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## Breaking Bodies Into Pieces: Time, Torture and Bio-Power

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## **BREAKING BODIES INTO PIECES: TIME, TORTURE AND BIO-POWER**

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**Abstract.** This article is an attempt to comprehend the bureaucratic phenomenon of the deathwatch, the last 24 hours of a prisoner's life, stressing the theoretical applications scholars can make to the study of docile bodies on death row. Because years of work are necessary to obtain obedience from condemned inmates, health care professionals lend more than an aura of legitimacy to the capital punishment process. As an integral part of the prison and capital punishment, they provide stability, reliability, and the means to achieve the goals of peaceful executions. The ultimate objective of utilizing health care professionals is the sanitization of penal practice and penal language to effect the complete absence of resistance from the condemned.

If they were to come to my cell and tell me I was going to be executed tomorrow, I would feel relieved, in a way. The waiting would be over. I would know what to expect. To me, the dying part is easy; it's the waiting and not knowing that's hard....I have reached the point where I no longer really care....They are killing me a little bit each day (Johnson 1998: 198).

Petitioner could long ago have ended his "anxieties and uncertainties" [about serving 27 years on death row] by submitting to what the people of Florida have deemed him to deserve: execution (*Foster v. Florida* 2002).

### **Introduction**

This article is an attempt to comprehend the bureaucratic phenomenon of the deathwatch, the last 24 hours of a prisoner's life, stressing the

theoretical applications scholars can make to the study of docile bodies on death row. The purpose of this article to analyze prisoners' last days and hours on death row through the lens of time control. In particular, we describe how health care professionals are directly involved in the governance of captive prisoners awaiting death through a form of pacification known as pastoral power. In other words, our aim is to avoid a history of capital punishment and instead uncover the micro-political and "capillary" management techniques of everyday life for prisoners both on death row and on the deathwatch.

Although there is some benefit in relying on class analyses to discuss the movement to execute indoors, we prefer to study the execution protocol from the standpoint of an analysis of power and technique through the lens of time control, which we hope will lead to a better understanding of how disciplinary power not only represses bodies but produces knowledge about imprisoned bodies. Time on death row as a bureaucratic phenomenon is under theorized in capital punishment studies. Yet it is important to stress that lengthy delays on death row are more than just inconveniences; time delays serve the state's need to tame resistance. They are an aid to the smooth administration of justice for prison administrators. The United States' execution protocol is an attempt by prison authorities and staff to target captive bodies for complete docility long before they are executed (Johnson 1998; Federman and Holmes 2000; Holmes and Federman 2003).

### **The Condemned Body as a Political Surface**

For Michel Foucault, the problem of population control was the central problem of government during the Enlightenment, as rulers sought less direct means to govern growing populations than through overt demonstrations of pain and punishment. Foucault locates the movement from unconcealed sovereignty to disciplinary administrative techniques within a shift in language as well as a change in institutional structures. These discursive and institutional alterations were more than just adjustments in tactics that began in the 17th century. "At stake is the biological existence of a population" (Foucault 1990: 137). How, then, to justify state-sanctioned death, if life is to be preserved and sanctified?

The new justification for state-sanctioned death rests on the construction of a kind of person who represents a biological danger to society (Curran and Graille 1997). This threat is located directly within the criminal's body and emanates from his behavior, which the Supreme

Court categorizes in capital punishment cases as “heinous, atrocious, and cruel” (*McGautha v. California* 1971; *Bell v. Cone* 2002). Foucault suggests that this turn toward the criminal, his body, and his dangerousness was designed to get potentially unwilling populations to do what the government wanted through a process of normalization and classification of kinds of persons, behaviors, and diseases. What’s created out of this disciplinary mix, Foucault argues, is a docile, willing person, “an inapt body” (Foucault 1995: 135).

Once the body becomes a target for power, Foucault looks to the construction of a discourse that can be used to make the body compliant. Borrowing from pre-Enlightenment religious imagery and language, Foucault defines pastoral power as a form of power that requires a person to serve as a guide for another. The guide is a person of moral influence, who exercises a discreet power over his or her listeners. In its more modern guise, pastoral power replaces the care of the self with a regard for others. Inside the prison, the figure of the captive and the health care worker take the place of the shepherd and the flock, a change in representation complete with state-sanctioned police powers capable of altering the practices of the self (Cichon 1992; *Kansas v. Hendricks* 1997). For Foucault, power is not above but operates within a discourse of rule. Pastoral power “implies a knowledge of the conscience and an ability to direct it” (Foucault 1982: 214). In part an internalization of control, it is also an attempt to “outsource” control to non-governmental subjects (Garland 2001: chap. 7), thereby denying the government any direct supervisory role over prisoners.

An emphasis on pastoral power in prisons points not to the Whiggish ideal of reform-minded institutions that are well intentioned, but to the strategic necessity of disciplining bodies with bureaucratic regulations in order to pacify prisoners for death. With this more nuanced understanding of power and governance, yet one rooted in European history and thought, it is difficult to see the prison solely as “bureaucratic and disciplinary by default, having betrayed its mission of human self-realization to a repressive State or a rapacious economy” (Hunter 1996: 149). Rather, the effects of pastoral power on prisoners and the administration of capital punishment means that we take seriously the role of scientific and bureaucratic discourses that are built into the administration of imprisonment generally and capital punishment in particular. The management of prisoners and the just measures of pain create a language of care that has as its object the formation of a hierarchy and a distance between the governors (who wear medical clothing) and the governed. “The early Christian pastorate provides us

with an image of the exercise of power that is in many ways continuous with certain of our present forms of expertise” (Dean 1999: 75). These forms of expertise not only include but rely on the “psy” disciplines such as nursing, social work, and psychology (Rose and Miller 1992), all of which are active in prisons. These disciplines, because they are scientific and rational, and because they rely on trust based on pedigree and status, help achieve the normalization and pacification of captive individuals and populations (Holmes 2002; Holmes and Gastaldo 2002).

Because years of work are necessary to obtain obedience from condemned inmates, health care professionals lend more than an aura of legitimacy to the capital punishment process. Private physicians who treat prisoners in state-run prisons, as the Supreme Court held in *West v. Atkins* (1988), are state agents, subject to constitutional requirements and restrictions. But more than seeing health care professionals working in prisons as adjuncts to a penal apparatus dedicated to reform, we view health care professionals as serving the function of a modern-day pastorate, guiding, pushing, and pacifying dangerous prisoners to ready themselves for death (*Campbell v. Wood* 1994). As an integral part of the prison and the execution of capital punishment throughout the 20th century, health care professionals provide stability, reliability, and the means to achieve the goals of a peaceful death (Vaughn and Smith 1999; Lifton 2000). One important objective in utilizing health care professionals in prison settings is the “sanitization of penal practice and penal language” (Garland 1990: 235) to effect the complete absence of resistance from the condemned.

How, then, is this process of docility rendered, particularly as overt forms of punishment are no longer practiced in western penitentiaries? Encasing executions within the walls of a prison does more than just protect middle-class society from its sanctions; it renders bodies docile through a process of temporal regulation. We believe that pastoral power and a discursive notion of time, taken together, serve to mortify the captive subjects held within prisons. The regulation of death through time management creates a new language of punishment and obedience. It masks the violence of state-sanctioned punishment by the employment of health care professionals and through scientific and legal discourses that redirect our attention away from the prisoner’s pain and toward punishment (*Francis v. Resweber* 1947; Cover 1986; *Provenzano v. Moore* 1999).

The American reformer Benjamin Rush recognized as early as 1787 that public punishments had no edifying purpose on spectators. Indeed, he thought that public executions provided a space for the criminal to

become infamous, to take advantage of the variety of bodily signals that being in public provides. Public executions, Rush wrote, “destroys in [the convicted] the sense of shame” (Rush 1988: 80). Rush saw that public executions were signs with unstable, multifarious meanings, which no government could control. As Gatrell writes in *The Hanging Tree* (1994: 34), regarding public executions, “Self-parody and the display of courage was one way of dealing with terror. Defiance was another.” Just as the condemned is able to fashion his death as heroic by appearing brave in front of the guillotine, or by crying out his innocence, the crowd at an execution is free to interpret the condemned’s posture as virtue, honor, and strength. Public executions liberate the crowd from state-imposed understandings of guilt and punishment. As he stands on the scaffold, the crowd can understand the prisoner in positive terms, and see the state’s action as pusillanimous, vengeful, and wicked. Move punishment inside, Rush thought, because anarchy of interpretation is just as dangerous as anarchism. But the movement indoors was more than a reaction to crowd behavior. It set off a process of what Goffman calls “the mortification of the self” (Goffman 1961: 21) that is carried out by the nurse, the needle, and time itself. “To kill felons without ceremony and in private was to deny them the only worldly support they could hope for in their last hours” (Gatrell 1994: 37).

Rather than a single, unifying signifier, punishment in practice has always presented itself as open to interpretation. “The art of punishing, then, must rest on a whole technology of representation” (Foucault 1995: 104). For Rush and the early modern penologists, punishment must be understood without any reference to the condemned’s behavior, words, or gestures. The infinite meanings of punishment must be pared down, isolated, made whole, explainable, and imposed by governing elites not the public, forcing on the middle and lower classes the understanding that the state not only does not kill in public, it does not kill – murderers, that is, those who kill in “wantonly vile” and “inhuman” ways do (*Godfrey v. Georgia* 1980: 426). Modern state-sanctioned punishment and death is designed to appear seamless, as though the state was merely transcribing society’s wishes into public policy. More than just representing a change in venues, punishing the criminal indoors signifies a discursive shift in the methodology of punishment.

The movement to execute indoors not only denied prisoners the adulation of crowds, it furthered the bureaucratization and medicalization of execution procedures. Indoor executions are, by design, bureaucratic and medical phenomena that disperse power throughout

the penal system. But the movement indoors did not end resistance; it reduced its occurrence. Why isn't there more resistance? "Where there is power, there is resistance" (Foucault 1990: 95). If power provokes resistance, then we would expect to see resistance on death row. Instead we find the opposite. Resistance, of course, can take multiple forms, such as habeas corpus petitions from death row that allege constitutional violations, or pressure from outside interest groups (Amnesty 2000a; Mumia 2000; *Mexico v. U.S.* 2003), both of which highlight unconstitutional conditions on death row. But both of these forms of resistance increase delays and greatly irritate the justices of the Supreme Court, causing them to say: "It is incongruous to arm capital defendants with an arsenal of 'constitutional' claims with which they may delay their executions, and simultaneously to complain when executions are inevitably delayed" (*Knight v. Florida* 1999). The effect of the Supreme Court's resistance to appeals means that resistance in Foucault's sense of a "radical rupture" has largely been thwarted. The Supreme Court considers successive habeas filings "abuse of the writ," and Congress has strictly controlled the number of petitions death row inmates can file (*Rose v. Lundy* 1982; *Felker v. Turpin* 1996; AEDPA 1996 sec. 2244(d)(1)); Schlanger 2003).

The intervention of medical personnel and technologies of power into prisons has further served to limit resistance by increasing the amount of respect and fear inmates have for prison authorities cloaked in the garb of medical authority (*Estelle v. Gamble* 1976; Baum 2002). It may be that the medicalization of death creates a deeper subjection born, as Foucault says (1990: 202), "mechanically from a fictitious relation. So that it is not necessary to use force to constrain the convict to good behavior...the patient to the observation of the regulations" (Sim 1990; Hornblum 1999; Federman and Holmes 2000). Furthermore, for resistance to be silenced, power must reach the very grain of the condemned, rendering prisoners docile and obedient through the use of time and the care of the soul. Far above laws and disciplinary technologies, power needs to operate in-depth by combining the use of time as an instrument of control and the deployment of pastoral power to those dependent on prison personnel.

### **Time in the Execution Protocol**

Although time is not the "missing link" in the study of capital punishment, we do mean to make it more central to death penalty

studies. We concentrate on time because time has become the focus of increasing disciplinary techniques within the prison and the deathwatch. Our concern with time is larger than the problem that death row is an increasingly long process of waiting to die. We are concerned with the techniques rational state actors use to employ time, making it bear down on the body of the condemned. As the United States Supreme Court makes clear, death row is best understood as uninterrupted time, useful time, and the expertise of time management is a prime element in the governing of the soul or the shaping of the self (Rose 1990: 99; *Foster v. Florida* 2002). Nothing happens in the federal government's execution protocol that is not bracketed by timeline headings. For example, the protocol of the US Federal Bureau of Prisons begins with the "Period of Time Between Establishment of an Execution Date to 30 Days Prior to the Execution" and ends with "Final Sequence of Events: [a] Execution; [b] Countdown; [c] Execution" (BOP 2001: 5, 20–21).

Before the advent of bureaucratic prison systems, executions used to take place before the hour of sunrise, forcing prison officials to keep exact records of the sun's journey, everyday tracking precisely its rise and fall. Under these naturalistic conditions, in the event of a stay or a delay, prison officials would reschedule the execution for another day, but always prior to the last 60 minutes that preceded the sun's ascendancy, thereby maintaining the unity of time. Today, most executions in the US occur at a set time, usually after midnight, but sometimes in the early morning or late evening, and prison officials rely on more exact and artful regulations of time.

Although there are numerous procedural reasons for time delays on death row, the everlasting time on death row is not accidental. More than the give and take of prisoners asserting claims and the courts rejecting them, we believe time serves strategic and disciplinary purposes. While it is true that prisoners participate in delaying their executions through habeas corpus appeals, these appeals are far from the only reason for delay. Indeed, the success rate of prisoners' habeas appeals, about 40% (Liebman et al. 2000), demonstrates that prisoners' appeals are justified, and cannot be looked at solely as delaying tactics. But even if they were significant means to postpone execution, we would still see these appeals as forms of resistance to state injustices, such as the poor quality of capital attorneys and the refusal of states to provide financial support for indigent defendants, both of which equally contribute to delay (Flynn 1997; Aarons 1998). Our emphasis on death row as a way to produce knowledge about captive bodies leads us, rather, to



view time spent on death row as productive in a specific sense. It is a positive disciplinary activity fostered by the state that permits increasing knowledge about captive and condemned bodies while, at the same time, assuring the penetration of penal power in order to mortify and mollify the captives.

In the context of deathwatch, time is a heuristic device linked with disciplinary discourse, productive and evolutionary because it insures the breakdown of bodies into pieces before real death occurs. Time on death row promotes docile behaviors on the part of condemned inmates through a sequence of activities marking the condemned's journey from imprisonment to execution. We see the emphasis on time as a discursive trope that allows the American *deathwork* to reach its ultimate objective: the elimination of resistance.

Consequently, breaks in the process are less important than the overall march to execution, although the government allows that some interruptions are more legitimate than others. The US Bureau of Prisons guidelines state that (2001: 46): "It is the policy of the BOP that: procedures must be in place to receive and ensure proper handling of legal interruptions of the execution countdown." Presidential commands that come from the Constitution are acceptable; the continual filing of habeas corpus appeals is not. The temporal procedures put in place mean that a delay no longer forces a rescheduling of the execution to another day, before the hour of sunrise. In effect, BOP regulations silence the prisoner, assessing the value of his appeal a lower order in the chain of command that governs his captivity. Extensive regulations and the subsequent actions of the penal-medical staff govern the deathwatch and destroy the subject, to be sure by execution, but also by denying him a voice in his final hours. As Scarry writes (1985: 18):

In torture, it is in part the obsessive display of agency that permits one person's body to be translated into another person's voice, that allows real human pain to be converted into a regime's fiction of power.

The state's complete appropriation of time has as its central meaning the intention to create a unified language about power in government, in things that are manipulatable, in the disciplining and breaking of bodies by circuits of time. In a word, among those who are captive.

The federal Bureau of Prisons Execution Protocol divides delays for execution into three temporal categories: lengthy, short, and indefinite (BOP 2001: 48). Unity of time is maintained, despite the discontinuity caused by the interests of outside actors, some of whom prevent the BOP

from inflicting its notion of time on the inmate. Consequently, each temporal category stands alone and has its own regulations and procedures. "If the delay is relatively short in duration," the regulations state,

the witnesses will remain in place. The drapes [to the execution chamber] will be closed and the condemned individual will remain restrained on the table. If the delay is either lengthy or indefinite, the execution is halted, and either the witnesses are returned to the staging areas in the order listed, where the witnesses will await further information, or the condemned individual [is] returned to appropriate quarters in the institution (BOP 2001: 48).

As the law bears down on delays, on the prisoner's final moments, it brushes up closer against the body of the condemned. The carceral regime focuses exclusively on a life readied for death.

### **Bio-Power and Penal Technologies**

Bio-power, or power over life, a term coined by Foucault (1990), emerged in the 17th century in response to a rapid demographic expansion throughout Europe. This power evolved following two distinct dimensions that merged together, while remaining distinct, in the 19th century. The articulation of these two poles, anatomo-politics and bio-politics, did not follow forms of randomly organized practices. Instead, these practices took on the appearance of concrete forms of power, because the control of the social body through life demands a pre-determined set of strategies and tactics. For example, as suggested by Gastaldo (1997), confession techniques, as well as therapeutic practices of health care professionals, constitute an efficient method to link "the micro-physics to the macro-physics of power" because they connect the individual, or patient, to society or the general population. Bio-power is a subtle and organized method of governing while using a variety of power techniques.

The first pole of bio-power arose during the 17th century and focused on the body as a machine that can be rendered docile, conformed, and useful. Bio-power is a productive form of power able to "optimize, administer, and multiply life, subjecting it to precise controls and comprehensive regulation" (Rabinow 1984: 259). Bio-power is

a power that [is] bent on generating forces, making them grow and ordering them, rather than [a form of power] dedicated to impeding

them, making them submit, or destroying them (Rabinow 1984: 259).

Bio-power constitutes a stage in modernity's development toward the regulatory control over bodies, centered on the power over life. Power "would no longer be dealing simply with legal subjects over whom the ultimate dominion was death, but with living beings, and the mastery it would be able to exercise over them would have to be applied at the level of life itself" (Foucault 1990: 142–143). Gastaldo (1997: 115) adds that "the control of the social body through life demands a whole new set of strategies."

Power over life is situated bureaucratically within prisons and the deathwatch. How is this power organized? BOP protocol states: "Not all of the persons involved need to practice together" (2001: 9). "Individual teams will practice as units, with inter-team practices scheduled, as necessary by the Warden, to facilitate coordination and smooth interaction." A republican, seemingly egalitarian, form of government is firmly in place during the deathwatch, yet one that accommodates hierarchy and whose sole concern is the regulation of a captive population, the smooth administration of death to the convicted. The assembly-line approach to death management in American prisons is a supervisory technique for the mortification of prisoners. The intended beneficiaries are doctors, nurses, and bureaucrats who bear the burden of bringing the inmate to the death chamber.

Treating time as a social and discursive construct directs our gaze to the intent and purpose of the execution protocol: the need to discipline bodies at the final moment of a prisoner's life by parceling out regulations into discrete zones designed to simplify the bureaucratic commands regarding the movement from life to death. These regulations, furthermore, by partitioning the responsibility throughout the prison establishment, can ease the ethical or religious difficulties health care professionals and prison guards might encounter in carrying out executions (BOP 2001: 7).

### **The Body in Time**

No longer gazing at the trajectory of the sun, moon, and other celestial bodies for guidance, prison officials direct their attention to the movement of bodies inside the prison. But resistance has been tempered. The full force of power is modulated, dispersed, and buried within the penal

technology of time management. Temporal penal technologies serve as communication routes and support mechanisms “for the power and knowledge relations that invest human bodies and subjugate them by turning them into objects of knowledge” (Foucault 1995: 28). The movement from a natural occurrence of time’s changes (the sun’s ascent) to the government’s declaration that time determines the moment death occurs likewise marks a change in people’s attitudes toward authority and authority’s attitude toward the body. It reveals the emergence of a shift in the way government governs persons and things, from a government that governs under natural principles of justice to a government that constitutes itself by its own rationality, including its own understanding of time. The modern prison creates a “triangle, sovereignty-discipline-government” (Foucault 1991: 102) that is constituted by time and pastoral power, a merging of structure and agency that mitigates resistance. What are the implications for the deathwatch?

At a minimum, the shift to a recognized time for death (and precautions for delays) means that the state has seized time not just from the sun or nature, but from prison guardians, the media, crowds, death penalty opponents, as well as condemned prisoners. To be sure, scheduling death for an unknown time may provoke fear in an inmate, and therefore may be more terrifying and torturous (and even satisfying for the vengeful), but scheduling death for a more or less exact moment gives the state greater control over events, crowds, media, and the condemned, without diminishing the element of torture (Johnson 1998: chap. 6; Racine-Welch and Welch 2000). Verdery (1996: 53) writes that “temporality can be deeply implicated in definitions and redefinitions of the self, as selves become defined or redefined in part through temporal patterns that mark them as persons of a particular kind.” The seizure of time shapes the meaning of capital punishment by defining its purpose in language. The temporal flow of the punitive discourse provides an institutional framework for increased control over the inmate’s body as well as a circuitry for manipulating the prisoner’s message. It objectifies the subject, time and space, and denies that the structuring of time to serve the state’s ends is evidence of “lost time,” or of a fragmentation of the self, and, as a consequence, prevents resistance on the part of the condemned. Focusing on time within penological discourse is an attempt to understand how contingent authority structures in civil society influence the reorganization of power within prisons.

The BOP regulations allow prisoners strapped to a gurney and readied for execution only a “reasonably brief” final statement. The regulations deny prisoners a voice in their own death. The incarcerated

body is subject only to the state's definition of time and its use. In the state of Florida, the average time on death row for persons who have been executed is 11.79 years, which is determined from the affirmance of the death sentence to the date of execution (Florida Department of Corrections). Between 1977, 1 year after executions resumed in the US, and 1997, "the average elapsed time on death row was 111 months from the last sentencing date" to execution (*Knight v. Florida* 1999: 460). Although Amnesty International believes that this is "cruel, inhuman, and degrading," the US Supreme Court does not (*Amnesty* 2000b). The problem of wasted time for death row inmates has no constitutional foundations, hence no language by which to rebut charges of cruel or unconstitutional treatment. And so, after years of immobility and waiting on death row, the time before execution accelerates. Time, which previously had no meaning to the prisoner because the state does not give meaning to death row (it is a period between two things, sentence and judgment) now has a material reality and a durative element, but not for the condemned. The state calls this the deathwatch.

### **The Regulation of the Condemned**

In 1974, Willie Lee Richmond was convicted of robbery and first-degree murder (*State v. Richmond* 1983). The judge sentenced him to death, and he stayed there for 12 years. When he filed a writ of habeas corpus in federal court, contesting his 12-year confinement as a form of cruel and unusual punishment, the federal court rejected his claim and held that Richmond had made good use of his time on death row. Richmond, the federal court wrote, no longer used drugs and had undergone a religious conversion. Overall, his time on death row had been well spent, representing (to the court) a justification for the length, unity and sovereignty of prison time. Any interruptions in his execution timetable were his own, the court insisted, and therefore illegitimate, because they came in the form of fruitless legal challenges contesting alleged judicial improprieties. The court of appeals upheld the district court's dismissal of Richmond's eighth amendment's claims.

More recently, Clarence Lackey took his case to the United States Supreme Court to contest his time on death row as an Eighth

Amendment violation (*State v. Lackey* 1982, 1989; *Lackey v. Scott* 1995a, b; *Lackey v. Texas* 1995). Lackey served 17 years on death row before being executed on May 20, 1997. The Supreme Court refused to hear Lackey's Eighth Amendment claim, but Justice John Paul Stevens declared, in a memorandum attached to the Court's denial of a writ of certiorari, that Lackey's claim was novel, and that there were "dehumanizing" and psychologically torturous aspects to prolonged exposure to death row. The Supreme Court similarly dismissed a petition for hearing in *Elledge v. Florida* (1998), a case in which the prisoner had served 23 years on death row.

Judicial seizures of a prisoner's time have one aim: to further break down the individual's resistance to prison authority by further breaking down the subject. This mortification process takes time, knowledge, techniques and expertise. It requires the appropriation of medical technology and medical personnel (*Campbell v. Wood* 1994). Rather than promoting the "cultivation of the self," time spent on death row actively denies it. Appeals, the Supreme Court has held, are forms of "abuse," and wasteful of "valuable resources," such as judicial time. Time on death row, then, serves a purpose; it is needed to get the prisoner to break down, to confess, to turn inward, to get religion, to contemplate his past and future, but not to petition for relief. Alone in his cell, prison forces the inmate to subject himself to objectification and observation within a carceral regime built to outlast the incarcerated body of the prisoner. More important, captive bodies become sites of inspection, where health care professionals and prison guards seek to discover the "truth" about inmates (Rhodes 2004: 142). Prison settings create fields of multiple forms of knowledge about life and death, illness and health, deviance and normality. The prisoner's body presupposes a whole network of powers that bear down upon it, building it up only to break it down. Consequently, control is achieved without fetters. Johnson (1998: 143) writes that under most execution protocols, prisoners are not chained by the hands and feet as they go their death: the appearance of freedom means that "the condemned prisoner must be under the social, not physical, control of his keepers." This is the field of "bio-politics" and "anatomy-politics," the administration of life over bodies and populations that relies not only on the sovereign display of power but on the circuitry of power: a micro-politics of everyday life during the death row period.

## **The Execution Process**

### *When Execution Order is Received*

As soon as the execution order is received, the condemned inmate is moved into a special security area of the prison. Based on hourly checks, staff document his/her behavior and bring anything unusual to the warden's attention.

### *Pre-Execution Reports*

Two reports are prepared within 3 weeks of the established execution date. The first is 20 days before execution; the second is 7 days before execution. Each report includes:

- Psychiatric report – Results and interpretation of examinations, interviews and history of the inmate by three psychiatrists which will be used to determine the inmate's sanity.
- Chaplain report – Comments on the inmate's spiritual and emotional well-being.
- Summary of behavior – Observations noted by case worker, nurses and custody staff.
- Cover letter from warden – Includes firsthand information from interviews, observations or communication with the inmate and his/her family or friends. The 7-day pre-execution report discusses any changes that have occurred since the first report.

### *Sanity Review Requests*

Within 30 to 7 days before the execution, the inmate's attorney may submit current psychiatric information that may have a bearing on the sanity of the condemned inmate. This information will be provided to the panel of psychiatrists to consider in completion of the pre-execution psychiatric reports.

### *Last 24 Hours*

During the day before the execution, the warden will make special arrangements for visits by approved family members, spiritual advisors, and friends.

About 6 p.m. the day before the execution, the inmate will be moved to the death watch cell which is adjacent to the execution chamber. From then on, a three-member staff unit will provide a constant death watch.

Soon after he is rehoused, the inmate will be served his last dinner meal. The prison makes every effort to provide the meal requested by the inmate.

Between 7 and 10 p.m., the assigned state chaplain and the warden may visit the inmate. The inmate may read, watch television, or play the radio. He can request special food items and coffee or soft drinks.

The family, spiritual advisors and friends the inmate has selected as witnesses may arrive up to 2 hours before the scheduled execution.

About 30 minutes before the scheduled execution, the inmate is given a new pair of denim trousers and blue work shirt to wear. He is escorted into the execution chamber a few minutes before the appointed time and is strapped onto a table.

The inmate is connected to a cardiac monitor which is connected to a printer outside the execution chamber. An IV is started in two usable veins and a flow of normal saline solution is administered at a slow rate. [One line is held in reserve in case of a blockage or malfunction in the other.] The door is closed. The warden issues the execution order.

### *The Execution*

In advance of the execution, syringes containing the following are prepared:

- 5.0 g of sodium pentothal in 20–25 cc of diluent
- 50 cc of pancuronium bromide
- 50 cc of potassium chloride

Each chemical is lethal in the amounts administered.

At the warden's signal, sodium pentothal is administered, then the line is flushed with sterile normal saline solution. This is followed by pancuronium bromide, a saline flush, and finally, potassium chloride. As required by the California Penal Code, a physician is present to declare when death occurs.

After all witnesses have left, the body is removed. Typically, the family claims the body.

If not, the State makes the arrangements (California DOC). How is it possible for the condemned not to resist? What forms of power are



responsible for such docility to occur? Why is the fiction of power so powerful?

### Conclusion

The deathwatch is a highly controlled event; a contemporary ritual of death in American prisons, supervised by health care professionals. “We record everything, missing nothing. If he turns over in his bed, we note it. How much he eats, how much coffee he drinks, how many cigarettes he smokes – we record it all” (Johnson 1998: 144). The discursive elements of the execution protocol frame the body as a site of observation. This is a “strategy without a strategist” (Dreyfus and Rabinow, 1982: 258); the federal government’s execution protocol is a book without an author and title. The author-less and title-less execution protocol of the United States federal government deploys various ways, broken into segments, in which the body is prepared for death by numerous unnamed actors and through multiple and invisible forms of power (psychiatric nursing care, for example). The protocol creates a cluster of discrete relationships, all of which focus exclusively on the body of the prisoner and the goal of bringing him to death.

Foucault’s focus on bio-power helps explain the way of normalizing the prison’s supervisory functions. The law fades from view and regulations take over. “The current position in Illinois law is that doctors can participate in executions contrary to state, national and international medical ethics, [and] are protected by law from being identified and disciplined by professional associations, and are declared to be non-doctors for the purposes of the Illinois Medical Practice Act whenever they assist in executions” (Amnesty 1998: 13; Breach of Trust 1994). The laws in the 38 death penalty states deny that medical techniques that are used in executing prisoners are medical techniques. They deny that medical personnel who are used in executing prisoners are medical personnel for the purposes of executing prisoners (Federman and Holmes 2000). These laws shield the behavior of health care professionals from punishment by denying their involvement. In a formal sense, these laws and regulations remove the possibility of resistance from the health care professionals who administer the drugs to the condemned by covering up their involvement. The prisoner simply dies, without the aid of state agents or health care professionals, who are excised from legal responsibility, and without the use of illegal lethal drugs, which are considered legal only for the purpose of execution. As

the Florida Department of Corrections makes clear: the executioner is “a private citizen who is paid \$150 per execution. State law allows for his or her identity to remain anonymous” (Florida DOC).

The organization of death in the US prison system is founded on various knowledge-based discourses – time, power, bodies, space, resistance, life and death as well as on various forms of expertise (criminological, medical, psychological, nursing). It is because so much of the deathwatch is predicated on knowledge of the body in pain that the superfluous display of control provokes no resistance. To prepare prisoners for electrocution, for example, it is not necessary to shave the entire head. But that is what is done. “The execution team recognizes the dehumanization process, watches it unfold, and knowingly benefits from it” (Johnson 1998: 202). As we have shown, this mortification process is achieved in a number of ways, by employing health care professionals to attend to death row inmates, and through the use of time, an integral aspect of bio-power and prison.

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