSIs were fear of deterioration, isolation, and inconsistency.

Deterioration, for the DSIs constituted a threat to their dignity and autonomy. Although deterioration was not cited as a major source of pain for Lifers, two did express concern in this regard. The first, Tony, had been in maximum security for many years and was likely to remain so:

I'm starting to deteriorate.

Vince, however, was a minimum security inmate who had strong family support and regular visits:

My internal thought process. I don't ever want it to go south on me and I don't want hate and discontent to actually overtake my heart and my mind so I start hurting people or do something foolish. That scares me - because it can happen.

A sense of identity was very important for the dignity of the DSIs. It was important to have this identity acknowledged by others as who they had become, not the perpetrators of homicide(s). Identity was also a source of concern for seven Lifers who responded to this issue. The following comment was made by a Lifer currently in maximum security:

Brian: That's why a lot of my friends, and even some of my family have stopped interacting. The only one who hasn't stopped is my mom. Moms! It troubles me that people see me that way but I'm not sure how much I can do about it. I don't think there's anything I can do about it. People don't need to be nervous around me.

A medium security inmate also did not like his master status:

Ash: Yes. It's difficult to deal with, just the way that people think of me. It troubles me.

Six Lifers were not concerned about this issue and three were aware of their reputations as killers but said they used this to their advantage:

Larry: The guards know I'm not your zero to five guy. When they know I'm doing twenty-seven years before I even see the Board I see a change in their outlook. Maybe they consider that I don't have anything to lose - mess with me, I'll get you. And I like that because that kind of psychologically helps them to leave me alone. It works that way with inmates too. When they figure out I've killed two men psychologically I have an advantage over them and they think twice before they mess with me. It's a kind of benefit. I'm not proud to be this, but I'll use that advantage to help me along.

Carl: I don't want that identity. I've had to confront it. A lot of people want to see what you are made of. They want to know are you the



killer type or not. If they perceive me as being passive then they take that passiveness for weakness.

Of those who responded six were concerned about their identity, six were not, and three were aware of their master status but used it to their advantage.

Lifers, however, had other ways in which to situate their identity. For those Lifers not in maximum security there were job opportunities. Utah's Correctional Industries include a factory for the manufacture of highway signs and furniture and there is also a print shop. Inmates can earn respectable incomes, out of which they are expected to save money, send money out to their dependents, and contribute to a victim reparation scheme. The DSIs, on the other hand, had only menial jobs available to them that did not pay well; they could not afford much more than a television and/or radio and commissary items. Neither could they pay for education programmes and hobbies with earned income, something which Lifers could do. Work and the ability to contribute to dependents and victims, education, and recreation opportunities provided alternative sources of identity for Lifers. DSIs had little but the identity imposed on them by virtue of their offences.

The pain of isolation was mentioned by five Lifers, four of whom feared being locked down in their cells and one was frightened of being sent to maximum security. Isolation, however, meant something different for lifers. For them isolation meant being away from other humans for temporary periods of time. Lifers in maximum security had the opportunity to progress into general prison population and those who were locked down in their cells could likewise progress to more out of cell time; isolation was not a permanent status.

Fear of deterioration, isolation, and inconsistency were not cited by Lifers as major pains of confinement. For them the most painful aspects of their prison lives were different. Missing or losing family was the most frequently cited painful aspect of confinement for the majority of Lifers, fourteen.

**Vince:** The fact that my children will grow up and I won't get to enjoy them ... high school, getting married, start families. Even though I can give them a certain amount of advice I'm not there to say "Honey, he wouldn't be good for you". If one of them becomes a lesbian I can't say "Honey, that's your choice" and if people don't like it screw them. I can't. I'm not there to pat them on the back and I'm not there to pick them up when they fall. And that's the hardest part.

**Hank:** My father passed away last month and I wasn't able to attend his funeral. That's probably the hardest thing I've had to deal with. It's hard dealing with mom and my sister and brother long-distance.

Regrets and simply thinking about what could have been were painful for three respondents:

**Vic:** Probably the end of the day. When you lay your head on your pillow to rest, the demons of the past will chase you and you re-run the scenarios of the past ... you think of what you could have done, what you could have been.

One Lifer found the time facing him painful; the rest of his life. The loss of freedom was voiced by only one Lifer:

**Brian:** The freedom that was taken from me. My parents are divorced so I don't know if my ties with my family are that strong that I would miss them that much.

Similarly, loneliness was mentioned by just one Lifer:

**Len:** It's probably the loneliness ... missing family and loved ones.

Two feared the disruption of shakedowns; not just the fear of contraband being found but the loss or destruction of personal property such as photographs.

Two of the Lifers, currently housed in medium security, had each spent almost thirty-five years in prison. They were both well aware that they were unlikely ever to be released and consequently had, over the years, adjusted to the idea of life in prison. Their pains were somewhat different from the other Lifers in that they were related to issues which were very much a part of prison life, and had absolutely nothing to do with life outside prison.

One found seeing the friends he had made over the years leave prison:

**Kyle:** Making friends and seeing them go.



He did, however, mention that over the many years he had spent in prison he had seen some friends leave and return several times. He found this very frustrating; that they had the chance to leave yet came back.

The other Lifer who had spent an inordinate amount of time in prison also saw prison life as the only life he would ever know. He too had made many friends over the years and found it painful when either he or his friends were moved to other locations in the prison. He resented the disruption this caused to his social life:

Les: Being restricted to an area. Not being able to go anywhere, being able to go and see whoever you want to see.

Most reasons cited by the Lifers were related to prison life generally (limited family visits, loneliness and loss of freedom, and missed opportunities for life) rather than the conditions of their particular type of confinement (Figure 8.1).

**Figure 8.1: Major Pains of Confinement** (some respondents cited more than one painful aspect)

<b>Major Pains of Confinement for Lifers</b>	<b>Number of inmates</b>
Missing / Losing Family	14
Being Locked in Cell	4
Shakedowns / Harassment	2
Regrets	3
Thought of Rest of Life in Prison	1
Doing Time	1
Making Inmate Friends and Watching them Leave	1
Making Inmate Friends but Having Restricted Access	1
Fear of Being Sent to Maximum Security	1
Loneliness	1
Loss of Freedom	1

### **Not so cold comforts**

Lifers, like DSIs, have little hope, if any, of ever leaving prison, although four Lifers said one of the things they looked forward to was the possibility of release from prison. Lifers also took comfort in other things that DSIs could never hope for such as progressing through the prison system; a hope which ranked high for four Lifers. Programming, work, hobbies, and education were things looked forward to by three Lifers. Lifers in medium and minimum security, unlike those in maximum security and DSIs, were allowed contact visits and for two Lifers this was the thing they most looked forward to. One Lifer in particular maintained regular contact with his family and being able to hug his daughters was the most important thing in his existence:

Vince: My visits. I love my daughters and they still come to see me.

Only one Lifer said he had little to look forward to:

Ron: Nothing. Dying. I used to look forward to getting out but not any more. When they tell you will be here for natural life it sort of takes everything away.

This inmate, surprisingly, lived under one of the most relaxed regimes in USP, minimum security.

### **Confiding in Others**

#### ***Staff***

Given that the majority of Lifers expressed little animosity towards staff I had expected that they would be more likely to confide in them, at least to some extent. Only one medium security Lifer said he would confide in staff. Two said they might if they felt a real need to do so. The findings show that Lifers, like DSIs, were reluctant to confide in staff.



## **Inmates**

They were asked if they were able to relate to other inmates. Five Lifers said they never confided in other inmates. One maximum security Lifer said:

Tony: You're probably the first person I've talked to in fifteen years about stuff like my health - physical and mental. I never talk to anybody about anything.

Of the other four Lifers, two were in medium security and one was in minimum security housing. Nine Lifers said they did talk to other inmates, five of whom were in maximum security, three were in medium security and one was in minimum security housing. Eight said that although they would talk to other inmates they would do so only with those who they trusted or shared things in common, four of whom were in maximum security, three were in medium security, and one was in minimum security housing. Lifers showed more willingness to share problems with other inmates than DSIs, even those Lifers who were in the restrictive custody of maximum security housing. Of course, Lifers in maximum security were not in total isolation because the cells were double-occupancy, so there is possibly a causal link between no access to the prison subculture and the tendency to confide in other inmates.

## **Coping**

Although for Lifers the pains were different than for DSIs this did not necessarily mean that the ways of coping would be any different. Three Lifers found reading was a distraction from the prospect of life in prison:

Glen: Reading. Just put my mind in a book

This is not surprising, bearing in mind that these three Lifers were in maximum security where very little is available for distraction. Two coped by concentrating on work, education and programming. Other coping techniques

each mentioned by just one respondent were watching television and listening to the radio, exercise, writing (letters and poetry), hobbies, sleeping, and anti-depressant medication.

For one Lifer a routine was extremely important:

Len: Organizing a schedule for myself so I feel I'm in a routine so I sleep well and the days seem to pass by.

Another coped by trying to muster up a humorous side to prison life:

Rick: Humor. I cope through satire.

Only two Lifers mentioned meditation:

Walt: When I'm really stressed out I do some meditation. I try and do this once a week.

Hank: I meditate and listen to music. I try to separate myself from whatever is causing me to be upset. A lot of times, and I know this isn't healthy, I just eat it up.

By meditation they meant relaxation exercises, and respondents were not referring to the technique of tripping. The most frequently cited coping technique (five respondents) was simply to do the time:

Larry: Sweat it out. Knuckle up. Suck it up. Man up. Accept it.

Les: You just have to accept the fact that you are not going nowhere. All you can do is make the best of what you have to do. I began to accept this around 1994. I knew then that I had no choice; I had to accept the life sentence. Before that there was always the possibility of getting out. But that door has been closed now.

Reg: Used to be working out. I used to work out every day. I would get rid of all my stress and anger. I can't do this now. Now I just don't let it bother me. I let it all go.

Vince: Yes - just shut the hell up. I just go in my room and watch anything that's on TV - couldn't care less whether I'm interested or not. I just remind myself to shut up.



One inmate closed his mind off to the fact that he will never leave prison, and only one used hope as a coping mechanism.

**Figure 8.2: Ways of Coping**

<b>Coping</b>	<b>Maximum</b>	<b>Medium</b>	<b>Minimum</b>
<b>Read</b>	3		
Exercise			1
<b>TV/radio</b>	1		
Resignation	3	2	
<b>Routine</b>	1		
Humour		1	
<b>Writing</b>	1		
Hobbies		1	
<b>Sleeping</b>	1		
Meditation		2	
<b>State Assisted</b>			
<b>Suicide</b>			
Work, education, programming		1	1
<b>Medication</b>			1
N = 20			

### **Tripping**

Tripping was first mentioned as a way of coping by a DSI in 1997. When asked how they coped with the prospect of never being released from prison none of the Lifers mentioned this technique as a way of coping, but when prompted six said they had used this. One was in maximum security, had been for some time, and was likely to spend his life sentence in this type of housing:

Tony: I paced my cell all the time and I still do. When I was over there [Uinta One] I did it a lot, for about six or seven hours. Over here I do it for about four. When I pace I try to visualize what Montana will be like or you fantasize about escape. It's not real but you fantasize about it. There's no realistic possibility of escape. You think about money, the streets, you think about old girlfriends. I had a chance to

see other countries before I came to prison - I think about the places I saw and the people I met. It's been over twenty years, but I still remember. When I pace I try to be someplace other than prison. It's hard. You realize you are still here but you try not to be. That's exactly what I do.

Tony planned his trips, which is something one of the DSIs also claimed to do:

I decide the details beforehand. Then I'll build on those details as I go. I get the Chevy and take a drive. For me the big thing is sailing. I visited Hawaii. I've done a lot of sailing. So, I'll go out on a catamaran and stuff. I can hear the lapping of the water.

He also commented that he only tripped when there was nothing else with which to occupy his thoughts, again a comment made by one of the DSIs:

I do pace [trip] a lot. When I had a television I didn't. What I would do when I had a TV - I had a schedule of certain shows I would watch. I would get up in the afternoon (I stay up late till one o'clock in the morning) and watch a couple of hours of educational shows.

Of the six Lifers who tripped, one was in maximum security, four were in medium security, and one was in minimum security housing. Two Lifers who did not trip said they did so only when in maximum security.

Because of the serious nature of their offences all lifers begin their prison sentences in supermax (Uinta One). After what is deemed an appropriate period of time, the inmate is moved to maximum security where they then have the opportunity to progress through the levels. Five Lifers had yet to progress out of maximum security and had served between 3 and 5 years in prison yet these Lifers did not trip.

### ***Voluntary Execution***

In a macabre sense DSIs have control over their lives. If life becomes unbearably boring and futile they can drop their appeals thereby causing the state to put an end to their lives. Lifers, however, do not have this option. I asked them if they ever wished they had received the death penalty so that they too would have a degree of control. Four said they did:



**Tony:** If I hadn't taken life without parole I would have got the death penalty. I've been thinking about it for a long time and this is a lot worse than the death penalty. I've thought about having the death penalty instead of life without parole. I let the attorneys talk me into it. I was going to go for trial but the trial was just going to be so emotional on me. I'd have been exhausted. I was exhausted with the little bit I had to do. You have to think about the people around you like my mother. What will this do to other people? Realistically it wouldn't be that bad because I don't think she would have been around when I actually got executed. I thought about that but it's too late now. I've made the deal. My attorney came out here and argued with me for three days. He wanted me to take the deal.

**Dean:** That's something I've batted around quite a bit. Yes, at times, being frank. From a debilitating point of view, yes. That doesn't make a lot of sense but death row has several advantages, and has disadvantages too, but in the short-term they outweigh the disadvantages for just existing. From that perspective, yes.

**Rick:** Yes. It seems to me that despite my best efforts ... I've written manuscripts, I've written break-through science papers, I have learned computers, I have resolved emotional issues for people on the streets, and it is not enough to scale out my life. I lead a pointless, monastic existence with no end in sight and if I could have stood in front of the judge eighteen years ago I would have asked for the death penalty. I live in hell.

**Ron:** Yes. Because I'd know when my time was up. They're the lucky ones. Life in this place?

Three said they sometimes wished they had been sentenced to death:

**Larry:** Sometimes.

**Walt:** Sometimes I do because then the money they spent on me warehousing me[could be put to better use such as programming for juvenile offenders], and that's all this is.

**Kyle:** Sometimes I wouldn't mind having it again just to end it all. I get tired of all the baloney around here. Sometimes I feel it would be the easiest way out. I believe the death penalty is more humane than locking somebody else up for life or natural life.

One Lifer wished he had received the death penalty but the reason for this was spiritual:

Len: I was disappointed when I didn't get the death penalty because I thought I was going to be able to get the answers I've looking for. I [could] ask God the answers to my questions personally.

The remaining sixteen lifers all stated emphatically that they would not have preferred the death penalty to a sentence of life imprisonment. This had little to do with clinging to the hope of eventual release; all but four said they held no hope of ever being released from prison.

Suicide as a way out was discussed. None of the lifers admitted having suicidal tendencies (although they were unlikely to talk to me about this since the consent form they were asked to sign stated that if they told me of their intention to harm themselves or others I would have to disclose this information to the Department).

### **Conclusion**

The majority of staff were regarded by most inmates, Lifers and DSIs, irrespective of housing, as people doing their jobs. The PDSIs had a brief problematic hiatus with staff, which was closely linked to the existence of the death row programme: a handful of officers were considered, by the PDSIs, keen to get the death row programme suspended. The majority of staff, however, did not appear to exacerbate the pains of confinement. Indeed there were serious attempts on the part of officers, at times, to alleviate suffering. The most notable were those made by staff in the run-up to Paul's execution in 1999 (Chapter 7). There were few incidents of deliberate cruelty. Both DSIs and Lifers felt that administration had little idea of what was really happening in the daily lives of prisoners at USP.

The pains of confinement were not the same as for DSIs, programming and non-programming. Isolation was the biggest cause of pain for NPDSIs, which for PDSIs was alleviated to some extent by the implementation of the death row programme and its provision for more out of cell time and



recreation with other inmates. Even though eight Lifers were in maximum security housing they did not cite isolation as a major source of pain. The fear of deterioration and its threat to a sense of self and dignity was felt by all DSIs but by only two Lifers. Eight of the Lifers, however, shared a concern that their prison identity overshadowed their true self. As for mental health, only one Lifer said he suffered from depression which required treatment. Isolation was not mentioned by the Lifers even those living in maximum security housing and under a similar regime to DSIs. The most painful aspect of confinement for PDSIs was inconsistency, a pain exacerbated by the suspension of the death row programme. Again, this was an aspect of confinement not considered to be painful for Lifers. The only real common area was the loss of family and friends, which is a well-documented pain of confinement in prison literature and one which one would expect to find with most inmates. The most painful aspects of prison life for Lifers were those connected to prison life generally, and none found any of the conditions of their particular confinement a major source of pain.

One of the most surprising findings of this research was that DSIs did not talk about the sentence of death *per se* as painful. None of the DSIs talked about the fear of being executed as one of the painful aspects of their confinement.

Lifers took comfort in things the DSIs could never hope for, such as progressing through the system and contact visits. Lifers were also more likely to confide in other inmates, although both Lifers and DSIs were unlikely to confide in staff. Isolation for long periods of time, not only from the outside world, but from other inmates denied NPDSIs access to the prison subculture and the opportunity to confide in other inmates. In any event it was found that they were reluctant to do so. PDSIs remained reluctant to do this even though they had increased recreation time taken in groups of three. Lifers, on the other hand, were more inclined to talk to other inmates.

DSIs had fewer coping aids at their disposal than Lifers who took advantage of work, education, and hobbies to help them pass time. Lifers also

enjoyed access to a much better equipped library than that available to DSIs. Tripping was a coping technique used by only six Lifers yet it was a major form of coping for DSIs who were only too aware that bodily resistance was futile in supermax. For them this technique was a way of taking their minds out of the prison for varying periods of time. Voluntary execution, as a way of coping was a way out for Paul who opted for state assisted suicide. He became worn out with the mind-games and inconsistency of life and withdrew from the appeals process. This gave him, for the first time in many years, control of his own life. Four Lifers wished they had this option but there is no way of knowing whether they would have resorted to this coping technique.

It was found that when compared with Lifers, DSIs living in supermax at USP experienced a distinct set of pains and utilized different coping techniques.



## Chapter 9 - Managing Life and Death

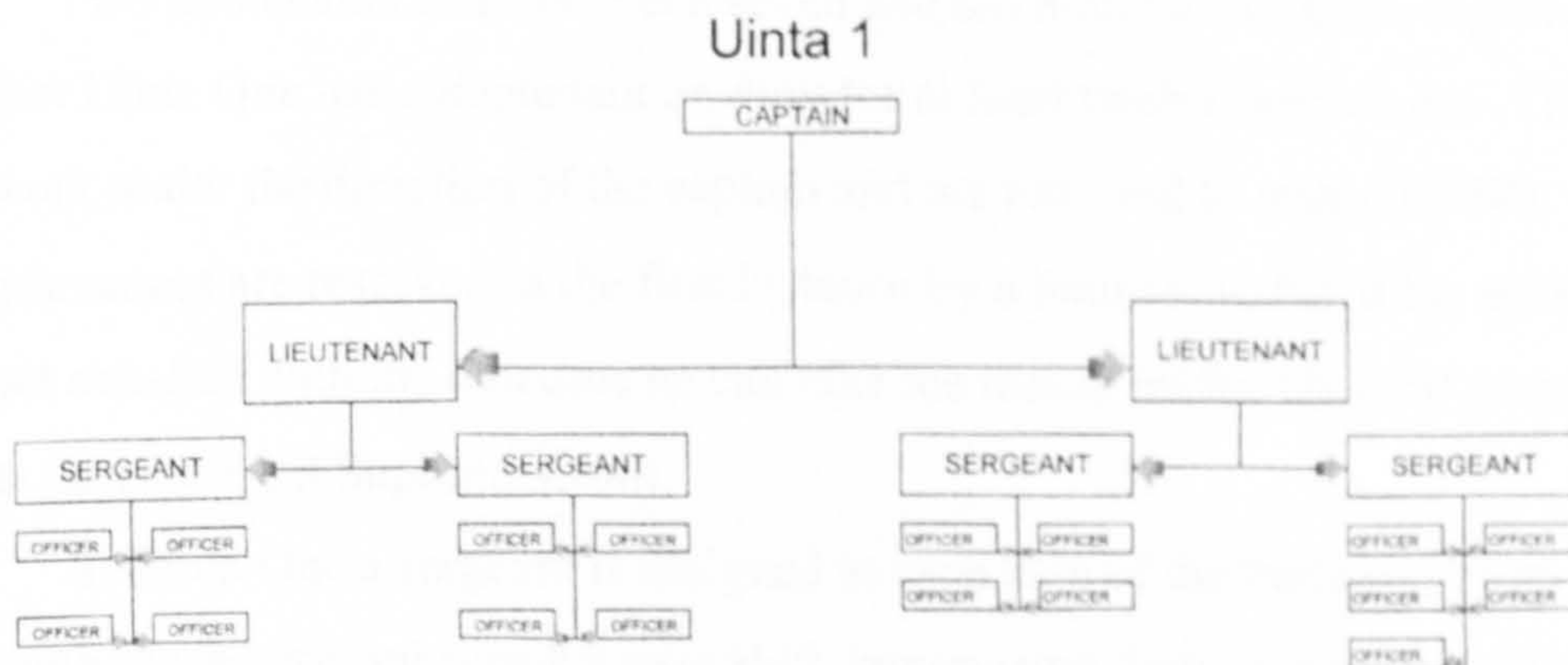
### Introduction

Because there is a big difference between managing the mundane daily lives of DSIs and dealing with the extreme matter of execution (which in Utah is not a regular occurrence) this chapter is presented in two parts. In Part One, I explore the experiences of those who provide the daily needs of this relatively small population of eleven DSIs. In Part Two, I explore the management of death during the lead-up to the execution of Paul on October 15, 1999.

### Unita One – Staffing Structure and Duties

The Utah Department of Corrections governs Utah State Prison under the leadership of its Executive Director who delegates the running of USP to the Deputy Director and the Warden. The Warden is assisted by five Deputy Wardens who oversee various sections of the prison, one of which is the maximum security compound where the supermax facility known as Uinta One is located. This facility is staffed by a captain, two lieutenants, four sergeants and seventeen officers (see Figure 9.1).

Figure 9.1



There is also an on-site caseworker and a mental health worker, both of whom are certified officers having completed the basic mandatory fourteen-week prison officer training course.

Those who have the most impact on the quality of life for DSIs are the Deputy Warden and the staff of Uinta One whose roles are now described briefly. The deputy warden of the maximum security compound is responsible for the implementation and revision of policy for the management of DSIs. It was largely his decision, along with the captain of Uinta One, to make a significant change in policy by introducing a programme for the DSIs.

Everything that goes on in Uinta One is brought to the attention of its captain. Typically, the captain works an eight-hour day from Monday to Friday, the majority of which time is spent dealing with administrative issues. It is his duty to ensure the safety and security of staff and inmates in the facility and to see that staff follow the guidelines set by the deputy warden. All inmate activities are monitored and disciplinary reports reviewed by the captain, and although he has limited direct contact with the DSIs, he is made aware of most concerns. In addition, every OMR is overseen by the captain. He is, therefore, well qualified to liaise with the Deputy Warden over issues relating to the DSIs. For instance, his input was vital in deciding which DSIs were suitable for inclusion in the death row programme.

Two lieutenants work between seven and ten hours a day each, organized so that Uinta One has a lieutenant on duty for at least twelve hours a day. They work under the direction of the captain and are required to attend OMRs. Inmate grievances are resolved in the first instance by a lieutenant, but if the inmate is not satisfied with the outcome he can take the matter up the chain of command as far as the US Supreme Court.

In Uinta One a sergeant is assigned to each side of the building; north and south. Each sergeant runs his own shift, supervising daily inmate recreation schedules and cell searches. The sergeants, like the lieutenants, take part in



OMRs and supervise the officers under their command whose role is primarily that of inmate supervision.

The safety and security of Uinta One is the number one priority of the caseworker followed by his duty to meet the needs of the inmate, which include issues such as housing concerns and family problems on the outside. His input is also required for policy and procedure decisions so that inmates' needs are met.

Mental health evaluation and, where appropriate, treatment is the task of the mental health worker assigned to Uinta One. He is also available for individual therapy:

**Mental Health Worker:** Primarily what they have accessed me for is just kind of a listening ear. The fact that what they tell me, for the most part aside from a few caveats, is confidential and so they can use me as a way to vent. And we do that whenever they feel like.

### **Reasons for doing the job**

Utah's unemployment rate is well below the national average of 6%, somewhere in the region of 5% (Salt Lake Tribune <http://www.sltrib.com/2003/Nov/11162003/business/111412.asp>). The State US Department of Labor in 2001 quoted the mean hourly rate for a standard correctional officer as \$16.24. Utah's rate was well below this at \$15.05 (<http://stats.bls.gov/oes/2001/oes333012.htm>). However, as with most state agencies the benefits are good, especially the retirement pension and health insurance. When subjects were asked why they did the job the benefits was the main reason given (three captains, three lieutenants, three sergeants and twelve line officers). An officer going into corrections in Utah at twenty-one could conceivably retire on half pay at forty-two. Another reason given was a genuine interest in the job and in people:

**Sergeant:** I enjoy working with the people. They are not society's finest but they're people.

## **Part One: Managing Life**

### **The Reality of the Job**

The findings in Chapter 6 show that the DSIs at USP are, and feel themselves to be, totally dependent on staff for all daily needs. They resented that. It is a commonplace of the prison literature, however, that staff resent playing nursemaid, feeling themselves to be servants at the beck and call of inmates who had forfeited any right to such "service". Managing the lives of the DSIs at USP, however, is only a small part of the much bigger and more demanding job of managing the most unmanageable population in Utah's penal system, the other 84 occupants of Uinta One. It is, therefore, difficult to examine the experiences of staff as they relate exclusively to managing DSIs and for this reason I have located the experiences within the management of all occupants of Uinta One.

A working shift was made up of twelve or thirteen staff, whose time was mainly taken up with the management of the majority population in the building: those who were locked down in isolation except for three or four hours a week out of cell time and who under no circumstances were ever allowed out of their cells more than one at the same time. These inmates were escorted from the cell doors by a minimum of two officers when leaving the section, building, or prison complex. Meals, mail, laundry and commissary were delivered from the main prison building to Uinta One. After security checks on the items they were sorted by section and delivered to the appropriate inmate usually through the cuff-port in the door. Items to be collected from inmates, such as laundry and mail, were dealt with in the same way.

The business of all prisons is to know where all inmates are at any given time. In Uinta One, inmates were counted at midnight, every hour until 6:00 am and again at 11.30 am and 4:00 pm. At all counts officers had to see enough skin so that a reasonable person would know that she/he was counting a real person. The 8.30 pm count was always a stand-up count, at which time an officer compared the inmate with his official prison photograph to make



sure the right inmate was in the right cell. The stand-up count also enabled the officer to make an assessment of the inmate's general health and gave the inmate the opportunity to express any physical or mental health problems before retiring for the night. These routine daily matters were carried out in the most security-conscious manner. Time was not of the essence, meals and laundry could wait; security issues, such as count, could not.

The pressure on staff to attend to inmate needs while remaining focused on security was increased by non-routine matters. For instance, medical and dental problems that did not require attendance at the prison infirmary required two officers to be in attendance when a medic went into the section and all inmates in the section had to be locked in their cells. This was accomplished by an announcement over the intercom for all inmates to return to their cells. If an inmate, after repeated requests, refused to return to his cell the A Team<sup>2</sup> were called in to forcibly deal with the situation. Likewise, if after repeated requests, an inmate refused to come out of his cell the A Team was again called in. A former captain of Uinta One explained that more often than not the minute the A Team appeared on the scene the inmate usually reconsidered his intentions. He also explained why an inmate would act out in this way:

Cpt 3: It's a control issue. Maybe he doesn't get visits, maybe he doesn't care about being locked down. Maybe the clergy don't give a damn about him. So he has nothing to lose. What does he gain? He gets to be in control for a little while. He's the star of the show and when the lights go down he can holler to his neighbors "What do you think of that. Who is the man?" Usually when the A Team gets there he has had enough attention and doesn't want to be taken down. He got what he wanted, the attention.

He also explained the disruption caused by this kind of incident:

The thing is the whole building is locked down because you don't want two situations going on at the same time. One or two will

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<sup>2</sup> The A Team is the emergency response team, made up of one staff member from various units around the prison.

suffer. The rest think it's funny. The officers have to remember who was out [recreating] and compensate or else there will be a grievance filed against the officers.

Inmates were also escorted in and out of cells and sections for other non-routine matters such as attorney visits, disciplinary hearings, court attendances, clergy visits, and interviews with case managers. Again all inmates would be required to return to their cells which caused disruption to the recreation schedule. The disruption had a knock-on effect for other inmates waiting for their turn to recreate and staff had to readjust the entire recreation schedule to ensure that inmates received their allotted out of cell time. Failure to do so could result in a grievance against staff.

Another part of the job was to deal with inmate needs from the control room via the intercom systems in their cells. Officer discretion came into play here: some needs were genuine, some were not; some needed urgent attention, some did not. Assessment of situations therefore often required sight of the inmate and very often there was not enough staff to deal with all issues in a timely fashion without comprising security. Since the captain, lieutenant, and sometimes sergeants were mostly engaged in desk work, there was often only five or six staff to manage the 96 inmates in the building. The job, in essence, was about ensuring that a dangerous population remained confined in strict isolation.

The job, as it related to management of DSIs, was not much different in some regards to the management of the rest of the building, the main difference being that DSIs were not in Uinta One because of poor institutional behavior. Also, PDSIs had higher privilege levels than other inmates in the building, which because of their isolation means that extra services had to be provided by staff. Indeed, the majority of staff in this study, did see themselves very much as what Johnson (1998) described as escorts and waiters. But descriptions by the majority of staff regarding what the job entailed indicated no resentment at being at the beck and call of the DSIs:

Off 10: All I do with death row [PDSIs] now is make sure they get everything that is coming to them whether it be clothing issue or the



food items that they order. I make sure they get all the recreation time that is allotted to them ... not much different than the other inmates to be honest. Make sure that they live within the rules that are set for them.

Six respondents, however, did resent managing PDSIs. These inmates were now entitled to more privileges and had more contact with staff, disturbing the longstanding power structure between DSIs and staff:

Off 10: I dislike the fact that there is a perceived power that they have over us. They have the programme and that's that. They are almost untouchable unless a critical incident occurs. I feel like I don't have as much control over them as maybe I should.

Staff who were new to Uinta One or for some reason were not aware of changes in policy were now always aware of the privilege levels of the PDSIs. Sometimes there mistakenly assumed they were to be treated as before and would not provide the new privileges. When they became aware of the PDSIs' entitlements they were forced to back down, the embarrassment of which caused resentment. They also felt demoralized and stressed by what they considered to be the refusal of their superiors to support their actions leaving it difficult for them to "find a balance between following rules and using common sense and discretion" (Poole and Regoli, 1981: 217). It is hardly surprising therefore that some resented the attitude of these inmates and saw them as demanding:

Off 5 I don't like how demanding they are. They feel like they are entitled to more than regular inmates. They are demanding, real demanding, and I don't like that.

Furthermore these respondents were reluctant to enter into the intended spirit of the programme which was, in part, intended to improve the quality of life for qualifying DSIs. They were prepared to follow policy, but no more than that:

Off 8: They [DSIs} have their expectations. They think we owe them something. We're going to give them what the administration say they have coming, but we're not going to give them any more.

One respondent disagreed with the provision of extra privileges that came with the death row programme:

Sgt 1: They expect too much. What they get is what comes down from administration and that's what we give them, but I don't think they deserve anything.

The same respondent not only disapproved of the privileges for PDSIs but advocated a much lower standard of life for them:

Sgt 1: ... babysitting your children. That's the reality of it ...[but PDSIs] are more demanding. The other inmates ask. They [PDSIs] think that because of their celebrity status ... that they can demand. But they are inmates. They are in there for the most heinous crimes imaginable and I don't think they should be able to demand or ask for anything. I think they should be locked down in Uinta Five, A Section<sup>3</sup>.

There was, however, no resentment regarding the management of NPDSIs who were entitled to very few privileges. There was a much more rigid social structure here. Regardless of whether DSIs were programming or not, three respondents also felt the quality of life at USP was too good:

Off 6: I really feel the system actually goes above and beyond.

Sgt 1: They do too much.

Off 5: They get too many privileges.

Two respondents saw DSIs as completely undeserving of any privileges but at the same time recognized privileges as a management tool:

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<sup>3</sup> A section in the old part of the prison which was previously used to house DSIs.



Off 6: In a way, yes, gives them a little too many privileges, but this helps to manage them [if they] cause any problems they'll get their privileges taken away. In a lot of ways, and this is kind of personal I guess, if they have done a hideous crime I don't think they should be getting TVs and sodas and chips and games and all that stuff but then again that's the same with some of the life inmates ... sometimes I feel they get too many privileges.

Off 10: I don't see any reason why the State should give them anything. I don't see why anybody should give them anything. They made a choice. We didn't put them there. [but] it helps us out to give them so much because they're more manageable and we benefit from it but I think they should take responsibility for paying for most of it.

Not only did they get too many privileges but, for one respondent, the length of time between sentencing and execution was too long:

Sgt 1: I think they are just people who've made bad choices. I'm not here to punish them ... [but] I don't think they should have anything. I think we should pay more attention to the victims and their families ... I think the length of time they spend on death row is crazy ... this ten, fifteen year stuff is crazy."

For four respondents the quality of life for DSIs was something that had to be weighed up alongside security issues:

Off 4: I wouldn't say it's too much. It's just a different way of managing them. If it works I don't have a problem with it. If it's going to compromise our safety then, that's the above all, first thing, I do think we house them too long, twenty years is a long time to sit on death row, and I agree with the death penalty.

Lt 1: If you are going to incarcerate people until they are executed I don't think they should be tortured or deprived of the essentials, that's not really for individual officers to determine. They were sent here for punishment, not to be punished, as long as security is maintained and the officers are not put in a life threatening situation.

Only one respondent below the rank of captain fully supported the concept of improved conditions for the DSIs:

Off 7: The concept of a death row programme is probably one of the best things that's happened in this system for a long time.

Although there was no agreement among staff about the appropriate quality of life only a few said they resented having to manage the quality of life for PDSIs.

### **Involvement**

Some respondents had worked in Uinta One for several years and so had got to know most of the DSIs fairly well. However, even though staff were providers of all necessities for DSIs and therefore had daily contact with them all respondents from the rank of lieutenant down said they avoided involvement. One respondent was surprised at the very idea of getting involved with DSIs:

Off 8: They don't mean any more than anybody else. It's not that they're not human, they're just part of my job so they're just another piece of equipment. Why would you even want to establish a relationship with a DSI? That's not your role.

But for most there was awareness of the dangers in becoming too friendly:

Off 10: I don't get emotionally involved with any inmates. You'd just get into trouble if you did that.

Off 4: I know a guy who mailed a letter for an inmate and then said he'd report him if he didn't bring in some tobacco ...I keep away from that stupid shit.

The more senior members of staff, however, thought involvement was an inevitable part of the job:

Warden 1: How can you not get involved? You do.

Regardless of how reluctant staff were to become involved with DSIs it was found that the majority had absolutely no idea how DSIs coped with life at USP. This is hardly surprising since the nature of segregative housing restricts



interaction. Nevertheless one would not have expected this astonishing statement:

Sgt 1 : It seems to me it's like a toy camp over there for them. They have games, they have recreation. They have phones. They laugh. They play their games, they play chess and checkers. It seems to me like they're having a pretty good time. I don't think there is any psychological harm. They say, "Hi, how are you doing?" Like I said, they laugh, they play handball against the section wall. It seems to me like they're having a good time.

Other views on how DSIs coped were a little more realistic. Simple adaptation was the most often cited coping technique for DSIs (nine respondents):

Capt 1: I think some of them have adapted so well that they might choose that over any other type of existence. They are kind of comfortable.

Caseworker: I think DSIs acclimate very quickly ... They see that they have their privileges in there. They manage themselves quite well ... they come to accept their boundaries and their world ends right here. They try to make the best of it, get the most mileage out of it and we try to accommodate that ... I think they adapt quite well.

Off 4: After a while it's just like living anywhere else you just adapt and deal with what you got.

Three respondents thought that DSIs coped by living in hope:

Lt 1: I think life is relative. I mean, if you and I won a million dollars tomorrow our lives would change and our focus and priorities would change and what we are able to attain would change. I think that they don't really think about a lot of the consequences of day to day living. I don't think they dwell on it. That would be awfully depressing. I think they take a look at what they are able to attain. Where you and I might look forward to going to movies they're looking forward to getting Coke in their commissary. It's just a scaled down version of life on the outside and I think that something human beings do just so they can survive ... hope is a powerful thing. That excitement when you were a kid waiting for Christmas and birthdays. Like when you first go out on a date with somebody. It's the little things that they look forward to. If the hope was taken

away - why go on? Once that hopelessness sets in you have someone like [Paul]. He doesn't want to go on with his appeals and there is a resolution that it's over. Hopes are important - even if they are unrealistic. People make an environment where they can survive. Whether it's a false perception of what can actually occur or not but you've got to do something.

Two respondents thought spiritual beliefs would be a comfort and one thought the privileges of the death row programme would help inmates to cope:

Off 10: I think for them it's easier now that they [PDSIs] can have close personal contact with one or more guys. They are all in the same boat so I think they talk to each other.

This was definitely not a way of coping for PDSIs or NPDSIs as evidenced by the comments made in Chapter 8; they most certainly did not confide in each other. Two respondents admitted they simply did not know how DSIs coped. One doubted that one can know the reality of coping with the sentence of death at USP:

Lt 2: I don't know if you can totally know that.

There was no mention of tripping as a way of coping, yet from the inmates' accounts this was a major source of coping. There was no real understanding of how the DSIs coped which is hardly surprising since staff had not received any special training for managing this unique prison population.

### **Manageability of DSIs**

Even though the introduction of the death row programme had upset the power structure in Uinta One, the majority of the sample conceded that DSIs were an easily managed population (37 respondents). This included the warden who commented:

Warden 1: ... in my experience they are an easily managed population.



**Two lieutenants thought they were easily managed:**

**Lt 1: They're really easy to manage and are not on a parallel with the way we manage the rest of the building. They're really self-contained and don't draw on our resources.**

**Lt 2: Much easier - and the reason I think that is because ...[death-sentenced inmate] made a statement and it made a lot of sense - instead of fighting the officers they spend their time fighting the courts. That made a lot of sense. It was more or less "Yes sir, no sir" with the officers.**

**However, lieutenants were not at the beck and call of DSIs; it was the sergeants and officers who came into daily contact with them and who were better qualified to comment on their manageability:**

**Officer 4: The non death-sentenced inmates [in the building] have a tendency to have a lot more behaviour problems and have worse behaviour and that's why they're over there. The DSIs are housed there because they don't have a choice. They can't live in main population so they just live over there in their little thing. Most likely some of them could live in population. To me that's no different than having a guy that's in here for life without parole. They can live in population like everyone else.**

**Officer 8: It's a lot different than dealing with the rest. The death row guys are one of the easiest managed populations in the prison.**

**The NPDSIs (two in 1998 and three in 1999) were also in Uinta One but were not in Section 1 with the programming DSIs. They were each in separate sections. Although their institutional behaviour had excluded them from the programme, and their reputations had certainly gone before them, they were not considered a particular management problem:**

**Off 10: They are in a much more secure environment because of their past history. It's [management] not much different.**

**Even though there was agreement that both groups of DSIs were well-behaved, the warden knew of no plans to house them in a less secure**

environment and, indeed, warned against complacency in dealing with the DSIs:

Warden 1: ...most of them are easily managed and there can be that false sense of security ... so you have to keep that security at a high level but on a day to day basis they are still managed pretty easily.

Four other respondents indicated that they too did not take the good behaviour as a given and were prepared to deal with DSIs if they became a problem:

Off 4: It is my job to manage them and I treat them the way they treat me. If they are decent with me I am decent with them; if they're not they have a problem.

Off 10: If an inmate is decent to me I am more than decent to him. If I can do one thing for an inmate it helps me because I don't have to lose my humanity. If they act like an asshole, I can be an even bigger asshole. The only way to control in here is to be bigger and better.

Nevertheless, it was found that most DSIs did not present a management problem for most of the time.

### **Making the Transition**

Staff in Uinta One deal on a daily basis with two groups of inmates who could not be more different from a management point of view. It is, therefore, important to examine how they managed the transition from dealing with the non-problematic DSIs to the eighty-four inmates who were in the building for the correction and management of serious behavioural problems.

In punitive segregation housing such as Uinta One there are limited means for inmates to vent their frustrations on staff. Some, however, did shout and scream at the tops of their lungs and bang on doors and walls but this behaviour was largely ignored. However, there was one particularly disgusting way of expressing their feelings towards staff which was impossible to ignore called "sliming" (a behaviour not typical of DSIs). This was done by filling a plastic bag or container of some sort, with feces and/or other bodily fluids. It



was placed in the gap under the door and when an officer came by the cell the inmate stamped on it from his side of the door squirting the officer on the other side of the door with its contents. One can only imagine how an officer would feel after such an attack; humiliated, angry and extremely unclean. Immediately following an instance such as this an officer may have had to respond to a simple routine matter concerning a death-sentenced inmate. A more experienced officer explained how he coped with switching from managing one type of inmate to another:

Off 10: It's not difficult [making the transition]. At first for me it was difficult for me to get it into my head that I can't be as rough with these guys [DSIs] as I am with these guys [other sections]. I can't be as straight down the line, strict in some respects, as I can with the rest. The crossover gets easier, because I have had six years experience.

Another officer, however, acknowledged the difficulty in making such a quick change in thinking and recognized the potential consequences for DSIs:

Lt 1: What happens is we'll be dealing with a situation [involving other sections] and then we'll be confronted with the DSIs making a request and we don't have time to explain things to them. And they expect an explanation because their mind set is "Hey, I'm not like those other inmates" and when we get short with them they get upset. Of course, we get upset with them because we're of the mind set "Hey, we're going to take care of business without having to explain any of it to you guys" and so when we're challenged like that, that's what creates a lot of the animosities.

The warden was aware that Uinta One was not the ideal location for DSIs and that there were problems for officers in making a quick transition from dealing with DSIs and the other occupants of the building:

We recognized that problem when we developed the death row programme and knew that it would be quite a transition for our staff to go from this section where we treat these individuals and talk to them and interact with them, and then there's another way because of the potential safety and management restrictions that we need to

place on those [others in the building]. We knew that would be the case... What made it difficult for regular officers was they had to change. We had a lot of new staff. A lot of new staff working in the Uintas and so we ended up with staff working over there with those who go from liberal to restrictions ... I remember line staff wanting to transfer out of the Uintas because we had lifted those kinds of restrictions and developed a programme and they did not want to interact with DSIs.

It was difficult, however, for management to justify a special section of the prison for a DS population of only eleven. Asked if he had given thought to housing PDSIs with Lifers, an arrangement which has worked admirably well in Missouri, he responded:

If I had more money I would house them totally by themselves. These guys are unique. They are not like life without parole inmates, they are as different as night and day. DSIs are trying to be on their best behaviour and always hope that their executions will get stayed. Life without parole inmates have no hope and they are, therefore, more dangerous.

His last remark was particularly disturbing. Shortly before this meeting I had requested to interview five maximum security Lifers. When asked how I would like to arrange this I said that I would fit in with whatever staff thought best. It was decided by staff that a group interview would work best. All five were escorted to a room where we sat at a large table and talked for over an hour. Although the room was in view of the officers' station there was no officer present during the interview (this was the one and only time I met with inmates in this way). I described this to the Warden saying that I found it strange that I was only able to interview DSIs on a one-to-one basis in an interview booth, yet I was permitted to conduct a group interview with five Lifers who he considered were more dangerous than DSIs; surely a much more dangerous situation for a sole female researcher. He was concerned that the interview had been arranged in this way and said that it should not have been allowed, even though unit staff had obviously thought it was a safe



arrangement. This incident served to illustrate the pervasiveness of the myth that DSIs were much more dangerous than Lifers.

Even though there was total agreement among respondents that DSIs were easily managed there was no immediate prospect of them being housed elsewhere in the prison. They were to remain, at the least for the foreseeable future, with those who, in terms of institutional behaviour, were regarded as the worst of the worst.

### **Fear and stress**

Managing DSIs has been described as a “stressful and often frightening assignment” (Johnson, 1998:109). The Warden of USP explained why there might be anxiety and fear for staff working with DSIs:

We cannot do any more to them, meaning the State, than to sentence them to death and so I think that’s the fear that a lot of people have working around DSIs they have nothing to lose and what can we do to them if they do happen to kill again? We cannot kill them twice, and I think our staff have a difficult time, and especially new ones, in dealing with that.

Since DSIs at USP are housed in the same building as 84 inmates who cannot be controlled in general prison population, fear and stress cannot be attributed solely to the management of DSIs. However, incidents of inmate on staff violence anywhere in the prison are extremely rare; only one respondent had ever been assaulted by inmates (not a DSI) and did not regard the assaults as serious:

Off 16: [I] was going in to break up fights and the anger is generally one inmate against the other ... they were not serious assaults.

Only one male officer had ever been seriously threatened, and two female officers had been in situations where they felt threatened. Again, however, none of these instances involved a DSI.

There was, however, a very real fear that families of staff could be harmed, either by word getting out to somebody on the outside or by an ex inmate. A fear for one respondent was that of catching diseases from inmates even though staff 'gloved-up" when dealing with potentially hazardous situations such as open wounds. Several expressed concern about the growing problem of violence among inmates, particularly gang members. A very real fear for staff working in Uinta One, however, was that of putting another officer at risk:

Off: 15: I don't have any fears although I am concerned that if I screw up another staff member may get hurt, and we all need to get home at the end of the day.

The regime of Uinta One was such that the majority of the inmates lived and recreated in isolation. When an inmate left his cell and section he was always escorted by at least two officers. His hands were cuffed behind his back and his legs were shackled. The handcuffs were attached to a leather strap which was held by an officer, much the same as a dog-leash and the inmate wore a mask/hood designed to prevent the inmate from spitting (PDSIs were typically handcuffed and shackled only). There was an air of alertness and tension in the building and all operations were conducted with military precision. It was, therefore, unlikely that an inmate would have the opportunity to assault a member of staff; unlikely but not impossible.

All cell doors in Uinta One were electronically closed and opened by an officer at each end of the control room (north and south) whose job it was to man the switch panel. There was, however, a danger that human error, perhaps caused by distraction or boredom, could cause the wrong cell door to be opened at the wrong time allowing an inmate to leave his cell while another inmate or staff member was in the section. The fact that there were always two officers in a section at the same time (except for Section 1) meant there was little likelihood of one inmate overcoming two officers. Such a mistake, however, could have serious implications for an inmate recreating alone in the



section. Under the more liberal regime of Uinta One in September 1994 (before all DSIs were held together in Section 1) a death-sentenced inmate, who is now a NPDSI stabbed a non DSI. The victim brought a lawsuit against the Department of Corrections for failure to protect and although the claim was unsuccessful the Department incurred considerable legal costs. More recently in 2000 another NPDSI's door was opened at the wrong time and he assaulted a non DSI who was recreating in the common area of the section. Charges have been brought by the victim against the Department of Corrections, but as yet the outcome is unknown. Although both of these incidents were resolved very quickly by staff they were undoubtedly dangerous situations. There have been no inmate on officer assaults in Uinta One but inmates living in this restrictive regime have been known to vent their frustrations verbally and there is no guarantee that threats will not be carried out should the opportunity arise.

The majority of staff, however, were not particularly concerned about working with PDSIs:

Off 8: I personally don't have a problem working with them ... they let you go in the section by yourself ... and I was a little bit more aware, but I wasn't hesitant to go in and deal with them.

Staff were, however, more cautious when dealing with NPDSIs:

Off 4: ... basically they have stated in the past that they will do anything to take out an officer for more status. We don't want them unrestrained and around us. We have to treat them like a regular issue as far as unpredictability and that's why they're housed over there.

Fear and stress were found to be more closely associated with the other occupants of the building and NPDSIs than with PDSIs.

### **Special Training**

The pains of confinement were different for DSIs, especially those living in supermax housing. This study found little understanding on the part of staff of how DSIs coped with the profound effects of the death row phenomenon. This is not entirely surprising since there is little social intercourse between staff and inmates in Uinta One and staff are given no special training on how to manage DSIs. This situation is not unique to Utah; a 2002 American Correctional Association national survey found staff who work closely with condemned inmates received no special training (Hudson, 200).

In view of this finding I asked the Executive Director of the Utah Department of Corrections if he was aware of the concept of tripping as a way of coping for DSIs. He was not. I informed him that neither had any other member of staff even though the entire DSI sample all did this and suggested that if staff were not aware of this major coping technique then there were surely other aspects of their confinement that staff did not understand. He agreed and responded that he was very much in favour of staff training for this unique group of inmates:

Absolutely. I have felt all along that the more training we can give our officers to understand what is going on with the inmate, not only on death row but in programmes for example. If we're teaching cognitive skills to inmates on how to deal with day to day life activities that we ought to have our officers understand those same things so our officers can reinforce it or understand it when it occurs. I mean its so easy when an officer sees some behavior to misinterpret what somebody is doing and why they are doing it when in fact it is a great opportunity for them to reinforce the programming that we are giving that person or, for example, if an officer understood how somebody was doing this tripping, as you've described it, when an officer does something to make that person come out of that trance and he's angry that he understands where that anger is coming from and that its not directed at him. Absolutely, we need to do a far better job at that than we're doing.

The Warden of USP (who retired in 2001) also recognized that the DSIs were a unique group who required special management skills:



Yes, I think they do. I think that it's a unique population and so I think any kind of specialized training that we could give them to deal with this population is probably warranted. In this state they are a small population. Texas and Florida and some of the other states have much larger populations. Here it's unique - a small population that we have to deal with. I agree that officers need training because these individuals are, in most cases, in almost all cases, are never going to get out of prison and the end of their sentence is going to be death. And I think staff need to be aware of that - that people in that position probably, I guess, value smaller things a lot more than the individual that a year or two down the road is going to be back out on the streets - it's temporary for them. But, for these individuals this is their life and so what I've noticed is they value smaller things than what general population does ... Death row prisoners are in a different category from other prisoners. They are a community who do not talk about when they are getting out and it can cause anxiety if they are mixed with short-term prisoners.

Other respondents agreed with the Warden on this point:

Lt 1: Problems arise when officers come here who are not trained to understand the emotional and physical needs of the inmates. These officers create problems which cause anxiety in inmates.

Off 5: I came to this unit totally unprepared and because of this I helped perpetuate the anxiety of the inmates, I didn't even know what my job entailed.

But, not all respondents agreed that the provision of special training was necessary:

Off 8: I really don't think you need any special training. You're going to learn it here anyway, working here.

There was a recognized need by management for special training even though not all respondents thought this was necessary. In any event, there were no plans to provide special training and none have since been implemented.

## **Typologies**

The findings lead to a categorization of staff into four typologies: society's garbage collectors; doing the job and going home; doing the job and caring, and; doing the job and making a difference. Some, of course, overlap.

### ***Society's garbage collectors***

By far the smallest group (three respondents) consisted of those who viewed DSIs in an extremely negative light and could see no reason why they should do anything to make life easier for them. A frequently heard expression among this group was "they got nothing coming". This group saw themselves very much as garbage men; they simply guarded the DSIs until garbage day; execution. They had very rigid ideas about DSIs and had a tendency to demonize them:

Sgt 1: We are society's garbage men ... are in there for the most heinous crimes imaginable

The DSIs were also pathologized:

Off 14: I think it's their mind set. I think for the type of crimes these guys committed ... and I haven't heard any of them denying their crimes and I think they all feel like they're guilty and it leads you to believe that they really did commit the crimes ... they have a mind-set different than anybody else.

The attitude of this group flew in the face of the fact that, at the conclusion of this fieldwork, there were over 70 inmates at USP convicted of capital homicide who had not been given the death penalty, some of whom had committed equally, if not more, heinous crimes than the DSIs.

### ***Doing the job and going home***

Six respondents had little interest in the job as far as it related to DSIs. When asked about why they did the job three of these said it was for the retirement package and health benefits. They maintained a distance between themselves and all inmates.



They did not, however, distance themselves from other staff and all felt they had the support of their co-workers.

Off 19: It doesn't have anything to do with the inmates. It's not the job I do. It's the people I work with.

This group was certainly not hostile towards DSIs but neither were they concerned. There was little support for any improvement in the quality of life for the condemned and none for the death row programme:

Cpt 1: What is the point of programming for DSIs? This is something I have been kicking over.

There was nothing they particularly liked about the job:

Sgt 6: It's not enjoyable or unenjoyable.

However, they did not exhibit any resentment towards DSIs and did not express any desire to make life difficult for them.

### ***Doing the job and caring***

The largest group consisted of 25 respondents who exhibited genuine sensitivity in managing DSIs:

Off 13: I saw them as human beings and I came to realize that being locked down twenty-three hours out of twenty-four hours a day is just ... I mean that would drive anyone crazy.

Those in this group were more likely to agree that for some DSIs supermax housing was not the ideal place. One respondent recognized that there were inmates mixing freely in general prison population who had committed, in their opinion, equally serious offences:

Sgt 3: There are other inmates in here who have crimes that are every bit as bad as those of the DSIs. Even crimes towards women and children and stuff like that. I really can't find a difference between a DSI and just someone else who has maybe got twenty-five years.

Although these respondents were concerned about the quality of life for DSIs they were unlikely to initiate reforms.

### ***Doing the job and making a difference***

It would be incorrect to talk of "friendships" between DSIs and staff; both were fully aware of the "us and them" divide. However, it was found that this divide was not as marked as one would imagine. Twelve respondents went out of their way to make life a little more comfortable for these men. An interesting finding, however, was that during interviews most regular line staff in this typology viewed the DS population with some degree of humanity but this was very much played down when other staff were present; the masculine prison officer culture did little to foster such any sentiments which could be perceived as weakness. More senior staff members, however, such as captains and deputy wardens had the confidence to talk openly of efforts to make life a little more bearable, and were in the position to make some changes possible. The reforms for DSIs were instigated by respondents in this typology group and in 1998 were the first genuine attempts at USP to improve conditions.

## **Part Two: Managing Death**

Executions are not carried out on a regular or frequent basis in Utah; there have been only six since 1977, the most recent being in January 1996. Not everyone who receives the death penalty is executed; in Utah of the 27 people sentenced to death since reinstatement of the death penalty in 1976, eight have had their sentences or convictions overturned and one had his sentence commuted; six have been executed (BJS, 2000). Added to this is the uncertainty of the appeals process which means that no one knows for sure



when the next execution will take place. Accordingly, executions are something many staff may never have to deal with but one thing is certain; the management of death is a far cry from the management of the lives of the condemned. This is the reality. This is what capital punishment is about. It is the end of the line.

This part of the chapter examines the experiences of staff in relation to the events surrounding the execution of Paul in October 1999. Paul had known since April of 1999 that he would go ahead with his plan to opt out of the appeals process, as did most of the other DSIs. Staff were also fairly sure that he would not change his mind. Officially, however, there was the chance that he would change his mind and so the Department of Corrections did not begin to make preparations for the execution in earnest until mid August, just a few days prior to my return to the UK. I returned to the prison in October a few days before the execution and left two days following it allowing little time, therefore, to interview DSIs or staff at any length during this critical period. Interviews with staff conducted in earlier periods of fieldwork, however, inform much of this part of the chapter, as do short interviews and observations during the execution period.

### **The Death Penalty and Executions**

The warden of USP made the following statement:

Our philosophy here at the prison is that we are neither for nor against the death penalty, we are neutral.

In theory perhaps he was right, but the actuality was different. The findings show strong support for the death penalty; only two respondents opposed the sanction, one of whom surprisingly was the Executive Director of Corrections. He expressed how heavy-hearted he felt about the scheduled execution, explaining that on accepting the position in 1997 he did not foresee that he would ever be involved in carrying out the penalty. He was visibly unhappy about the role he had to play and was not looking forward to one aspect in

particular; giving the order for the executioner to proceed. In the event that the execution went ahead, however, he was determined that it did so in as highly a professional manner as possible.

The other respondent who opposed the sanction raised this extremely important and interesting point:

Lt 1: Executing somebody? Yeh, it's real easy to say we should execute them but how many people are really willing to carry it out themselves? They're not.

Indeed, even though there was very little opposition to the death penalty not all members of staff were comfortable with the actuality of an execution at USP, or of taking part. Six of the respondents who supported capital punishment were not prepared to take part in an execution:

Sgt 1: The sad thing is I believe in the death penalty but I don't want to be involved. I guess that makes me a coward.

Off 20: I agree with it but on a moral level could I pull the trigger? I don't think so.

Dep Warden 2: There have been occasions where I have got to know some of the guys who are on death row and when it comes time for the execution it does bother me personally. I could not carry out an execution. I know that that would bother me very, very deeply but if I keep myself distanced from the individual, and in this case it's going to be difficult, I can say yes, I believe that [the execution] is what should be done because that's what they are sentenced to.

Those who had no reservations included the Deputy Director of Corrections who had taken part in two previous executions, one as Warden and one as Deputy Warden. He described the effects:

It's a real solemn thing and it's a humbling thing. You take it very seriously and ... my own views? I don't have a problem with the death penalty. I view it very much as carrying out my responsibility



and so I understand the seriousness of it and am able to cope with that.

One respondent had been a member of the tie-down team for an execution at USP, and had also witnessed an execution in Texas. The experiences had not adversely affected him and he was prepared to take part in another execution.

The findings show that there was little opposition to capital punishment and most respondents were prepared take part in the forthcoming execution.

### **Effects of Executions on Staff**

Supporting the death penalty and being prepared to take part in an execution, however, did not mean staff remained unaffected. It should be mentioned that, in accordance with prison policy, staff who managed a DSI over the period of incarceration generally did not take part in that execution. This was because any relationship that may have developed over a period of time potentially made it difficult for staff to remain detached; some DSIs were popular inmates. Paul was one such DSI. He had been in Uinta One for eleven years and was a popular inmate. Although it was thought best that staff who did not know him personally would be better suited to carry out the execution procedure, the staff of Uinta One continued to manage him on a daily basis up until 48 hours before his execution. The captain, a respected officer of many years experience, acknowledged that it would not be any easy time for some staff:

He is well liked by staff. He's well liked by inmates. He's a personable guy. It's going to be tough.

As captain of Uinta One he did not have a role to play in the execution. He did, however, have to deal with inmates and staff during this difficult period of time:

I am concerned about my own well-being as well as my staff's. Also [Paul's]. Plus the day after I'll have to deal with inmates. Plus the ninety six and plus the nine inmates who are left in that section.

He was also concerned about the effect the execution would have on Paul's friend in Section 1, Cody:

I am sensitive enough to the relationship him and Cody have. Cody's withdrawing. You know that as well as I do. And so you are watching a friendship, a love, a camaraderie coming to an end ... obviously Cody is going to have a tough time with it ... plus the other inmates in that section.

There was no doubt that the execution was having a very profound effect on the captain. He was aware that it was his responsibility to safeguard the emotional well-being of all concerned, including himself. He was the one down in the trenches, unlike administrative staff who had the luxury of being able to distance themselves from the reality of happenings in Uinta One:

[The Executive Director of Corrections] is fortunate because he's up in what I call the Ivory Tower. I am down here in the ranks every day seeing this guy playing handball<sup>4</sup> and then in the next couple of days he's not going to be there.

He struggled to maintain a balance between the demands of the job and his own values:

One of the things I've tried to hold on to and I think I've been able to maintain is ... one of the greatest threats this occupation has is our loss of humanity ... and I have not lost that and I try to maintain that balance in my life. You've got to look at that humanitarian part of that relationship. What [Paul] did was a horrible thing and the State of Utah gave him the ultimate sentence and that will be carried out, and society has every right to demand that. But also the aspect that [Paul] is willing to take his punishment.

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4 An improvised version of the game played with a ball made of paper in the small outdoor recreation yard.



The captain was uneasy, and he was not alone. During the few days before the execution there was most definitely a sombre atmosphere in Uinta One. Even respondents who supported the death penalty and fell into the typology of “society’s garbage men” seemed ill at ease. The only person who seemed untroubled was Paul. The fact that he was going to the execution chamber of his own volition left little to be said. There was little for staff to do from a management point of view; he was in total control and his attitude gave very little cause for staff to treat him other than with respect. There was no anxiety about how he would conduct himself on the way to the execution chamber; there would be no resistance and no last minute claims of innocence. However, staff seemed bewildered as to how to respond to Paul’s attitude. The captain of Uinta One commented:

Some of the comments that have been generated have come from Paul. He has made comments like “I only have a couple of days - can you get me the handball now?” And it’s shocking. He’s asking for some recreation supplies and handballs and games and says he is on a shortlist, down to double digits and no wake-up. I am shocked - I don’t know how to react. It’s shocking that he says that to me and I think he says it just to shock me because (a) it works and (b) I can’t respond - I can’t joke back at him because it’s not my role and I don’t want my staff to engage in that ... and so, I just smile. Somehow we communicate and we understand, and we go on.

The way in which Paul handled the entire procedure earned him the respect of most respondents:

Capt 2: Maybe his religious belief is that he needs to die for what he did. He’s willing to take his punishment and go on with life. I am in awe of that. I am in reverence of that and that’s what I have to instill in my staff. This guy is willing to do what he has got to do and he’s not concerned about himself. He’s concerned about everybody else around him.

The captain respected Paul’s last wishes which, in his opinion, were not unreasonable:

I told [the deputy warden] I'm going to be over there playing basketball with this guy. Have a good time. Let's send him out on a good note ... regardless of what he did and we never want to forget his victims ... but if we can give it to him let's do it. Basketball? He's not asking for a hump shack to have sex! He's asking for a game of basketball and ping pong with his buddies!

General prison population was to be locked down so that Paul and the officers who had volunteered to play basketball with him could use the gymnasium in the main prison building. The wish to play basketball, however, was refused, much to the disappointment of the captain. The reason given for the denial of this wish was that "the public would not like it".

Not only was Paul conducting himself in a dignified and courageous manner, but he was also demonstrating amazing sensibility towards the other PDSIs. The captain, in particular, was astonished at Paul's consideration towards others:

And you know what? He's asked for videos and he knows that the time frame is limited over there at death watch. He asked that we show them in the section so the other guys can go through this, that they can have a movie that night. That they can take their minds off it! He's more concerned about the other nine guys. He's accepted this assignment he's been given. He's worried about his comrades back in the barracks. Give them a pizza, give them something to get over their pain. I don't know if he's learned it here or always had it. I don't know if that sense of rehabilitation he's learned in here through trial and error but whatever it is goodness.

The respect of staff went largely unspoken but it was particularly noticeable when Paul was being escorted to and from interviews. Staff were very polite and often asked if there was anything they could do for him. The most poignant token of respect, however, came from the previous captain of Uinta One. He requested, and was granted, permission to head up the tie-down team (the team of staff who escorted Paul from the death watch cell to the execution chamber). He gave his reasons for this:



I had developed over the space of two years a good rapport with inmate [Paul]. I had worked with him and other inmates in helping to develop a programme for DSIs. This working relationship allowed me to gain a better personal understanding on how Paul saw life. He had killed someone and although he didn't agree with the death penalty he understood there were consequences. I believe that we had a mutual respect for each other that went beyond the typical inmate officer level. Paul had set a timetable that if his appeals were not completed by a certain time he was going to drop his appeals and proceed with his execution. This gave him some control over his destiny not the courts. When I heard that Paul had dropped his appeals and the time for the execution was set I requested to be the captain over the team responsible for tying Paul to the execution gurney and once the execution was completed remove his body. I requested this assignment because it was important to me to make sure everything went as smoothly as possible and that it was done with dignity and respect. I didn't want any off-hand comments or overtightened cuffs. I also wanted Paul to know there was someone watching out for him and hopefully this would make it easier for him.

It may be that Paul did not need anyone to make things easier for him; he was clearly anxious to get the ordeal over and done with. But, for the former captain, overseeing the procedure up to the last few minutes brought closure to the relationship between the two men:

When the day of Paul's execution arrived my team went to the holding cell and then walked him to the execution chamber. We placed Paul on the gurney and secured him and as I was leaving the execution chamber I was able to gently smack Paul on the shoulder. We exchanged looks. He nodded. No words were spoken. I knew Paul was OK. I felt good knowing that during Paul's last days on earth, he was respected and that I was able to make sure it happened for him.

Despite the claims of respondents that they did not get involved with DSIs the findings of this research suggest otherwise:

Dep Warden: As much as we try to be professional and do our jobs in an unbiased manner, we do get involved. These are individuals. They are human beings. We do know them. We know a lot about

them. We've known them for years and years and years and you are involved with them. ... Paul is likeable.

### **Typologies**

The categorization of staff as it related to the management of life for DSIs does not adequately apply to the management of death. An execution in Utah is comparatively rare and accordingly is something staff are not faced with on a regular basis, as is the case in more active retentionist jurisdictions. As the execution date drew closer the staff sample fell into three distinct groups. This categorization is based mainly on observation and impressions. First, there was a very small group who were openly in favour of the execution. While I couldn't say they were excited about the forthcoming execution, there was an air of anticipation among these staff. There was little compassion for DSIs and I heard one staff member say "Why don't they bring them out and do all the bastards at the same time; they got nothing coming."

This was despite the warning memo issued by the captain regarding inappropriate comments.

The second group remained silent on the issue of the execution and for whatever reasons would have nothing to do with any aspect of it; it is not compulsory for staff to participate in an execution in Utah. They simply went about their jobs almost as if nothing out of the ordinary was about to take place.

The largest group was the staff members who expressed concern that if the execution was to proceed then it would do so with professionalism and dignity.

Dep warden: We go through training and exercises for it and if the people seem that they cannot grasp either the magnitude or the professionalism that they need to carry this out then we'll replace them.



The execution was carried out in a professional and sensitive manner and in the extremely limited time I spent at USP immediately following the execution there were no noticeable after-effects on staff.

## **Chapter 10 - Conclusions and Suggestions for Further Work**

There are several conclusions that can be drawn from the findings of this research and there are unanswered questions that ought be addressed by way of further research.

### **Different Pains**

One of the findings of this research is that the major pains of confinement for DSIs are different than for Lifers, with a further difference between PDSIs and NPDSIs. These differences are not explained by prisons literature. For instance, while the pains of confinement described by Sykes (1969) are certainly suffered by DSIs at USP they were considerably more intense. Deprivation of liberty was twofold; they were deprived of liberty to live in the outside world and also liberty to live in general inmate population. Similarly, the loss of contact with family and friends was a pain which was exacerbated by the fact that visits took place in barrier booths which meant that DSIs had no physical contact with visitors. Loss of services and goods was, again, twofold for NPDSIs, and until 1998 for all DSIs, at Utah State Prison. They could not obtain items available on the outside nor could they obtain goods generally available to other inmates because their commissary privilege levels were much lower. Loss of a sense of security was not the same for DSIs because although it can be argued that they were less likely to be harmed by another inmate the DSIs in this study were extremely insecure. They were scared that living in isolation for prolonged periods of time would cause deterioration which would result in loss of dignity. As for loss of autonomy, supermax facilities operate efficiently purely because inmates have none whatsoever. The final pain Sykes talked of was loss of heterosexual relations, but for those in punitive segregation there was also a loss of the opportunity for homosexual relations.



The particular pains of the DSIs at USP were considered using the experiences of Lifers at USP as a comparison. While the major cause of pain for PDSIs was the inconsistency of life in Uinta One this particular pain was not mentioned by any of the Lifers. A possible reason for this is because their conditions of confinement were not fixed. However frustrated they became with conditions they had the opportunity to progress through the system to confinement that was more tolerable. For the DSIs, however, their lives would be spent within the confines and restrictive regime of Uinta One. They had no control over their conditions regardless of their institutional behaviour; they were in a sense “sitting ducks” and there was nothing they could do other than accept changes in policy and procedure. Paul, six hours before he was executed, said it was this inconsistency that had worn him out. It was difficult, he said, to gauge from day to day, officer to officer, precisely what was expected of him.

This is not to say that life was inconsistent for all DSIs. For the three NPDSIs things were not likely to change in any meaningful way since they were excluded from the death row programme and so their daily lives were painfully consistent. The most significant source of pain for these DSIs was being locked down for 23 hours a day in isolation. Even though all Lifers in this study had lived in supermax conditions at some time during their incarceration at USP, even if only briefly, only five mentioned isolation as a source of pain. Two were currently in maximum security, two were in medium security, and one was in minimum security housing. Only the most serious institutional behaviour would result in being sent to Uinta One, supermax, where inmates live in isolation, and which rarely happened to Lifers. Less serious punishment could possibly result in losing out of cell time in which case the offending inmate would be locked down in the present housing for longer periods of time. Minimum security inmates ran the risk of being returned to medium or maximum security housing. The point is, however, that isolation, other than that of Uinta One, did not mean the absence of human contact because for Lifers cells were shared with at least one other inmate.

Also, isolation need not be a permanent way of life for Lifers. When Lifers talked of the pain of isolation they were not talking about the same pains as those described by the DSIs. The findings suggest that there is a causal link between the inability to progress out of supermax and the pain of isolation for NPDSIs.

Interestingly, at no time did any DSI talk of his ultimate fate, execution, as a source of pain.

### **Different Coping Techniques**

Just as the pains of confinement were different for DSIs in supermax at USP so were the coping techniques. In Chapter 3 classic prison texts were reviewed so as to reach an understanding of how DSIs coped in a supermax facility. The findings of this study suggest that these texts are inadequate in explaining how DSIs cope in supermax.

For instance, Irwin's (1970) three classic models of doing time do not explain how DSIs cope. The first, doing your own time, means getting through the sentence with as little change to personality as possible. This was particularly difficult for DSIs who suffered inordinate periods of isolation which caused a very real fear of deterioration, more so than for the Lifers in this study. There was limited access to the prison subculture and there was not much chance of doing time without any change to personality. Also, for three reasons, one must consider the meaning of "doing your own time". First, unlike other inmates, DSIs are not doing time as punishment; for them the punishment is death. Second, PDSIs in this study claimed this was impossible because of the inconsistency and constant changes in their daily lives. For NPDSIs, for whom inconsistency was not a problem, time did not mean the same thing as it did for Lifers; it meant hour upon hour of total boredom:

Alan: Time means another day in here. One more day finding something to do, waiting for it to happen. It is hard to attach any real meaning to time."



Finally, time, for both groups of DSIs, brought them closer to execution.

Irwin's jailing model also does not apply to DSIs at USP; limited access to the inmate culture meant they were not able to establish reputations, other than those connected with the offences that had incurred the death penalty. Nor does gleaning apply to DSIs at USP because they had little, if any, access to programming, education, or meaningful work opportunities.

The work of Clemmer and that of Wheeler is also limited because they do not tell us much about inmates who have minimal access to the "folkways, customs, and general culture of the penitentiary" (Clemmer, 1958:299), nor those who are not on a curve; death sentenced inmates and those serving life.

Goffman's (1961) adaptations also fall short of an adequate explanation of how DSIs at USP cope. For instance, one of the DSIs was taken out of the death row programme in 1998 following a suicide bid and was transferred to another section of Uinta One where he lived under an extremely restrictive regime. By 2002 he had started to pull out his eyebrows and eat his own feces and accused officers of putting laxatives in his toothpaste. Although this behaviour could be described as situational withdrawal it could equally be a manifestation of deeper psychological problems. There was nothing in this research to suggest that the other DSIs coped in this way. Intransigence does not explain how DSIs at USP coped. Because of the conditions of their confinement, most DSIs at Utah State Prison have at some time or other challenged the institution. This form of adaptation for PDSIs would, however, in the long run result in reprisal and subsequent loss of privileges. Colonization as a form of adaptation could be applied to several DSIs at USP who had no visits, refused to talk with outsiders and took no part in this research. They were simply doing their time and appeared to have little desire for contact with the outside world but it would be unwise to draw conclusions regarding these DSIs since they were not in the sample. Several DSIs in the study, however, resisted colonization; they set themselves apart from other inmates and the establishment. On several occasions DSIs told me to be careful when interviewing other inmates who they considered to be dangerous. It can be argued that living under the sentence

of death in supermax means there is little option but to resort to conversion. This is particularly so when these inmates are so dependent on staff to provide for them. The PDSIs, however, were considered by most staff members as the most easily managed population in the prison. But this is not necessarily a way of coping because they are anxious to appear well-behaved in order to keep what privileges they have and there was no evidence of them using this form of adaptation as a way of coping. Goffman's work has proved useful in examining life in prison but provides limited understanding of life for DSIs in a supermax facility. Prison literature, therefore, does not adequately explain the coping techniques utilized by DSIs.

This research found that a sense of dignity was very important to the DSIs. A closer understanding of the importance of dignity is included in the work of Todorov (1996). He explains how death camp prisoners sometimes had no other way of retaining dignity other than to go "of one's own accord to a death that others had prepared". This was, of course, epitomized by the voluntary execution of Paul in 1999. We need much more research if we are to fully understand how DSIs cope with life and death and particularly so in the case of another finding of this research, tripping.

### **Tripping**

This technique of coping was described to me at the very beginning of this research and was something all DSIs had engaged in. There is little DSIs can do to escape or lessen the effects of segregative isolation, even where there have been some reforms as in the case of the PDSIs.

The work of Cohen and Taylor (1981) is useful in understanding this coping technique. This work refutes the notion of inmates slotting into describable roles as a way of adapting and so the focus is on how inmates actively structure the meaning of living with the penalty of death in a supermax facility, thereby moving from adaptation to resistance. Cohen and Taylor talk of inmates doing time in their heads and this appears to be what



happens when the DSIs at USP trip; they resist the painful regime of supermax.

Tripping can also be explained in a curiously Foucauldian sense. Although Foucault has been criticized for not explaining resistance my interpretation of his writings leads me to disagree. Under the supermax regime of Uinta One there is little that DSIs can purposefully resist (concrete and steel, remote control sliding doors, cuffs and shackles, the ticking of the clock towards the day of execution); for these men resistance has been "organized out" (Cooper, 1995: 11). But if, as Cooper suggests, we reject the notion of power as a relation of domination and see it instead as "a way of conceptualizing the practices and mechanisms forces deploy in the hope of producing desired effects" we may be able to analyze more accurately what options are left open to inmates living under total control in extreme conditions. Had Foucault studied more closely the nature of resistance, as Garland suggests:

"he might have described the operation of power upon individuals as being less of an 'automatic' process and more a matter of micro-political conflict in which the individual/subject may draw upon alternative sources of power and subjectivity to resist that imposed by the institution" (Garland, 1990:173).

The findings suggest DSIs at USP exercised power in their own "cluster of relations" (Cooper, 1995: 9) by tripping or by opting out of the appeals process. Foucault's docile bodies do not necessarily have docile minds. The work of Foucault, therefore, and the work of Cohen and Taylor is essential if we are to reach a real understanding of how DSIs in supermax facilities cope with life.

Tripping, as a way of coping, is an extremely intriguing area worthy of further research. At the beginning of the research all DSIs tripped as a way of coping but why this should be is not clear. Several variables were considered. There can be no causal relationship between tripping and living with the penalty of death because six Lifers tripped. I wondered if it had anything to do

with boredom but when one of the PDSIs was given permission to have a typewriter for his cell studies cell he stopped. Perhaps this was because his time was occupied in a meaningful way. Yet, a Lifer in minimum security who went to school, had a job, and lived in a dormitory tripped. I wondered whether tripping had anything to do with the number of years in prison, but a Lifer who had been in maximum security for over five years did not trip. Two DSIs who tripped had strong family support thus discounting the relationship between tripping and lack of family visits. Several inmates reported being coached in the art of tripping by others, as did Harris, the new DSI suggesting it is very much a learned technique. These aspects would all make for extremely valuable research, as would research into whether female inmates use the technique of tripping.

### **A Different Death System**

A further finding is that the execution system at USP was, in some regards, similar to death systems in the outside world. For instance, the prison had expectations of how the event would take place and how Paul would behave much in the same way as hospitals, hospices, and suchlike. Paul also had expectations and to some extent they were met; a contact visit with his brother, a walk on grass. The Utah Department of Corrections had policy and procedure regarding executions, and directives were also handed down from administration mandating that the procedure would take place with utmost dignity and sensitivity. The official reason a sedative was offered (and refused) to Paul while on death watch was to help calm the inmate but a cynic might say it was to facilitate the smooth running of the procedure.

There were differences though. The symbols of death in the execution system are far more sensational than in other death systems in society; the lethal injection paraphernalia and the gurney with its restraining straps. Immediately prior to execution Paul was able to choose what he would eat for his last meal. Such is the symbolic significance of the last meal that until



December 2003 the web page for the Texas Department of Corrections detailed final meal requests of DSIs dating from December 1982.

The components also had different meanings. People take on various roles within a system; undertakers, bereaved, and so on., but they were far more contradictory in the execution system. For instance, the correctional profession whose role it was to end life stood in direct contrast to the medical profession whose role it was to preserve life at all costs. This is particularly so when the method of execution is lethal injection and where medical expertise is required. Moreover, prison staff were not expected to take on the role of 'nurse', nor were they trained or expected to do so. Those who adopted a caring attitude did so on a voluntary basis. Essentially, the roles in the execution system exist primarily for the benefit of the state, not the dying.

The place of death within the execution system offered none of the clinical and social comforts of hospitals and hospices. Interestingly, however, just as in some systems those dying in a hospital ward will be moved closer to the nurses' station as death approaches in the execution system as death approached Paul was moved; to the death watch cell in readiness for his walk to the execution chamber.

There was no alternative to open awareness (Seale, 1998) for Paul. In most death systems loved ones may wish to do all they can to prevent the terminally ill person becoming aware of the imminence of death but this was not an option for the Paul who was aware of the precise date and time of his demise; he was served with an announcement in the form of a death warrant. This did, however, give him time to make necessary preparations. Immediately following being given an execution date he gave certain of his few and much valued possessions to fellow-inmates. He also made arrangements for his body to be returned to the place where he grew up and where his family still live.

The execution system stands apart from others in that no other death system is so highly regulated. Although in jurisdictions with high execution rates rehearsals are not necessary, in other jurisdictions an execution procedure is rehearsed with particular attention paid to the finest of details. In all

jurisdictions, however, every action of the condemned is logged during the death watch period and faxed every hour to the warden's office (what the condemned ate, said, who visited, for how long, mood evaluations, medications, and so on.). Also, the execution system is very much a public affair. Paul's execution was witnessed by members of the public and media reporters, and the details together with accounts of his personal life were made publicly available. Another significant difference was that Paul had been deemed unworthy of life by society and could expect few of the comforts afforded to the dying in other death systems, although this research found no deliberate attempts on the part of staff to make the ordeal unnecessarily unpleasant. Indeed, there were efforts made by staff to do whatever they could to ease the suffering for Paul and the other DSIs. Finally, Paul did not die; he was (legally) killed.

Just as the dying are treated differently in the execution system so too are the dead. In Utah the DSI can request his family or friends to claim the body. Where no arrangements are made the deceased is buried in an unmarked grave. In Texas, where there the condemned has made no funeral arrangements the body of the person executed is automatically donated to medical research institutions at no expense for the relatives. The body is taken to a funeral home and from there on it is up to the inmate and his relatives to decide what should be done with the body of the deceased. Burial can take place at the State's cemetery for TDCJ inmates, without a funeral and without cost for the relatives. The standard burial site is a cross with the inmates' TDCJ identification number but a local funeral home will put up a headstone bearing the inmate's name. This "no frills" method of disposing of the body of the executed is in direct contrast to the American pampering of the deceased (Mitford) and serves to illustrate the cold comforts afforded to those who live and die at the hand of the state.



### **Non-violent Prison**

While on a visit to a large high security prison in California my supervisor, Professor Roy King, was required to wear a safety vest such was the fear of violence in that particular prison. Kaufman (1988) notes that nearly all officers in her study reported being concerned with prison violence. She does, however, also make the point that not all prisons are violent; USP was one such prison. Most DSIs at Utah State Prison regarded their keepers as "average guys just doing a job" even though, like most prison inmates, they had problems with particular officers from time to time.

There were similarities here with accounts given by death camp survivors who also claimed that not all officers were unnecessarily cruel; they were simply following orders. The difference being, of course, that staff managing DSIs in the USA are not under direct orders from their superiors to levy cruel punishment and conditions, as were the officers in death camps. It was found that the guards working at USP were not accused by DSIs of cruel behaviour although there were several accounts by PDSIs of staff's attempts to sabotage the death row programme. DSIs and Lifers were, however, reluctant to confide in staff in times of need.

The social structure of the prison must, however, be considered alongside other factors than the job itself, factors which shape the wider community must also be considered (Garland 1990; King and Elliot; 1977). Utah is the hub of the LDS church, one that "has played a role, and continues to play a role, in the economic and social development of the West" (Time Magazine, 1997). This church's strong commitment to strengthening family values and cultivating a supportive community has been well documented both within the Church and without. Members of this church, according to the Presbyterian Rev. Jeffrey Silliman "have a high moral standard on chastity, fidelity, honesty and hard work" (Time Magazine, 1997). As a whole Utah is over 66% LDS, but the percentage of the population belonging to the LDS religion in the county in which USP is located is over 88%. As respondents, staff and inmates, were not asked about their religious affiliation it is difficult

to assess how many belonged to this particular church but it is safe to assume that many did, an assumption supported by impressionistic evidence and personal knowledge of staff over the period of study. There were no incidents of staff on inmate violence during this time, and only one inmate respondent, a Lifer, reported being assaulted by staff an isolated incident that had taken place several years prior to the fieldwork.

Staff at USP did the job for one of two reasons; the health and retirement entitlements, and they liked working with people. No special training was provided for managing this unique population even though it was also found that staff had little, if any, understanding of how the DSIs coped. Fears and stresses related to the job were more to do with managing a section of USP that housed unmanageable inmates than with managing DSIs who the majority agreed were an easily managed population.

It was difficult to make links between the concerns of staff and the management of DSIs because of the different levels of inmates in Uinta One. However, the findings show little understanding of how DSIs cope, and no immediate plans to implement the special training needed to manage this unique population.

### **Human Rights**

The findings also raise two human rights issues. The first is the justification for housing DSIs in supermax which typically is that because the condemned are already under the most severe sanction they have little to lose by demonstrating dangerous and violent behavior. There is little in this research, however, which would substantiate the continuing use of supermax housing for DSIs at USP or the longstanding myth within corrections that they have nothing to lose. These inmates, particularly PDSIs, were considered by staff to be among the best behaved in Utah's prison system. There were no incidents of violence involving a DRI and staff, and few staff respondents had concerns about working with either PDSIs or NPDSIs. This point needs to be considered alongside the fact that the state of Missouri houses a large death



sentenced population within their general prison population with considerable success (Lombardi, 1996). In theory it could be done, at least for the PDSIs at USP. Whether they in housing designed for punitive segregation because of the lack of funds or out of concern that the public would not approve was not clear, but certainly the increasing use of supermax confinement for DSIs is an issue worthy of further research.

Second, these findings suggest that for one DSI at USP death was preferable to life. Voluntary execution is an issue under review by Amnesty International and is certainly worthy of rigorous enquiry. Furthermore, the finding begs the question of which is more humane, execution or the prospect of life in supermax? For Paul, it was execution.

### **Personal conclusions**

One of the most challenging aspects of this research was being the sole custodian of extremely privileged information for such a long period of time. I feel an enormous responsibility to do the right thing by all who have invested time and emotion. The nature of the research topic is an emotionally exhausting. I found that writing this paper resurrected the feelings I somehow managed to file away at the completion of the fieldwork. But beyond a doubt, the most challenging aspect was witnessing the judicial killing of a human being. This is not something I would ever want to do again, but I have absolutely no regrets. I was there. I do not need to rely on second-hand information.

There are methodological issues relating to this research that only arose during the course of the fieldwork. They are probably unique to this research but ones which should be shared with other researchers in order to enrich the existing body of knowledge of prisons research. I have already documented the support given to me by the staff of USP; it was overwhelming. This harmony between staff and researcher, however, does present problems because one is reluctant to ride roughshod over that hospitality when it comes to writing up. I am ethically bound to report what I

found regardless of the possibility of hurting people's feelings and I apologize if I offend anybody.

My relationships with the DSIs were initially a cause for concern. I liked them; each one was polite, articulate, and helpful. They were, however, all convicted of murder, and I wasn't sure how to reconcile the seriousness of their offence(s) with their affable personalities; there was nothing in the research textbooks on this subject. I consulted a very wise friend on this issue, Professor Ed Firmage, of the University of Utah's Law School. He said that although I did not have to like what they had done in the past, or what they might do in the future, it was perfectly alright for me to like these men for a particular moment in time. This was an invaluable piece of advice.

I was faced with a monumental dilemma during 1999 when Paul asked me to witness his execution. On the one hand, as a researcher, this would give me a unique opportunity to witness what the death penalty is about and would provide me with first-hand experience of the execution protocol. On the other hand, however, as an opponent of capital punishment I did not know if I had the emotional stamina required to cope with the ordeal. I had never seen anyone die, let alone be executed, and quite frankly the prospect terrified me. After lengthy (and sometimes heated) discussions with my family a compromise was reached; it was agreed that I would tell Paul that I would be his witness, but that I would also explain to him that I reserved the right to change my mind at any stage during the proceedings if it became too distressing for me to deal with. No research is worth jeopardizing one's health for.

A second dilemma emerged after witnessing, on several occasions, Paul's struggle in court for the right to withdraw from the appeals process. I am opposed to capital punishment yet I was happy for him when he was finally given permission to do so. Although there is no getting around the cold fact that capital punishment is judicial killing, I told myself that this was, for Paul, a form of euthanasia which would end his suffering. A few days prior to the execution I asked Paul what he would do if he were offered a reduction in



his sentence to one of life without parole. He said he would refuse because he could think of nothing worse than his life continuing the way it had for the past eleven years. I had to agree with him and I think I would have made the same choice. So where does that leave me? Am I saying that life without parole is less humane than the death penalty? There are people so dangerous that we need to remove them indefinitely from society, but what do we do with them? This research has caused me to question my own beliefs, something else formal research training had not prepared me for.

Very few researchers will face the extreme ordeal of witnessing an execution but I think there comes a time in most research when one cannot turn a blind eye, even if this means our beliefs are challenged, even if this means we must witness the ugly side of justice. Clearly there was a risk that I would be affected by the ordeal. Checking my bags in at Salt Lake City airport on my return to the UK the airline clerk asked me if I had had a good vacation. It was at this point that the full impact of recent events finally hit me and I journeyed home in a very emotional state. There are aspects of this research I will never forget and nor should I, but I doubt I will suffer any long-term adverse effects. Although I have no desire to do so again I have no regrets about witnessing this execution and the events surrounding it.

### **Conclusion**

Although the death penalty has always been a sanction at some time, in some place throughout history there is a trend towards total abolition. Abolition of the death penalty, however, is not on the horizon on the USA. As discussed in the opening chapter the USA resists abolition and continues to side with seven nations who have little regard for human rights.

The development of capital punishment can be charted as moving from barbaric rituals to the modern sanitized process. However, we must be wary of equating modernity with progress (Foucault, 1977). Modern punishment no longer targets the body. The mind, as the target of punishment, suffers the

death row phenomenon, yet paradoxically it is also the mind that provides a source of relief. The capacity to do time and cope in the mind, tripping, takes the condemned out of the prison, a technique which has to be learnt and perfected. The other way out of prison is voluntary execution which also requires great strength of mind. In either case it is astonishing how the DSIs at USP found the strength to cope with life and death in supermax.



# Appendix 1: Death Row Race, 2002

Jurisdiction	DR population 2002					
	White	Black	Hispanic	Native American	Asian	
Alabama	194	101	90	2		
<b>Arizona</b>	<b>122</b>	<b>87</b>	<b>14</b>	<b>17</b>		<b>1</b>
Arkansas	42	16	25	1	3	1
<b>California</b>	<b>616</b>	<b>246</b>	<b>219</b>	<b>120</b>	<b>14</b>	<b>17</b>
Colorado	5	1	2	1	0	1
<b>Connecticut</b>	<b>7</b>	<b>3</b>	<b>3</b>	<b>1</b>	<b>0</b>	<b>1</b>
Delaware	19	9	8	2	0	0
<b>Florida</b>	<b>382</b>	<b>213</b>	<b>314</b>	<b>33</b>	<b>1</b>	<b>1</b>
Georgia	118	57	58	2	0	1
<b>Idaho</b>	<b>22</b>	<b>22</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>1</b>
Illinois	176	55	111	10	0	0
<b>Indiana</b>	<b>41</b>	<b>28</b>	<b>13</b>	<b>0</b>	<b>0</b>	<b>0</b>
Kansas	6	4	2	0	0	0
<b>Kentucky</b>	<b>39</b>	<b>29</b>	<b>9</b>	<b>1</b>	<b>0</b>	<b>0</b>
Louisiana	97	27	67	2	0	1
<b>Maryland</b>	<b>15</b>	<b>5</b>	<b>10</b>	<b>0</b>	<b>0</b>	<b>0</b>
Mississippi	69	30	38	0	0	0
<b>Missouri</b>	<b>70</b>	<b>39</b>	<b>31</b>	<b>0</b>	<b>0</b>	<b>1</b>
Montana	6	6	0	0	0	0
<b>Nebraska</b>	<b>7</b>	<b>5</b>	<b>1</b>	<b>1</b>	<b>0</b>	<b>0</b>
Nevada	86	40	36	9	0	0
<b>New Jersey</b>	<b>15</b>	<b>9</b>	<b>6</b>	<b>0</b>	<b>0</b>	<b>1</b>
New Mexico	3	2	0	1	0	0
<b>New York</b>	<b>5</b>	<b>3</b>	<b>1</b>	<b>1</b>	<b>0</b>	<b>0</b>
North Carolina	217	81	120	5	9	2
<b>Ohio</b>	<b>207</b>	<b>96</b>	<b>105</b>	<b>2</b>	<b>2</b>	<b>2</b>
Oklahoma	116	62	42	4	7	1
<b>Oregon</b>	<b>29</b>	<b>25</b>	<b>1</b>	<b>2</b>	<b>1</b>	<b>0</b>
Pennsylvania	244	74	153	15	0	2
<b>South Carolina</b>	<b>77</b>	<b>42</b>	<b>35</b>	<b>0</b>	<b>0</b>	<b>0</b>
South Dakota	5	5	0	0	0	0
<b>Tennessee</b>	<b>106</b>	<b>61</b>	<b>40</b>	<b>1</b>	<b>2</b>	<b>2</b>
Texas	454	148	188	113	0	5
<b>Utah</b>	<b>11</b>	<b>6</b>	<b>2</b>	<b>2</b>	<b>1</b>	<b>0</b>
Virginia	25	15	10	0	0	0
<b>Washington</b>	<b>13</b>	<b>8</b>	<b>5</b>	<b>0</b>	<b>0</b>	<b>0</b>
Wyoming	2	2	0	0	0	0
<b>Federal Bureau of Prisons</b>	<b>26</b>	<b>0</b>	<b>18</b>	<b>2</b>	<b>0</b>	<b>0</b>
US Military	7	1	5	0	0	0
( <a href="http://www.deathpenaltyinfo">http://www.deathpenaltyinfo</a> )						1



## Appendix 2: Executions Per Capita

	Population 2000 (x 10,000)	Total # of Executions (as of 8/11/03)	Rate per 10,000 population
<b>Oklahoma</b>	<b>345.1</b>	<b>69</b>	<b>0.2</b>
Delaware	78.4	13	0.166
<b>Texas</b>	<b>2085.1</b>	<b>309</b>	<b>0.148</b>
Virginia	707.9	89	0.126
<b>Missouri</b>	<b>559.5</b>	<b>60</b>	<b>0.107</b>
Arkansas	267.4	25	0.093
<b>South Carolina</b>	<b>401.2</b>	<b>28</b>	<b>0.07</b>
Alabama	444.7	28	0.063
<b>Louisiana</b>	<b>446.9</b>	<b>27</b>	<b>0.06</b>
Nevada	199.8	9	0.045
<b>Arizona</b>	<b>513.1</b>	<b>22</b>	<b>0.043</b>
Georgia	818.6	33	0.04
<b>Florida</b>	<b>1598.2</b>	<b>56</b>	<b>0.035</b>
North Carolina	804.9	23	0.029
<b>Utah</b>	<b>223.3</b>	<b>6</b>	<b>0.027</b>
Montana	90.2	2	0.022
<b>Mississippi</b>	<b>284.5</b>	<b>6</b>	<b>0.021</b>
Wyoming	49.4	1	0.02
<b>Indiana</b>	<b>608</b>	<b>11</b>	<b>0.018</b>
Nebraska	171.1	3	0.018
<b>Illinois</b>	<b>1241.9</b>	<b>12</b>	<b>0.01</b>
Idaho	129.4	1	0.008
<b>Ohio</b>	<b>1135.3</b>	<b>8</b>	<b>0.007</b>
Washington	589.4	4	0.007
<b>Maryland</b>	<b>529.6</b>	<b>3</b>	<b>0.006</b>
Oregon	342.1	2	0.006
<b>Kentucky</b>	<b>404.2</b>	<b>2</b>	<b>0.005</b>
New Mexico	181.9	1	0.005
<b>California</b>	<b>3387.2</b>	<b>10</b>	<b>0.003</b>
Pennsylvania	1228.1	3	0.002
<b>Tennessee</b>	<b>568.9</b>	<b>1</b>	<b>0.002</b>
Colorado	430.1	1	0.002
<b>Connecticut</b>	<b>340.6</b>	<b>0</b>	<b>0</b>
Kansas	268.8	0	0
<b>New Hampshire</b>	<b>123.6</b>	<b>0</b>	<b>0</b>
New Jersey	841.4	0	0
<b>New York</b>	<b>1897.6</b>	<b>0</b>	<b>0</b>
South Dakota	75.5	0	0

(<http://www.deathpenaltyinfo>)



### Appendix 3: Authorized Executions by State

State	Authorized Method of Execution
Alabama	Effective 7/1/02, lethal injection will be administered unless the inmate requests electrocution.
Arizona	Authorizes lethal injection for persons sentenced after 11/15/92; those sentenced before that date may select lethal injection or lethal gas.
Arkansas	Authorizes lethal injection for persons committing a capital offense after 7/4/83; those who committed the offense before that date may select lethal injection or electrocution.
California	Provides that lethal injection be administered unless the inmate requests lethal gas.
Colorado	Lethal injection is the sole method.
Connecticut	Lethal injection is the sole method.
Delaware	Lethal Injection is the sole method. Hanging was an alternative for those whose offense occurred prior to 6/13/86, but as of July 2003 no inmates on death row were eligible to choose this alternative and Delaware dismantled its gallows.
Florida	Allows prisoners to choose between lethal injection and electrocution
Georgia	Lethal injection is the sole method. (On October 5, 2001, the Georgia Supreme Court held that the electric chair was cruel and unusual punishment and struck down the state's use of the method)
Idaho	Authorizes firing squad only if lethal injection is "impractical".



## Appendix 4: Death Row Units and Supermax

State	DR Population Jan, 2003	Specific DR Unit(s)	Supermax
Alabama	194	Yes	Yes
Arizona	122	Yes	
Arkansas	42	Yes	
California	616	Yes	
Colorado	5	No	Yes
Connecticut	7	Yes	
Delaware	19	No	
Florida	382	Yes	Yes
Georgia	118	No	
Idaho	22	Yes	Yes
Illinois	176	Yes	
Indiana	41	Yes	
Kansas	6	No	
Kentucky	39	Yes	
Louisiana	97	Yes	
Maryland	15	Yes	Yes
Mississippi	69	Yes	
Missouri	70	No	No
Montana	6	No	
Nebraska	7	Yes	
Nevada	86	Yes	Yes
New Jersey	15	Yes	
New Mexico	3	Yes	
New York	5	Yes	
North Carolina	217	Yes	
Ohio	207	Yes	
Oklahoma	116	Yes	
Oregon	29	Yes	
Pennsylvania	244	Yes	Yes
South Carolina	77	Yes	
South Dakota	5	Yes	
Tennessee	106	Yes	
Texas	454	Yes	Yes
Utah	11	Yes	Yes
Virginia	25	Yes	
Washington	13	Yes	
Wyoming	2	Yes	
Federal Bureau of Prisons	26	Yes	Yes
US Military	7		



## Appendix 5: Out of Cell Time

State	DR Population Jan, 2003	Out of Cell Time
Alabama	194	Under 1 hr
Arizona	122	1 hr, 3 per week
Arkansas	42	3+ hrs per week
California	616	Maximum of 6 hrs, 7 days a week depending on inmate
Colorado	5	1 hr
Connecticut	7	1 hr outside rec; 1 hr in evening
Delaware	19	1 hr
Florida	382	Twice weekly for 2 hrs
Georgia	118	No information
Idaho	22	1 hr
Illinois	176	Varies from 1 to 3 hrs
Indiana	41	3 or more hrs
Kansas	6	1 hr
Kentucky	39	1 hr but can vary
Louisiana	97	1 hr
Maryland	15	3 or more hrs
Mississippi	69	1 hr
Missouri	70	3 or more hrs
Montana	6	1 hr

State	DR Population Jan, 2003	Out of Cell Time
Nebraska	7	2 hrs
Nevada	86	3 or more hrs
New Jersey	15	2 hrs every other day
New Mexico	3	Varies depending on inmate
New York	5	1 hr
North Carolina	217	3 or more hrs
Ohio	207	1 hr
Oklahoma	116	1 hr, five days a week
Oregon	29	2 hrs
Pennsylvania	244	1 hr, five days a week
South Carolina	77	1 hr
South Dakota	5	45 mins per weekday
Tennessee	106	Varies depending on inmate
Texas	454	Varies depending on inmate
Utah	11	Varies depending on inmate
Virginia	25	No information
Washington	13	1 hr
Wyoming	2	1 hr 15 mins
Federal Bureau of Prisons	26	2 or more hrs



## Appendix 6: Programmes and Legal Assistance

State	Work	Education	Recreation	Legal Assistance
<b>Alabama</b>	Unavailable	No	Outside yard, inside dayroom, TV, radio	Library; outside attorneys
<b>Arizona</b>	Correspondence; insitutional TV	No	Inside concrete pen	Outside attorneys; contract paralegal
<b>Arkansas</b>	Available upon request and approval	2 hr shifts, if approved	Outside yard, 12 hours per week in 2 hr increments	Law library; outside attorneys
<b>California</b>	Correspondence; outside college courses offered by satellite	No	Outside yard, inside dayroom, TV, radios, chess, cards, board games, basketball, no free weights	Law library; outside attorneys; "pocket law libraries in two facilities
<b>Colorado</b>	Regular classes; individual tutoring; GED preparation; ESL; post high school classes	May apply as barbers or janitors in their pods	Exercise yard; TV	Law library (without physical access); outside attorneys; inmate legal counsel
<b>Connecticut</b>	Correspondence; or via assigned teacher	Cleaning details; barbers	Exercise yard; inside dayroom; TV; radios	Outside attorneys; inmate legal counsel; loose collection of legal books
<b>Delaware</b>	None	No	Outside yard; inside dayroom; radios	Law library; outside attorneys
<b>Florida</b>	None	No	No response	Law library; outside attorneys



State	Work	Education	Recreation	Legal Assistance
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<b>Georgia</b>	No response	No response	Outside yard; TV	No response
<b>Idaho</b>	TV programming	No	No response	Outside attorneys; paralegals
<b>Illinois</b>	Correspondence	No	Outside yard; inside dayroom; TV and radio (if purchased from commissary)	Law library; outside attorneys; inmate legal counsel; inmate law clerk
<b>Indiana</b>	Correspondence	For limited number	Outside yard; inside dayroom; TV; radio	Law library; outside attorneys; inmate legal counsel
<b>Kansas</b>	Individual tutoring; GED preparation	No	Outside yard; inside dayroom; TV; radio	Law library; outside attorneys; inmate legal counsel; Legal Services for Prisoners, Inc
<b>Kentucky</b>	Correspondence	Yes, but jobs cannot interact with general population	Outside yard; TV; radio; hobby craft; books; phone	Law library; outside attorneys; inmate legal counsel
<b>Louisiana</b>	Correspondence; literacy course with staff supervision	No	Outside yard; TV; radio	Law library; outside attorneys; inmate legal counsel
<b>Maryland</b>	Correspondence	Barbers and sanitation	Outside yard; radio; tier time; TV time outside cells	General library; outside attorneys; inmate legal counsel; Maryland law on CDROM; dayroom computer; librarian visits daily. LASI, PSIM
<b>Mississippi</b>	Correspondence	No	Outside yard; inside dayroom, including TV and VCR, board games and cards; TV; radio	Outside attorneys



State	Work	Education	Recreation	Legal Assistance
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<b>Missouri</b>	Regular classes; correspondence; individual tutoring	Yes	TV; radios	Law library; outside attorneys; inmate legal counsel
<b>Montana</b>	<i>Self-study</i>	<i>In the school</i>	<i>Outside yard; inside dayroom; TV; radio</i>	<i>Law library; outside attorneys</i>
<b>Nebraska</b>	Correspondence; individual tutoring	Porter duties on a rotating basis	Outside yard; inside dayroom; TV; radio (all depending on behavior)	Law library; outside attorneys; inmate legal counsel; university law school
<b>Nevada</b>	<i>Correspondence</i>	No	<i>Outside yard; inside dayroom; TV; radio; books, magazines, newspapers</i>	<i>Law library; outside attorneys</i>
<b>New Jersey</b>	Individual tutoring	No	Outside yard; inside dayroom; TV; radio	Outside attorneys; inmate legal counsel
<b>New Mexico</b>	<i>Regular classes via ETV; correspondence; individual tutoring</i>	<i>Unit porters</i>	<i>Outside yard; inside dayroom; TV; radio; word processor</i>	<i>Law library; outside attorneys; inmate legal counsel</i>
<b>New York</b>	In-cell study	No	Outside yard; TV; radio	Law library; outside attorneys
<b>North Carolina</b>	<i>Correspondence, at inmate's expense</i>	No	<i>Outside yard; TV on the unit</i>	<i>Outside attorneys; inmate legal counsel</i>
<b>Ohio</b>	Correspondence; individual tutoring	May apply for unit jobs on a 6-month rotating basis	Outside yard; inside dayroom with TV; radio	Law library; outside attorneys



State	Work	Education	Recreation	Legal Assistance
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Oklahoma	Correspondence; material provided for self-study; GED preparation	No	Outside yard; inside dayroom; TV; radio	Law library; outside attorneys
Oregon	Materials for self-study if requested	Custodial on tier	Outside yard/inside dayroom (females); exercise yard for men inside a building with mesh screen on top for openness; TV; radio	Law library; outside attorneys; inmate legal counsel
Pennsylvania	Basic literacy; post-secondary opportunities at inmate's expense; ABE; GED prep. ; self-study program	Yes, but restricted to special housing unit	Outside yard; TV; radio; open area on tier with tables	Law library, with inter-library loan services; inmate legal counsel
South Carolina	Unavailable	No	Outside yard; inside dayroom; TV; radio	Law library; outside attorneys
South Dakota	None	No	Outside yard; TV (if incarcerated pre-1995)	Outside attorneys; inmate legal counsel
Tennessee	Maximum security level would require individual tutoring	Level A inmates have first choice, primarily custodial; 20 are assigned to prison industries doing data entry	Outside yard; TV; radio	Law library; outside attorneys; inmate legal counsel
Texas	None	Garment factory; SSI orderlies or clerks; barbers (but all jobs currently suspended)	Outside yard; inside dayroom; TV; radio	Law library; outside attorneys; inmate legal counsel
Utah	Correspondence	Pending	Outside yard; inside dayroom	Outside attorneys
Virginia	Unavailable	Unavailable	Outside yard; inside dayroom; TV (for some); radio	Law library; outside attorneys



State	Work	Education	Recreation	Legal Assistance
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<b>Washington</b>	Correspondence	Special housing units and possibility of stamping return address on envelopes	Unavailable	Law library; outside attorneys; inmate legal counsel
<b>Wyoming</b>	<i>Regular classes; correspondence</i>	No	<i>Outside yard; inside dayroom; TV and radio (earned privileges)</i>	<i>Law library; outside attorneys</i>
<b>Federal Bureau of Prisons</b>	Closed-circuit TV for educational programming	Phases I and II programs offering opportunities such as laundry orderlies and sewing machine operators	Outside yard; TV; radio	Law library; outside attorneys; inmate legal counsel
<b>US Military</b>			<i>Outside yard; TV; radio; inside recreation</i>	



## Appendix 7: Visiting Policies

State	DR Population Jan, 2003	Visits per week	Length of visit	Type of visit
<b>Alabama</b>	194	1	6	<b>Contact</b>
Arizona	122	Up to 5	2 unless special	Noncontact
<b>Arkansas</b>	42	1	3	<b>Contact, depending on inmate</b>
California	616	4	Varies by space available and number of visitors at a given time	Grade "A" inmates, contact, Grade "B", noncontact
<b>Colorado</b>	5	1	4	<b>Noncontact</b>
Connecticut	"	3	1	Contact for legal; noncontact for social
<b>Delaware</b>	19	1	1	<b>Noncontact</b>
Florida	382	Socially on weekends	6	Depending on inmate
<b>Georgia</b>	118			
Idaho	22			Noncontact
<b>Illinois</b>	176	2	2, if space available, or 1 if segregation status	<b>Depending on inmate</b>
Indiana	41	No limit	2-4, if space available	Contact
<b>Kansas</b>	6	1.5	3.5 mornings and 2.5 afternoons	<b>Noncontact</b>
Kentucky	39	1	6	Contact



**DR**  
**Population**  
**Jan, 2003**

State	Population Jan, 2003	Visits per week	Length of visit	Type of visit
<b>Louisiana</b>	97	2 per visitor per month; 10 visitors on list per inmate	4-Feb	Depending on inmate
Maryland	15	8 per month	30 minutes	Noncontact
<b>Mississippi</b>	69	1	1	Noncontact
Missouri	70	20	7	Contact
<b>Montana</b>	6	5		Noncontact
Nebraska	7	2	2.8	Depending on inmate
<b>Nevada</b>	86	2	6	Contact
New Jersey	15	2	1	Noncontact
<b>New Mexico</b>	3	Unlimited	2	Depending on inmate
New York	5	1	Several hours	Contact
<b>North Carolina</b>	217			Noncontact
Ohio	207	3; 5 maximum per month	3	Noncontact
<b>Oklahoma</b>	116	8 per month and state holidays	2	Noncontact
Oregon	29	2 on weekends	2 2hr family visits	Noncontact
<b>Pennsylvania</b>	244	1	1 hr, unless extended to 2 hrs with approval	Noncontact
South Carolina	77	First come first served	2	Noncontact



State	DR Population Jan, 2003	Visits per week	Length of visit	Type of visit
<b>South Dakota</b>	5	2	<i>Varies</i>	<b>Noncontact</b>
Tennessee	106	2	1-3 hrs	Depending on inmate
<b>Texas</b>	<b>454</b>	<i>Varies based on classification</i>	<b>2</b>	<b>Noncontact</b>
Utah	11	1	1.5	Noncontact
<b>Virginia</b>	<b>25</b>			
Washington	13	2	2 approximately	Noncontact
<b>Wyoming</b>		<b>1</b>	<b>2</b>	<b>Noncontact</b>
Federal Bureau of Prisons	26	2 plus legal	2 for social	Noncontact for social, may be contact for legal
<b>US Military</b>	<b>7</b>			

**Appendix 8: Inmate Respondent Request**

**TO:**

**FROM:**

**DATE:**

**Re: PhD Research: Living on Death Row at Utah State Prison**

I will be here at the prison, from the University of Wales, Bangor, UK, conducting fieldwork for my PhD in Criminology. My work is non-political and is funded by the Economic and Social Research Council in the United Kingdom.

I would be grateful if you would agree to meet with me to discuss the above issue. I will not be discussing the offence(s) that brought you to prison. Anything you tell me will be regarded as privileged and valuable information and will be treated with utmost respect and confidentiality. The only exception to the guarantee of confidentiality would be if you were to tell me about your specific intent to harm yourself or others, or to commit a future crime.

---

**YES, I agree to help with the research**

Signed .....

Dated .....

---

**NO, I do not wish to take part in the research**

Signed .....

Dated .....



## **Appendix 9: Inmate Topic Guide**

**July 1997**

- 1. DOB**
- 2. Age when first imprisoned:**
- 3. Age when sentenced to DP:**
- 4. Total years in prison:**
- 5. Tripping:**
- 6. Years tripping:**
- 7. Begin tripping:**
- 8. Conform:**
- 9. Rebel:**
- 10. Most sig way of coping:**
- 11. Most painful aspect of confinement:**
- 12. Appeals:**
- 13. Think will ever be reprieved:**
- 14. Why do you think you should have the opportunity to lead a more meaningful life:**
- 15. Human contact:**

## Appendix 10: DSI Respondent Validation

### MEMO

**To:** Inmate's Name  
**From:** Sandy McGunigall  
**Date:** 16 February 1999

**Re: Interview Notes – PhD research**

Thanks for taking the time to talk with me last week.

I am sure you appreciate how difficult it is to take accurate and precise notes during a lengthy conversation but, as you know, it is very important to me that these notes are an accurate reflection of your thoughts and feelings. Therefore, please feel free to make any amendments and/or additions to the enclosed notes. If you bring your copy with you to our next meeting we can then go through them in an effort to get a true picture of how you manage your time in prison

I look forward to meeting with you again soon.



## **Appendix 11: Staff Respondent Request**

**TO:** Uinta 1 Officers  
**FROM:** Sandy McGunigall  
**DATE:** 1 April 1999

### **PHD Research – University of Wales, Bangor, United Kingdom**

I am here from the United Kingdom to carry out research which arises out of an undergraduate dissertation completed last year and which involved interviewing officers and six of the eleven men on death row at Utah State Prison during the summer of 1997. I will be here in Utah for the next 6 months and plan to interview inmates and officers at considerable length about their experiences working and living on death row.

I am wondering whether you would be kind enough to discuss your experiences with me. This is a piece of academic research and your input will be used for that purpose alone. Anything you tell me will be regarded as privileged and valuable information and will be treated with utmost respect and confidentiality.

I hope to meet with you soon.

**YES** I agree to help you with your research

Signed \_\_\_\_\_

Date \_\_\_\_\_

---

**NO** I do not wish to take part in the research

Signed \_\_\_\_\_

Date \_\_\_\_\_



## **Appendix 12: Staff Respondent Validation**

### **MEMO**

**From: Sandy McGunigall**

**Date: April 2 1999**

**Re: Interview Notes – PhD research**

Prison research has never been an easy job and relies very much on the cooperation of the officers and so I'd like to thank you very much for taking the time to speak with me.

Here is a transcript of the interview. Please make any amendments you feel necessary, as it is important to me that this is a true reflection of your feelings and ideas.

Again, thanks for your time.

## **Appendix 13: Inmate Topic Guide 2001**

1. What sentence did the Court pass on you?
2. What was the offence you were found guilty of?
3. When did you begin this sentence?
4. How much time have you served of your sentence?
5. Do you think you will ever be released from prison?
6. What are your reasons for thinking this?
7. How has this sentence affected you?
8. What is the state of your physical health?
9. What is the state of your mental health?
10. Which facilities have you been housed in since the beginning of this sentence?
11. Please describe a typical day
12. How much out of cell time do you have?
13. Where do you eat your meals?
14. How do you feel about double-bunking
15. What are your privileges regarding:
  1. Commissary
  2. Visiting
  3. Recreation
  4. Library facilities
  5. Educational opportunities
  6. Work opportunities
16. What do you most look forward to?



17. What do you least look forward to?
18. What is the most painful aspect of your confinement?
19. Do you have a particular coping technique?
20. Do you trip, and if so:
  1. When did you start this?
  2. What facilities did you do this in?
  3. What conditions do you need to do this in?
  4. Describe a trip for me
21. What are your views on line staff?
22. What are your views on sergeants, lieutenants, captains?
23. What are your views on the higher ranks including administration?
24. Do you have support on the outside?
25. Are you suicidal?
26. You angry? If so, with whom?
27. Are you resentful?
28. Are you vengeful?
29. Do you write letters? How often? How satisfactory?
30. Do you make phone calls? How often? How satisfactory?
31. How old are you?
32. What was your occupation and/or educational level before coming to prison?
33. Do you ever wish you had the death penalty?
34. How old were you when you first came to prison?

35. How will you get through the rest of your life here?
36. Do you feel you are living under a master status ie "killer"?
37. Do you know of any other inmates serving life who would be willing to talk with me?
38. How many write-ups have you had?
39. Have you ever assaulted another inmate or officer?



## **Appendix 14: Inmate Topic Guide 2001, Supplement**

1. Tell me about your job.
2. What does time mean to you?
3. Is it possible or desirable to have a routine?
4. Do you sleep well?
5. Do you want time to pass quickly?
6. Why?
7. Are visits important to you?
8. Is it easier to do time without family/friends commitments?
9. Should you be considered dangerous?
10. Which facility was the best for you?
11. Why?
12. Worst?
13. Why?
14. Do you have TV/radio
15. What do you think of the food here?
16. Do you feel you are being watched?
17. How long into your sentence did it take before you settled?
18. How does it affect you when people around you are about to be released?
19. Would you prefer not to be around these people?
20. What changes would you like to see in the way you live here?

## **Appendix 15: Lifer Respondent Validation**

### **MEMO**

**To:** Inmate's Name  
**From:** Sandy McGunigall  
**Date:**

**Re: PhD research**

Here is a transcript of our recent conversation.

Please read this through carefully and make any amendments you feel necessary. Remember, it is extremely important that this is a true reflection of some of your thoughts.

I will make arrangements to see you again at which time we can discuss any changes you may wish to make.

Thank you for assisting in my research



## **Appendix 16: Officer Topic Guide 2001**

### **Death row inmates:**

1. Do you, or have you ever worked with inmates under the sentence of death?
2. How long did you do this for?
3. Did you feel safe?
4. If not, why not?
5. What was the most enjoyable aspect of this work?
6. What was the least enjoyable aspect of this work?
7. Can you give me your views on death row inmates?
8. How does managing this population compare with managing other inmates?
9. How do you think they cope with the seriousness of their sentence?
10. Do you think the system does enough for these inmates?
11. Do you think the system does too much for these inmates?
12. What changes would you like to see?

### **Life without release inmates:**

13. Do you, or have you ever worked with inmates who are unlikely ever to be released from prison?
14. How long did you do this for?
15. Did you feel safe?
16. If not, why not?
17. What was the most enjoyable aspect of this work?
18. What was the least enjoyable aspect of this work?
19. Can you give me views on inmates who may never be released from prison?
20. How does managing this population compare with managing other inmates?
21. How do you think they cope with the seriousness of their sentence?
22. Do you think the system does enough for these inmates?

23. Do you think the system does too much for these inmates?

24. What changes would you like to see?

**General questions:**

25. How old are you?

26. How many years have you served as an officer at USP

27. What is your rank?

28. What was your previous occupation?

29. What is your marital status?

30. What is your race?

31. Have you ever been assaulted by an inmate?

32. Have you ever been seriously threatened by an inmate

33. Has your health, either mental or physical, ever suffered as an effect of being a prison officer?

34. What do you enjoy most about your job?

35. What is your biggest fear or concern?

36. Why do you do this job?

37. Do family members/friends have concerns concerning your job?

38. Have you ever take part in an execution?

39. If so, please describe your role?

40. How did this affect you?

41. Would you be prepared to take part in an execution (again)?

42. Do you agree with the death penalty?

43. Which do you think is the more humane sentence, the death penalty or life without parole?

44. Have you received any special training, apart from regular pre-service training?

45. Are you content with pay and conditions? Please give details.

46. Do you feel you have the support of your fellow and supervising officers?

47. Have you noticed a change in the nature of the inmate population over time?



## **Appendix 17: Memo from Captain to Staff of Uinta One Outlining his Expectations**

“On August 16, 1999, Inmate BLANK was issued a death warrant. The date of execution is tentatively scheduled for October 15, 1999. It is with the sincerest intent and desire of staff’s mental and physical well being that I author this directive and letter of instruction.

There are two areas of concern that we must focus our energies upon. First, the physical functions of the Uinta One facility. This would include the appearance of Uinta One from a stand point of cleanliness and order. During the upcoming weeks the inspection of this facility will be conducted by DOC administration, state officials and dignitaries, state and federal judges, news media and other guests. Therefore, it is my expectation that this building will be presented in the best possible light and appearance. This would include everything from staff uniform to the janitor closet. All areas are to be clean and orderly. We will be given only one time to present a positive first impression of our professionalism and pride. It needs to be out best. This effort will require the individual and combined efforts of many to demonstrate our professional pride, effectiveness, teamwork and cooperation.

The second area we will focus upon is the operational function of the Uinta One facility. This area alone will be the most profound and difficult to achieve. The Department of Corrections is commissioned to carry out the order of the state and in this case it is the execution of human life. No other state agency is required to perform such an assignment. We as a single individual and as a collective group must take this assignment as our finest hour. Furthermore, this finest hour must be looked upon with reverence, humility and respect. Nothing less will do. Nothing less will be tolerated. As per your usual professionalism and dedication, it is expected that for the next several weeks our operational functions be heightened. The verbal and non-verbal communications must be beyond reproach. Slang, joking, horse playing, or inappropriate comments regarding death or execution will not be tolerated.

In conclusion, it is my expectation that we as Uinta One will carry out this assignment with the utmost dignity and sensitivity. Should you have any questions and/or concerns please feel free to contact me directly or access your chain of command.”

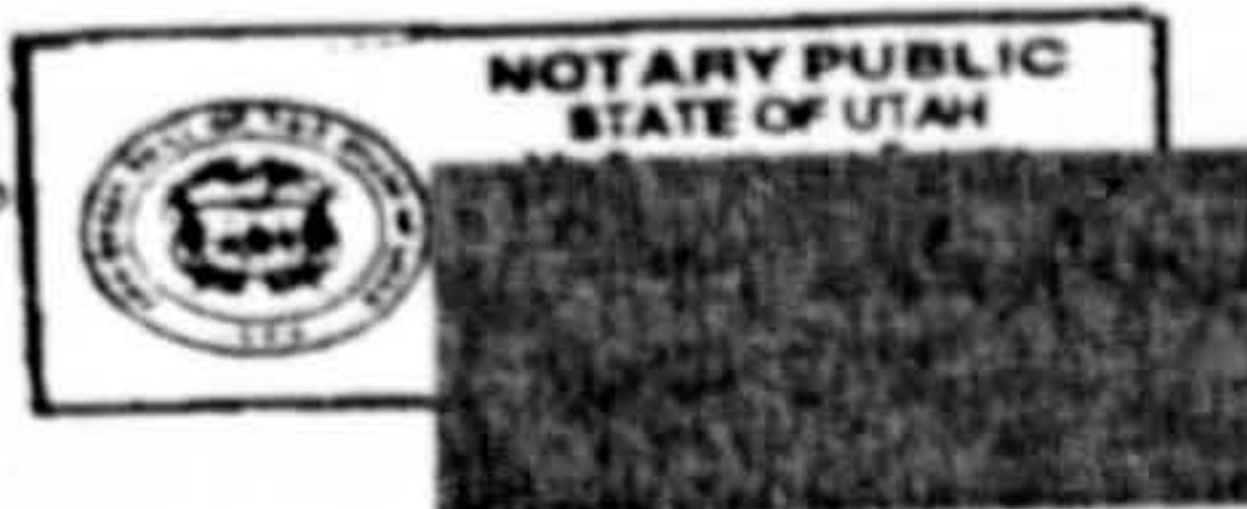
Appendix 18: Paul's Last Requests

To [REDACTED]  
From [REDACTED] Uintah I (101)  
SUBJECT: MY LAST REQUESTS & WISHES

- #1. My first request is for you to be my liaison between the prison administration and me.
- #2. A couple of contact visits with my brother.
- #3. To be able to walk on the grass.
- #4. To be able to go over to the Wasatch facility gym to play basketball, video games, pool and ping pong with my friend [REDACTED] for 4 to 6 hours.
- #5. To be taken over to Uintah 3 (48) hours before my execution for the reason of visiting with my brother for two days and also so a T.V. and VCR, maybe, set up so I may watch (10) ten movies.
- #6. On the subject of witnesses I would like these names put on the list.
  - #1 SANDY MCGUNIGALL
  - #2 [REDACTED]
  - #3 [REDACTED]
- #7. On the subject of my last meal it consists of:
  - (2) WHOPPERS (BURGER KING)
  - (2) LARGE FRIES
  - (1) CHOCOLATE SHAKE
  - (1) PACK OF GRAPE HUBBA BUBBA BUBBLE GUM
  - (1) PINT OF CHOCOLATE CHOCOLATE CHIP ICE CREAM

These are my last requests and wishes, I appreciate your time and effort on this

[REDACTED]



Sincerely,

[REDACTED]

July 30, 1997



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