



Corrupting Justice:

A Primer for LGBT Communities on Racism, Violence, Human Degradation & the Prison Industrial Complex

APPLYING THE PRINCIPLES OF NONVIOLENCE, HEALING JUSTICE & HUMAN RIGHTS
TO THE STRUGGLE FOR LGBT LIBERATION

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The Trouble We Have Talking About Queers, Violence & the U.S. Criminal Justice System

Are human and civil rights inviolate, or do we consider the rights of certain "others," whom we fear and hate, to be expendable? Are we willing to trade off the rights of some people in order to secure our own?

Two significant conversations about queers and the criminal justice system are taking place in the LGBT movement.

The first is about penalty enhancement (harsher sentencing) hate crimes laws and zero-tolerance measures as preferred policy choices, for many LGBT organizations, for addressing hate violence and harassment directed against lesbian, gay, bisexual, transgender, and queer people and communities.

The second conversation is about police violence directed against LGBT people, and human rights abuses of incarcerated people who are, or are thought to be, queer.

These conversations ought to intersect. Each addresses a kind of violence historically directed against queer communities: hate violence perpetrated by individuals and the systemic violence directed against queers and other vulnerable groups within the criminal justice system. Each illuminates and complicates the other—especially when race, economics, gender, age, and disability are added to the mix.

Yet we seldom bring these conversations together within the LGBT movement.

Many of us tend to treat them as parallel, but somewhat disconnected, issues. Our movement often frames LGBT criminal justice discussions as if various queer communities all define and experience justice and injustice in the same way. But the fault lines of race, gender, culture, class, and age help shape our history and experiences as surely as the fault lines of sexual and gender identity. Candid discussion about the *interrelationships* of these factors in the creation and administration of crime policy is often discouraged, if not outright suppressed, or characterized by the dynamics of accusation and defensiveness.

Somehow, the LGBT movement seems to sense that the integration of these conversations would shatter the seductive storyline about victims and victimizers, the storyline that we are all one or the other—the worthy *us* or the unworthy *them*—but never both. We might be challenged to admit the painful truth that all of us can be victims in one situation, victimizers in another.

We might be challenged to admit that the merging of these conversations would force uncomfortable questions to the surface, questions that

Two-thirds of the people in prison and jails are now racial and ethnic minorities. Of these, more than half are African American. Latinos make up slightly over 15 percent of the inmate population.

Racism, White Supremacy & Incarceration

To look deeply into any aspect of the U.S. criminal justice system is to confront the most chilling contemporary manifestation of racism and white supremacy imaginable.

The policies that have produced mass incarceration are tearing communities of color apart, fracturing families, and sending generations of youth into the social, economic, and educational pipelines that lead directly into prison.

■ Two-thirds of the people in prison and jails are now racial and ethnic minorities. Of these, more than half are African American. Latinos make up slightly over 15 % of the inmate population.ⁱ

■ Black males have a 32 % chance of serving time in a prison at some point in their lives. Latino males have a 17 % percent chance. White males have a 6% chance.

■ One in eight black males aged 25–29 was in prison or jail at midyear 2003, as were one in 27 Latino males, and 1 in 63 white males in the same age group.

■ There are now nine times as many African Americans in prison or jail as on the day of the historic *Brown v. Board of Education* ruling that struck down racial segregation in public schools—an increase from about 98,000 African Americans incarcerated in 1954 to 884,500 incarcerated in 2002.ⁱⁱ

■ Black women are more than twice as likely as Latinas and more than five times as likely as white women to be in prison. Latinas are three times as likely to go to prison in their lifetimes as white women.

■ About 1 of every 25 Native Americans is incarcerated or under the supervision of the criminal justice system. This rate is 2.4 times that of whites. In some areas, Native American women are particularly targeted for punishment. In South Dakota, for example, Native women are 8.3 % of the general population, but 34 % of the prison population.ⁱⁱⁱ

ⁱ See, for example, *Facts about Prisons and Prisoners*, The Sentencing Project <http://www.sentencingproject.org/pdfs/1035.pdf>.

See also *Hispanic Prisoners in the U.S.*, The Sentencing Project <http://www.sentencingproject.org/pdfs/1051.pdf>. See also *A Portrait of Women in Prison*, Women's Prison Association, http://www.wpaonline.org/pdf/Focus_December2003.pdf

Data in these fact sheets is drawn from U.S. Department of Justice, Bureau of Justice Statistics.

ⁱⁱ See *Schools & Prisons: Fifty Years After Brown. V. Board of Education*, The Sentencing Project <http://www.sentencingproject.org/pdfs/brownvboard.pdf>

ⁱⁱⁱ "The Prison-Industrial Complex in Indigenous California," by Stormy Ogden, in *Global Lockdown: Race, Gender and the Prison-Industrial Complex*, ed. Julia Sudbury, NY: Routledge, 2005. Ogden cites U.S. Bureau of Justice, *American Indians and Crime*, 1999, NCJ 173386 and *Justice in South Dakota: Does Race Make a Difference?* Government search Bureau, State of South Dakota, 2002.

Policing Queers: Homophobia & Gender Panic Behind Bars

The U.S. Supreme Court decision striking down state sodomy laws (*Lawrence and Garner v. Texas*) did not erase the historic criminalization of LGBT sexuality in the United States. Anti-LGBT religious and political leaders often characterize all LGBT people as sexual predators and pedophiles, a politicization of homophobia and gender non-conformance that is both reprehensible and dangerous.

Anti-queer discrimination and violence not only follow LGBT people into the criminal justice system, but also help to put us there.

■ Incarcerated LGBT people—both youth and adults—are often subjected to verbal harassment, physical abuse other forms of mistreatment from other prisoners, guards, and other criminal justice staff.ⁱ

■ Sexual assault and rape—by inmates and staff—are endemic in many correctional institutions. LGBT youth and adults are frequent targets.

■ Trans youth and adults are often subjected to additional forms of harassment and abuse while incarcerated. This may include functional classification as sex offenders, denial of appropriate health care services, and prescription drugs, placement in gender-inappropriate facilities, and the like.ⁱⁱ

■ LGBT people—especially youth—in correctional facilities are often segregated from the general population and placed in isolation—allegedly for their own “safety.” In reality, isolation magnifies the harshness of incarceration.

■ Poverty, homophobia, and transphobia funnel many young queers into the system. Research suggests that a disproportionate number of homeless youth are queer. Many, who have been abused, neglected, or kicked out of their homes, often engage in prostitution, petty theft, and drug dealing in order to survive on the streets.ⁱⁱⁱ

■ Queer teens who are not separated by significant age differences and who engage in consensual sex can in some jurisdictions receive significantly harsher sentences than young heterosexual partners who engage in the same sexual activity.^{iv}

■ Prosecutors in capital cases often use homophobic arguments to encourage juries to give death sentences to LGBT defendants^v or use a “gay panic” defense in cases involving violent assault against persons who are, or are thought to be, gay or transgender.^{vi}

ⁱSee, for example, *Torture & Cruelty in Michigan Prison System*, by Dave Forbush, Prison Outreach Project, Triangle Foundation, n.d., <http://gaytoday.badpuppy.com/garchive/people/111201pe.htm>

ⁱⁱSee, for example, *Nowhere to Go But Out: The Collision Between Transgender & Gender-Variant Prisoners and the Gender Binary in America's Prisons*, by Alexander L. Lee, Boalt Hall School of Law, UC Berkeley, Spring, 2003, http://www.srlp.org/documents/alex_lees_paper2.pdf.

ⁱⁱⁱSee *Justice for all? A report on lesbian, gay, bisexual and transgendered youth in the New York Juvenile Justice System*, by Randi Feinstein, et al, an independent report commissioned by the Lesbian and Gay Youth Project of the Urban Justice Center, 2001. See also *Violence and Female Delinquency: Gender Transgressions and Gender Invisibility*, by Laurie Schaffner, *Berkeley Women's Law Journal* 14 (1999): 40.

^{iv}See, for example, *Kansas v. Matthew Limon: Case Background*, American Civil Liberties Union Lesbian & Gay Rights Project, December 1, 2003, Updated January 27, 2005. <http://www.aclu.org/LesbianGayRights/LesbianGayRights.cfm?ID=14476&c=100>

^vSee *In the Killing Fields of the State: Why the Death Penalty is a Queer Issue*, an American Friends Service Committee LGBT Criminal Justice Issue Brief, 2004. <http://www.afsc.org/lgbt/criminal-justice/death-penalty-brief.htm>.

^{vi}“Gay panic” is a term characterizing a legal defense against crimes alleged to have committed a violent assault or murder against a person of the same sex because, it is alleged, the victim “came on” sexually to the defendant. While “gay panic” defenses usually don’t win acquittals, they often do influence judge and jury perception of defendant culpability and may help mitigate sentences upon conviction.

Authentic justice, we believe, is predicated upon the belief that human rights are universal and inherent. It never permits us to trade off the rights of some dehumanized “other” in order to secure our own.

challenge us to examine in new ways the very meaning of justice, safety, human rights, and non-violence.

And in the present political moment, as the right-wing assault on LGBT families gains momentum, conversations about the history of prisons and policing in the United States, or about the political and economic climate in which “get tough on crime” measures proliferate, don’t seem very important.

Our movement does not talk easily about the countless ways in which the politics of fear, rage, and resentment may influence and shape our own criminal justice policy choices.

We who are lesbian, gay, bisexual, transgender, two-spirit, and queer know the many ways in which hate violence and systemic discrimination devastate individuals, families, and whole communities. Do we also know the ways in which “get tough” crime policy and prison profiteering affect queers, communities of color, women, poor people, youth, people with mental illness or disability—and, indeed, entire communities?

If we knew, what would we do?

Drawing on more than 80 years of AFSC engagement with peoples experiencing the violence of war, hatred, and injustice, 50 years of AFSC engagement with the U.S. criminal justice system and more than 30 years of AFSC advocacy for LGBT rights and recognition, *Corrupting Justice* offers this introductory look at the human, spiritual and economic shadow of crime policy in the United States, and its disastrous effects on our society.

In doing so, the American Friends Service Committee seeks to help bring these difficult discussions together, within a framework of nonviolence, human rights, and justice that heals and transforms.

Authentic justice, we believe, is predicated upon the belief that human rights are universal and inherent. It never permits us to trade off the rights of some dehumanized “other” in order to secure our own. Nor does it sanction trafficking in or profiting from human misery. It seeks to hold not only individuals, but institutions accountable for the harm they do, tend to the long-term needs of those who suffer the harms of violence, and to prevent further harm, without compounding the cycle of violence.

Flirting With Disaster: “Getting Tough on Crime”

Over the past 30 years, “get tough on crime” approaches have come to dominate the public conversation about justice in the United States.

These policies and regulatory measures send many more people into jails and prisons and greatly increase the length of time that many offenders remain in prison.

Consider the context in which this has occurred:

Fact 1: From 1970–1994, violent crime rates remained fairly stable. Since 1994, violent crime rates, overall, have declined.¹

Fact 2: Despite falling crime rates, between 1972 and 2003, the number of prisoners in local, state, and federal institutions increased by more than 550 percent, from 326,000 to more than 2.1 million. Today, about 1 in every 140 U.S. residents is in jail or prison.²

With the addition of those on parole or probation, the number of people under the direct supervision of the criminal justice system is about 6.9 million.

What can possibly explain the shocking disconnect between these two realities?

The answer lies in the increasing, almost relentless, equation of justice with policing and prisons in the era following the rise of many progressive movements for human and civil rights, economic justice, and opposition to the U.S. war in Vietnam.³

The initial factor triggering the explosive growth in incarceration in the United States is the so-called “War on Drugs” that began to emerge in the early 1970s. The major engine driving this war was the overhaul of drug laws, strengthening a law enforcement focus, including the New York “Rockefeller Drug Laws” which created mandatory minimum sentencing for drug offenses.

Other changes in sentencing policy followed over time: mandatory sentencing for certain crimes, “truth in sentencing” laws designed to ensure those with long sentences serve a significant percentage of their sentence without any hope of



release prior to that time, and “three strikes” laws.⁴ In the 1980s, the penalty enhancement template became the norm for hate crimes bills.

In the past decade, many states have passed laws making it much easier to try and sentence youth as adults. The increased militarization of the border between the United States and Mexico and repressive federal security initiatives that began long before 9/11 have produced a new “immigrant incarceration industry.” Other “get tough” measures include zero tolerance policies (which fuel a “school to prison pipeline” for many young people), so-called “anti-gang” laws that cast a very wide net among youth, and more. The ability of judges to use discretion in sentencing has been restricted, and the justice goal of rehabilitation for incarcerated offenders—most will be released back into the community, and many are now in their teens and twenties—has been all but abandoned.

How much of this incarceration increase is due to dramatic increases in crime rates? According to the Sentencing Project, for the period 1980–1996, when the inmate population tripled, 88 percent of the increase was a result of “get tough” sentencing policies, and only 12 percent was due to changes in crime rates.⁵

Supporters promise that these policies will “send a message” that certain offenses and crimes of violence are “not acceptable,” and that they will deter violence and produce safety.

The cumulative effect of “get tough” measures, however, is not safety. Rather, it is the maintenance of an almost constant and growing sense of fear, combined with the rapid expansion of an incarceration industry, and a widening spiral of violence—

grim and bureaucratic—done or at least paid for by the state with our money and in our names.

“Get tough on crime” policies have also produced the warehousing and confinement of a staggering number of people, massive and brutal abuses of human rights, profiteering and economic exploitation, increasing redirection of public funds away from human needs into policing (domestic and global) and prisons, and many kinds of violence done to entire communities because of the relentless growth of what is called “the prison-industrial complex.”

Today, about 1 in every 140 U.S. residents is in jail or prison.

“Being a woman prisoner...can be a terrifying experience...”ⁱ

The “war on drugs” has also become a *de facto* “war on women.” The explosion in female incarceration is fueled by convictions for nonviolent crimes carrying mandatory sentences.

■ The number of women in state and federal prisons has increased from 12,300 in 1980 to 103,000 in 2004.

■ While the number of women in prison is far less than the number of men, since 1980, the rate of increase in women prisoners has been far greater—nearly double the rate of increase in male prisoners.ⁱⁱ

■ 38% of women prisoners are African American; 17% are Latina. When Asian/Pacific Islander and Native American and other indigenous women are added to the total, about 2/3 of incarcerated women are women of color.

■ The average age of women in prison is 29; more than half have not finished high school.

■ Rape and sexual assault of women by guards is common in U.S. prisons and jails, with frequent retaliation by officials for those who protest and complain.ⁱⁱⁱ Additionally, many women in prison trade sexual favors for various benefits, ranging from cigarettes to better prison jobs to affection.

■ A disproportionate number of incarcerated women—estimates range from more than 40% to more than 80%—have been sexually and/or physically abused prior to incarceration.

■ About 60% of incarcerated women are mothers. Many women’s prisons are in rural communities that are inaccessible to children and other family members, and very few programs exist that permit incarcerated mothers to live with their children.

■ Shackling of pregnant prisoners is policy in federal prisons and common in state prisons. Shackling during labor may cause serious complications for both mother and baby.^{iv}

What Is the Prison Industrial Complex?

“Over the years I have found it important to remind myself that the Department of Corrections is more than just a set of institutions, it is also a state of mind.”

—Bonnie Kerness, Coordinator of AFSC Prison Watch Project.
Prison Watch monitors human rights concerns, violations and abuses in U.S. federal and state prisons.

The creation, administration, and servicing of new jails and prisons has become a growth industry.

Combined with increased rise of corporate influence over public policy and a ceaseless rightward political push toward privatization of public services, the “get tough” measures have produced an intricate *system* of public and private interests—public officials, corporate executives and lobbyists, other interested parties, and the institutions in which they work—that promote harsher sentencing, incarceration, and prisons as the *preferred* means of managing not only murder, physical assault, rape, and similar acts of violence, but also an increasing number of complex social and economic problems (such as drug use, mental illness, behavioral infractions in schools, and poverty).

This system is referred to as the prison industrial complex.

Here, AFSC speaks of the *systemic* characteristics and overall patterns of the prison industrial complex. While there are many women and men of conscience working within or for the criminal justice system, often laboring with integrity and courage in difficult circumstances, AFSC experience confirms that violence, injustice, and abuses of human rights are endemic to the system as a whole.

We begin to view the creation of safety as a process of excluding feared and unwanted “others” from our midst—not as a process of building inclusive, compassionate, and just communities.

ⁱ Heading drawn from the summary of *All Too Familiar: Sexual Abuse of Women in U.S. State Prisons*, Human Rights Watch, 1996. <http://hrw.org/reports/1996/Us1.htm>

ⁱⁱ *Fact Sheet: Women in Prison*, The Sentencing Project, <http://www.sentencingproject.org/pdfs/1032.pdf>

ⁱⁱⁱ See *All Too Familiar: Sexual Abuse of Women in U.S. State Prisons*, Human Rights Watch, 1996. See also *Abuse of Women in Custody: Sexual Misconduct and Shackling of Pregnant Women: A State-by-State Survey of Policies and Practices in the U.S.*, Amnesty International, <http://www.amnestyusa.org/women/custody/abuseincustody.html>

^{iv} See *Women in Prison*, Amnesty International USA, <http://www.amnestyusa.org/women/womeninprison.html>

The Criminalization of Youth

Over the past two decades, juvenile justice emphasis on prevention, education, and rehabilitation has ceased. Despite falling juvenile crime rates, incarceration is now the preferred approach for youthful offenders—particularly youth of color. We have become a nation that prepares to jail youth rather than educate and care for them.

■ At the same time juvenile crime rates have fallen, fear-driven rhetoric about youthful offenders (“super-predators”) has been used by politicians to create a public perception of “out of control” youth crime waves.

■ Over the past 20 years, most states have adopted measures that make it easier to try juveniles as adults, and to sentence youth to adult prisons. Today, at least 1 in 10 incarcerated youth resides in adult prisons.

■ Youth of color are far more likely than white youth to be tried in adult criminal courts. One important study of 18 jurisdictions throughout the United States confirmed that, in the first six months of 1998, 82% of the juvenile cases filed in criminal court involved youth of color. Almost 60% of those cases involved African American youth, 23% involved Latino/a youth, and 19% involved white youth.ⁱ

■ Youth incarcerated adult prisons are five times more likely to be sexually assaulted and eight times more likely to commit suicide than are youth in juvenile facilities.ⁱⁱ

■ Even in juvenile facilities, youth often are confined under conditions that violate international human rights standards. These include: serious overcrowding, inadequate provision of medical, mental health, and other essential services, use of brutal physical force and restraint procedures, and prolonged use of solitary confinement.

■ So-called “zero-tolerance” policies in schools have become a new way to funnel youth, particularly youth of color and youth with mental or emotional disabilities, into the criminal justice system.ⁱⁱⁱ

ⁱ See *Summary of CJJ Positions on Key Juvenile Justice Issues*, Coalition for Juvenile Justice, <http://www.juvjustice.org/media/issues.html#three>

ⁱⁱ See *Children in Adult Jails Factsheet*, Building Blocks for Youth, <http://www.buildingblocksfor youth.org/issues/adultjails/factsheet.html>

ⁱⁱⁱ See *Opportunities Suspended: The Devastating Consequences of Zero Tolerance and School Discipline*, Advancement Project and The Civil Rights Project, June 200. http://www.civilrightsproject.harvard.edu/research/discipline/opport_suspended.php. See also *Zero Tolerance: Key Studies*, Building Blocks for Youth, <http://www.buildingblocksfor youth.org/issues/zero tolerance/studies.html>

Racial and class biases have long been embedded in the workings of the U.S. criminal justice system. *Race and class are the most powerful determinants for who is most likely to be arrested, charged, tried, and convicted of particular crimes—and the most likely to receive harsher sentences.* Most prisoners are people of color and poor people. Violence is commonplace within U.S. prisons and jails. Prisons and jails have long contracted with outside vendors for particular services, such as food and medical treatment, and have exploited prisoners as a free or cheap source of labor, contracted out to other public or private enterprises.

That’s not new. What is different today is the creation of a vast, new marketplace in which the profits are dependent upon the imprisonment, control, and containment of human bodies. The momentum toward production of greater corporate involvement in the prison industry began in earnest in the 1980s, with the creation of new, privatized prison construction and management firms.

A dependable and increasing supply of prisoners is essential to the economic security and expansion of the public agencies and private businesses that supply, manage, staff, and service the prisons.

Besides profit, the policies and practices that support the prison industrial complex in the United States have produced:

- The highest rate of incarceration in the world
- The mass incarceration of people of color
- The rapidly increasing incarceration of women
- The criminalization of immigrants
- The criminalization of youth
- Systemic and violent racism, misogyny, and homophobia
- Endemic abuses of human, constitutional, and civil rights
- Permanent or temporary disenfranchisement of millions of voters, most of whom are people of color
- Increased use of jails and prisons to warehouse people with mental illnesses
- Increased use of jails and prisons to address the effects of persistent, widening poverty
- Increased use of the death penalty

What is different today is the creation of a vast, new marketplace in which the profits are dependent upon the imprisonment, control, and containment of human bodies.

These “results” of “get tough” crime policy in the United States are worth considering when progressive movements are tempted to turn to the criminal justice system for effective responses to violence directed against LGBT communities, people of color, women, immigrants, Jews, Muslims, people with disabilities, and other targeted communities.

A Culture of Fear Produces a Nation of Enemies, Wars & Prisons

The emotional “hook” that convinces people to accept the “get tough” policy approach is fear. By appealing to people’s fears and anxieties of being victimized in some way—physically, economically, emotionally, spiritually—“get tough” policies have gained extraordinary momentum, fueled political campaigns and seized the public imagination.

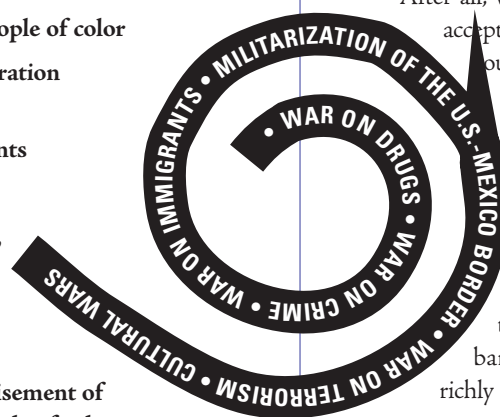
“Get tough” campaigns gather strength each time we witness a particularly brutal act of violence directed against individuals or whole communities. Often feeling outraged by such violence, and helpless to have prevented it in the first place, we want to do something—anything—that communicates not only outrage, but our determination that this must never happen again.

“Get tough” policies serve as a powerful way to “strike back” at whatever threatens us.

After all, we’re much more likely to accept without question a “get tough” vision of justice when we’re fearful and angry. At such moments, concepts of harsh punishment and retribution seem not only appropriate, but desirable. Whatever happens to perpetrators behind bars, we tell ourselves, is richly deserved.

In a society perpetually divided into endless varieties of *us* and *them*, concern for what happens to prisoners is often viewed as abandoning concern for those who have been hurt or victimized.

We learn to view the world in stark “which side are you on?” terms. Human rights become conditional.



The Corrupting Power of Demonizing

Why should we concern ourselves with the fates of those we consider to be “monstrous,” violent, and unworthy of human rights?

Because the minute we turn away from the violence, abuse, or degradation of any person or group—whoever they are—we become part of that violence.

In accepting the violence of the state, we find ourselves on a slippery ethical slope. Once on it, we may well find that the human rights of certain “others” whom we dislike, fear, or despise are not nearly as important as our own. Masters of political spin help us along the way with the use of demonizing messages and images of “criminals,” most of them coded in terms of race, ethnicity, class, and sexuality.

For example, the demonized stereotype of “the criminal” that serves as a backdrop to all “get tough” discussions is that of a violent and menacing thug who has no conscience—and, as with the infamous “Willie Horton” ad used by the Republican party in the 1988 presidential race, the fear-soaked stereotype is often that of a person of color.⁶

For many of us in the LGBT movement, the image is that of Matthew Shepherd’s working-class killers, and others who have brutally murdered queers.

Our fear and rage may become all-consuming: *those people* deserve anything that happens to them—rape, verbal and physical abuse, humiliation, isolation and sensory deprivation, electric shock, and even death.

In this way, even people who care passionately about justice are persuaded to accept measures that, once implemented, embody the corrupt ethical principle that there is one standard of justice and human dignity for the worthy *us*, but quite another for a dehumanized, and unworthy *them*.⁷ The violence that happens to the people who disappear into prison and jail cells throughout the country ceases to matter much, if at all, because *they* are no longer human in our imagination.

This should concern us all, because “get tough” policies are symptomatic of a much larger culture of fear and resentment that has taken deep root in the body politic.

For decades, our country has seen an escalation of

the politics of polarization and demonizing in an ever-increasing variety of civic and spiritual arenas.

Pundits and politicians—and sometimes even our own organizations—often expand their bases of support by marketing fear, sensationalism, and the sense that we are not safe or secure any more because of *them*, the designated and menacing *others* who threaten our well-being.

The best way to create safe, just, and moral communities, we are told, is to subjugate and exclude *them*.

The dynamics of fear and resentment are powerful, and they spread like wildfire, even among good people. After all, no matter what point on the political spectrum we occupy, many of us have good reason to be anxious and fearful about the future. Complex economic, social, political, and spiritual inequities, stresses, and tensions in this country are touching hundreds of millions of lives in varied ways.

The Call to Perpetual (Cultural and Political) War

Rather than deal with this complexity, too many civic and religious leaders direct our attention toward easy and convenient scapegoats.

Whether the issue is LGBT rights and recognition, immigrant rights, the future of public education, school curricula, affirmative action, health care, eco-

nomic justice, or reproductive choice, people are met with fear-based campaigns—always couched in values-based, sometimes religious, language—that appeal to the most anxious, self-righteous, and vengeful, parts of ourselves.

Through political campaigns, fundraising appeals, the strategic use of wedge politics, and the incessant drumbeat of invective on radio and television and in the print media, we are summoned to cultural or political war against enemies, at home and abroad.

And in a time of war, when our primary work is said to be the defeat of designated enemies, our society does not do the hard work of engaging neighbors across chasms of difference, in constructive ways.

Legitimizing State-Sponsored Violence

In such a climate, “get tough” ideology justifies the steady expansion of state-sponsored violence. This, in turn, legitimizes, even normalizes abuse of power and the brutal mistreatment of

“War on Immigrants” & Fear of Terrorism Fuel Detentions

The demonizing and mistreatment of particular groups of immigrants many of whom are seeking any work that will help them survive, fleeing political persecution or war, or escaping from other dangerous or difficult conditions—almost invariably increases during times of economic stress, war, and political polarization. Today, immigrants of color bear the brunt of aggressive law-enforcement policy and practices, and are frequently stereotyped and scapegoated as “terrorists.”

■ Arrests and detentions of immigrants rose markedly—by thousands per day—following passage of the 1996 Illegal Immigration Reform and Immigrant Responsibility Act (IIRAIRA). As many as 200,000 immigrants may be detained annually.

■ The Intelligence Reform & Terrorism Prevention Act (IRTPA), passed at the end of 2004, authorizes 40,000 new immigrant detention beds by 2010, tripling the current immigrant detention system and pouring hundreds of millions of dollars into the private prison industry.

■ Thousands of people who come to the United States seeking asylum from political persecution in their countries of origin are detained, often shackled, placed in solitary confinement, and subjected to degrading treatment while their claims are being reviewed.ⁱ

■ Immigrant detention is simply another face of the proliferation of incarceration in our society. While most immigrant detainees are not held for criminal violations, they are often held in jails or contract detention facilities that are indistinguishable from jails. Conditions in these facilities mirror the degrading, violent, and inhumane conditions that characterize U.S. prisons and jails

■ The number of unaccompanied child immigrants placed in detention is escalating. They are often initially placed in holding cells where conditions are overcrowded and filthy, with inadequate food and sanitation. Following transfer from holding cells, about a third of unaccompanied immigrant children in custody spend time in juvenile detention centers.ⁱⁱ

■ LGBT and HIV-positive detainees are especially likely to become the subjects of harassment and abuse, and HIV-positive detainees are seldom given adequate health care.

■ Female immigrants in detention are especially likely to be raped or sexually abused and harassed.

ⁱ *Asylum Seekers Treated Like ‘Criminals’ Panel Says*, by Nina Bernstein and Marc Santora, *NY Times*, February 8, 2005. This article summarizes a report from the bipartisan, federal United States Commission on International Religious Freedom, an agency created by Congress in 1998 to examine the effectiveness of the nation’s asylum regulations.

ⁱⁱ See *United States of America: Unaccompanied Children in Immigration Detention*, Amnesty International, n.d., http://www.amnestyusa.org/refugee/pdfs/children_detention.pdf

CRIME PAYS! Shopping in the Incarceration Marketplace

Hundreds of businesses and corporations have a substantive financial stake in the incarceration industry, both in the United States and globally. We can only provide a sampling of the kinds of businesses that are part of the prison industrial complex.

Visit corporate websites and explore research about their operations done by other organizations. Enter corporate names into your internet search engine, and check out our resources page.

Private Prison Construction & Management

Corrections Corporation of America (CCA): CCA, a founder of the private prison industry bills itself as “the nations largest owner and operator of privatized correctional and detention facilities and one of the largest prison operators in the United States, behind only the federal government and three states.” It operates 64 facilities, including 39 facilities CCA owns, in 19 states and the District of Columbia, with a capacity of about 70,000 beds. CXW on the New York Stock Exchange. Be sure to have your computer’s sound on when you visit this site. (www.correctionscorp.com)

GEO Group, Inc.: Formerly called Wackenhut, GEO services include design, construction, financing, and operations. GEO represents government clients in the United States, Australia, South Africa, New Zealand, and Canada managing 42 facilities with a total design capacity of approximately 37,000 beds. GGI on New York Stock Exchange. (www.thegeogroupinc.com)

Cornell Companies, Inc.: Cornell describes itself as “a leading provider of privatized adult and juvenile correctional, treatment and educational services.” Cornell has 67 facilities in 16 states and the District of Columbia, and new facilities under development or construction. In January, 2005, Cornell signed an agreement to acquire Correctional Systems, Inc., a provider of privatized jail, community corrections, and alternative sentencing services. CRN on New York Stock Exchange. (www.cornellcompanies.com)

Data Mining & Information Sales

A number of corporations collect and sell information about individuals in the United States and other countries to U.S. government agencies (including the FBI, the Department of Justice, Citizenship and Immigration Services, and others) and to private employers inquiring about the backgrounds of current or prospective employees.

Among them:

Kroll, Inc.: Founded in 1972, Kroll is a “full-service global risk consulting company,” providing background screening, security investigations, and other services to a “global clientele of law firms, financial corporations, government agencies, non-profit institutions, and individuals.” In 2004, Kroll merged with Marsh & McLennan Companies. MMC on New York Stock Exchange (www.krollworldwide.com)

ChoicePoint: With about 5,500 employees in nearly 60 locations, ChoicePoint describes itself as the nation’s leading provider of identification and credentialing information, acquiring data in the United States and elsewhere (including Mexico and several countries in Latin America) and selling it to public and private agencies. The FBI is a major ChoicePoint customer. CPO on the New York Stock Exchange. (www.choicepoint.com)

Web-Based Businesses

Among many offering services and resources for those in the incarceration industry:

JailBedspace.com: Sponsored by FSG Software, a provider of law enforcement software, JailBedspace.com (JBS) serves as a web-based marketplace for jail bed space, “bringing buyers and sellers of inmate bed space together in a very user friendly and graphical environment.” (www.jailbedspace.com/jbs/Demo/index.asp)

CorrectionalNews.Com: “The Online Resource for Design, Construction, Management & Operations.” A website celebrating and providing news and information about new opportunities for private prison providers and contractors. (www.correctionalnews.com)

Policy Production

American Legislative Exchange Council (ALEC): Launched in 1973, the right-leaning ALEC provides a conduit for powerful corporations to influence state legislators and other state officials through networking and the drafting of business-friendly model legislation on a variety of issues, ranging from deregulation of public utilities to privatizing public pensions to criminal justice. ALEC is a strong supporter of privatizing government services, including prisons and schools. For example, ALEC’s draft “truth in sentencing” bill that restricts parole eligibility for prisoners, thus keeping them incarcerated for longer periods, was drafted by a task force whose membership included an executive from Corrections Corporation of America. Within several years, similar sentencing measures had passed in 40 states. (www.alec.org)

any human being or group of people labeled as “enemy.”

These “results” of crime policy in the United States...are worth considering when progressive movements are tempted to turn to the criminal justice system for effective responses to violence

For instance, the federal government launches a pre-emptive war on Iraq, “outsources” certain high profile prisoners in the “war on terrorism” to countries, such as Egypt, that routinely use torture (this process is called “rendition”) and operates military and civilian prisons in which the degradation, humiliation, and mistreatment of prisoners is well-documented. Local police forces become increasingly militarized. Conditions of confinement are inhumane in many jails and prisons throughout the United States, violating international human rights standards.

In such an atmosphere, it’s hardly surprising that our society now invests so much in prisons and policing—at home and abroad—and so little in human needs, human rights, and civic infrastructure.

And it’s hardly surprising that the prisons we build are made not only of concrete, bricks, and steel, but also of social, economic, and geopolitical policies that declare some people to be unworthy, and, therefore, expendable.

¹ *The Facts About Crime*, American Friends Service Committee (Arizona Criminal Justice Program) and Prison Policy Initiative, using data from the U.S. Department of Justice, Bureau of Justice Statistics, <http://www.prisonpolicy.org/articles/factsaboutcrime.pdf>.

² See, for example, *Facts About Prisons and Prisoners*, The Sentencing Project, <http://www.sentencingproject.org/pdfs/1035.pdf>

³ These movements from 1950–1970 include the Civil Rights movement, rights of migrant workers, women’s rights (including reproductive choice), welfare rights, poor people’s economic rights, and lesbian/gay liberation.

⁴ Three strikes laws are a category of statutes enacted by state governments in the United States, beginning in the 1990s, to mandate long periods of imprisonment for persons convicted of a felony on three (or more) separate occasions. The “third strike” brings with it a life sentence with no parole until significant amount of time, usually 25 years, has been served. By 2004, 26 states and the federal government had laws that fall in this category.

⁵ *Lessons of the “Get Tough” Movement in the United States*, by Marc Mauer, The Sentencing Project, 2004. <http://www.sentencingproject.org/pdfs/mauer-icpa.pdf>

⁶ In 1988 the George H.W. Bush presidential campaign saturated the air waves with the “Willie Horton” ads, which played to racial fears, to assert that his opponent, Michael Dukakis, was “soft on crime.” Horton, a violent convict, was paroled in Massachusetts when Dukakis was governor, and went on to commit further violent crimes. Download and view this and other ads that helped determine the outcome of a U.S. presidential election at <http://www.cnn.com/ALLPOLITICS/1996/candidates/ad.archive/>

⁷ In a grim irony, this is the same kind of ethical sleight-of-hand used to justify white supremacy, the demonizing of queer communities, the exploitation of poor people, and other forms of social, cultural, spiritual, political, and economic dominance.

⁸ See, for example, *Guantanamo and beyond: The continuing pursuit of unchecked executive power*, May, 2005, Amnesty International USA <http://www.amnestyusa.org/waronterror/document.do?id=4494BC984C8C552280256FE3004228E2>

See also Amnesty International’s summary fact sheet, *Abu Ghraib: One Year Later, Who’s Accountable?* <http://www.amnestyusa.org/stoptorture/agfactsheet.html>. See also *Black Hole: The Fate of Islamists Rendered to Egypt*, May 2005, Vol. 17, No. 5 (E), Human Rights Watch <http://www.hrw.org/reports/2005/egypt0505/>. While this report does not focus on the United States, it includes a section on the U.S. role in renditions of prisoners who are tortured. See also *U.S.: Religious Humiliation of Muslim Detainees Widespread*, May 19, 2005, Human Rights Watch. <http://hrw.org/english/docs/2005/05/19/usdom10981.htm>.

⁹ For a summary of U.S. and international standards against torture, see http://amnestyusa.org/stoptorture/us_international_standards.html. See also <http://hrw.org/english/docs/2004/05/24/usint8614.htm>. For reports on human rights abuses in U.S. prisons and jails, see, for example reports from Amnesty International USA and Human Rights Watch at <http://www.hrw.org/prisons.htm>. See also AFSC Report on *The Prison Inside the Prison*, <http://www.afsc.org/community/prison-inside-prison.pdf>.

How Justice Transmutes: South Carolina Anti-Lynching Law Now Used Primarily against Black Men

A South Carolina anti-lynching law, adopted in 1951 and intended to address one violent form of racism, has now transmuted into a new form of racism. This is a powerful example of how a law, intended by its framers to bring justice to oppressed communities, morphs into a new version of an old story about injustice.

Good Intentions of Supporters:

The intent of the law was to respond to white mob violence directed against black people with a message that this form of hate violence would not be tolerated.

Climate in Which the Law Was Enacted:

The law was a response to the 1947 murder by a white mob of a black man who was accused of stabbing a white cab driver. At the time:

- Racial segregation was legal. Simultaneously, the movement to end racial segregation and backlash against this movement were both gaining strength.

- White mob violence against black people was seldom prosecuted. If there were prosecutions, convictions were seldom obtained.

- Lynching was not unusual and was a terror tactic used primarily against black people to ensure their subjugation to whites. The National Association for the Advancement of Colored People (NAACP) estimates that more than 4,000 persons were lynched (hanged, shot, burned to death, or otherwise killed or critically injured or mutilated) between 1910 and 1960. The vast majority of lynching victims were African American.

Implementation of the Law:

The “colorblind,” neutral wording of law was intended to place an emphasis on behavior and ensure that justice is applied equally to all. Over time, as authorities implemented the law, this is what happened:

- Black people, 30% of the state’s population, now constitute 63% of those against whom lynching charges are filed by the state, a percentage much higher in some counties.

- Blacks account for 67% of those convicted of lynching.

- In 2002, the only year for which a breakdown for juveniles charged is available, young blacks were charged with lynching more than 10 times more frequently than white youth.

- While some lynching cases involve brutal assaults, many charged with lynching, especially black youth in altercations with white youth, have committed offenses that do not result in serious physical injury.

- Anecdotal evidence suggests that whites convicted of lynching receive more lenient sentences than blacks who are convicted, even for assaults that involve serious physical injury.

For more information:

Lynching Redefined, by Allen G. Breed, Associated Press, <http://www.freerepublic.com/focus/f-news/913466/posts>

Rotten Fruit—South Carolina’s Enduring Lynching Laws, By Earl Ofari Hutchinson, Pacific News Service <http://www.alternet.org/columnists/story/15967>

Jails & Prisons Are Now The Primary Institutions Housing People With Mental Illness

As public funding for mental health services decreased and momentum toward deinstitutionalization of people with mental illness increased over the past few decades, many mental health hospitals were closed—with the false promise that good outpatient community services could fill the gap and effectively reintegrate people with mental illness back into society. But funding for this was inadequate at best, non-existent at worst.

Today, funding for mental health services remains low and vulnerable to further budget cuts. Human Rights Watch notes that there is a “direct link between inadequate community mental health services and the growing number of mentally ill [people] who are incarcerated.”ⁱ Here’s how it works.

- Among people with mental illness are many who are poor and homeless, and have substance abuse problems.

- Left untreated and without social supports, many deteriorate mentally, emotionally, and physically—and engage in street crime or other activities that sweep them into the criminal justice system.

- Fewer than 55,000 Americans currently receive treatment in psychiatric hospitals. Meanwhile, almost 10 times that number—nearly 500,000—mentally ill men and women are serving time in U.S. jails and prisons.ⁱⁱ That’s almost 25% of people who are incarcerated.

- Prison staff are ill-equipped to effectively work with people with mental illness.

Often, they employ methods of discipline for behavioral problems—including prolonged isolation and segregation, inconsistent or inappropriate provision of medication, and use of restraints—that are cruel and exacerbate the mental illness.

ⁱ Ill-Equipped: U.S. Prisons and Offenders with Mental Illness, Human Rights Watch, 2003 <http://www.hrw.org/reports/2003/usa1003/3.htm>

ⁱⁱ See Frontline: *The New Asylums*, May 10, 2005, <http://www.pbs.org/wgbh/pages/frontline/shows/asylums/etc/synopsis.html>

Isolation, Degradation and Torture

Prisons and jails in the United States are perfect microcosms of the violent society in which human rights have little meaning, authoritarian control is absolute, and punishment is intended to degrade human beings, not rehabilitate them. Rather than helping prisoners establish positive connections to family and community, the system more often works to shatter the potential for same.

Brutality and abuse are endemic throughout the criminal justice system. The violence comes into focus most clearly, however, when we look at the growing use of control units, security housing units, departmental disciplinary units and the like, and the conditions within control unit prisons.ⁱ

- Control units within prisons and “supermax” prisons (entire prisons designed for the universal and permanent isolation of their inhabitants) rely on sensory deprivation. Prisoners are confined in tiny cells the size of a

parking space for 22–24 hours a day, often in what they describe as an “eerie silence.”

- Many of the cells have no windows and are often soundproof.

- Educational or therapeutic programming is virtually nonexistent; visits, telephone calls, and mail from family and friends are severely restricted and reading material is censored.

- Prisoners subjected to prolonged isolation may experience depression, despair, anxiety, rage, claustrophobia, hallucinations, problems with impulse control, and an impaired ability to think, concentrate, or remember.

- Letters from isolation units around the country have told of guards using fire hoses, mechanical restraints and electrical devices, forced “cell extractions,” beatings of prisoners in restraints, shackling in painful positions, sleep deprivation, and other forms of cruelty.

- Denial of medical care to injured and/or sick prisoners (including diabetics and epileptics), refrigerated cells during winter months, arbitrary beatings, psychological abuse of mentally unstable prisoners, illegal censorship of mail, extended isolation and indoor confinement, and administrative (rather than judicial) decisions about punishment for “misbehaved” prisoners.

ⁱ See *The Prison Inside the Prison, A Justice Visions Briefing Paper*, by Rachael Kamel and Bonnie Kerness, American Friends Service Committee, 2003, <http://www.afsc.org/community/prison-inside-prison.pdf>.

See also *Control Unit Prisons: Shut Them Down*, Prison Activist Resource Center, <http://www.prisonactivist.org/control-unit/>

Failing Health

Medical neglect and mistreatment abound in U.S. prisons and jails. The concentration of prisoners who are poor and people of color in U.S. prisons and jails means that most of the prisoner population has lacked access to adequate health care for much of their lives. Many poor people enter prisons and jails with health that is already compromised.

Moreover, “get tough” sentencing is producing an aging prison population. One of every 23 inmates in prison today is age 55 or older, an 85% increase since 1995.ⁱ U.S. prisons are not equipped to address the health needs of incarcerated elders, including hospice care for those who are dying. Inadequate treatment, isolation, and the inability to make health care decisions by proxy are commonplace. One proposal to address this is the creation of new private, profit-producing prisons for aging and infirm inmates.

Additionally:

- Many prisoners face many functional obstacles in attempts to access even minimal treatment and care, often for chronic, debilitating, and potentially life-threatening conditions such as diabetes, liver cirrhosis, HIV/AIDS, Hepatitis C, tuberculosis, and the like.ⁱⁱ

- The prevalence of rape and sexual assault in jails and prisons contributes to the spread of sexually transmissible diseases.ⁱⁱⁱ

- Prisoners in many facilities are routinely denied access to such preventive, harm reducing tools as condoms, dental dams, bleach, drug treatment, and methadone maintenance.

- It is not unusual to segregate prisoners with HIV/AIDS, Hepatitis C, and other serious conditions, while also denying them access to appropriate medications, combination therapies, and advanced diagnostic testing.

- Prisoners with HIV/AIDS may be targeted for harassment, discrimination, and degrading treatment. Amnesty International, noting increasing use of electro-shock technology in the U.S. criminal justice system, reported evidence of the use of stun belts on low security HIV-positive prisoners and prisoners diagnosed with AIDS in a Louisiana parish jail.^{iv}

ⁱ See, for example, *New Incarceration Figures: Growth in Population Continues*, The Sentencing Project, <http://www.sentencingproject.org/pdfs/1044.pdf>. See also *Aging Behind Bars: 'Three Strikes' Seven Years Later*, Ryan S. King and Marc Maurer, The Sentencing Project, August, 2001 <http://www.sentencingproject.org/pdfs/9087.pdf>.

ⁱⁱ See, for example, the web pages on *Understanding Prison Health Care: Fostering competence and compassion in treating prisoners*, <http://movementbuilding.org/prisonhealth>.

ⁱⁱⁱ See, for example, *No Escape: Male Rape in U.S. Prisons*, April 2001, Human Rights Watch <http://www.hrw.org/reports/2001/prison/report.html>. See also *Prisoner Rape Spreads Disease—Inside and Outside of Prison*, Stop Prisoner Rape, <http://www.spr.org/en/factsheet/disease.html>

^{iv} See *Amnesty International and the Fight Against HIV/AIDS: Questions and Answers*, http://www.amnestyusa.org/news/document.do?id=9BEFC3BCD_DADE4E280256F6_60068A266

Where do we go from here?

The Importance of Embracing Difficult Discussions

A useful way to start to bring the different LGBT discussions about criminal justice together is to face several complicated truths, without prioritizing them or casting any of them aside because they are inconvenient or challenge deeply-held beliefs.

By doing so, we are more likely to see more clearly the connection of things, and to determine ways forward that address real problems without further compounding violence.

- Harassment and violence directed against LGBT people is common and often not taken seriously by society. We are understandably angry about that, and we are obligated to organize to reduce and stop that violence. The individuals and institutions who perpetrate violence must be held accountable, and those who are targeted for violence must be supported and protected.

- The violence against LGBT people perpetrated by individuals is mirrored by and compounded within the criminal justice system and detention industry. The problem is systemic, and not simply the result of the actions of “a few bad apples.” Moreover, racism, misogyny, and class bias are endemic to this system. To ignore the complex interrelationships of race, ethnicity, culture, economics, gender, gender identity, sexuality, and age is to ignore reality.

- Harassment and hate violence, like other forms of violence, do not arise in a social, economic, and spiritual vacuum. They are not simply the product of irrational prejudice, but rather of hatred that finds a focus as a result of complex social, economic, spiritual, and political tensions, stresses, and anxieties. In order to effectively address them, we must look at the many ways in which communities declare particular groups to be expendable, and we must deal pragmatically with those dynamics at the community base.

- The “get tough” crime policy template is attractive because it offers a simple (though problematic) response to violence and other socio-economic tensions. It does so by erasing any consideration of serious societal stresses and tensions, or their histories—and relieving communities of the obligation to address the policies and practices in public and private institutions that declare certain groups to be “less worthy” or expendable.

- Discussion about criminal justice issues and policies within the LGBT movement has generally not taken into account the broader context in which “get tough” policies have come about, helped shape this country’s political and economic priorities, or impacted communities of color, women, youth, and poor people. Without centralizing race, class, gender, and age in this discussion, it is impossible to comprehend the vio-

lent impact of these policies on particular constituencies, whole communities, and the larger society.

- Those individuals who commit violent acts against LGBT people can be charged, tried, convicted, and given serious sentences, or otherwise held accountable, without the addition of “get tough” penalty enhancement hate crimes laws or draconian “zero-tolerance” policies that fuel the “school-to-prison” pipeline.

It is also important for us to enter discussion about these issues with an understanding that addressing them is a long-term commitment.

The Challenges We All Face

If we choose to accept the “get tough on crime” approach, how do we propose to deal with the violence, widespread violations of human rights, and assaults on human dignity that characterize the prison-industrial complex? How do we propose to deal with institutional perpetrators of violence?

Will we simply refuse to face the magnitude and meaning of that violence? If so, what separates us from those who deny or refuse to care about the magnitude of violence directed against queer communities and other groups targeted for systemic discrimination and hate violence?

How do we propose to deal with the long-term effects of that institutional violence? Most people convicted of a crime and incarcerated will be released from prison. Many were in their teens or twenties when convicted, few have educational or rehabilitation opportunities while incarcerated. But most have endured varying degrees of institutional brutality and degradation and been repeatedly exposed to racist, misogynist, and anti-queer violence. What lessons will their longer terms of imprisonment in these efficient factories of violence have taught them? What happens to them when they attempt to re-enter communities and build new lives? Do we care?

And if we honestly face the violence of the criminal justice system and the disastrous

effects of an ever-expanding prison/detention industry, what alternatives are available to us? What do we really propose in place of reliance (or “over-reliance”) upon the criminal justice system as it exists?

Are we content to criticize and denounce without contributing in tangible ways to the creation of humane, just, and culturally relevant alternatives? If so, who do we think will create those alternatives?

Some suggest that the way to integrate these concerns is to address police violence as it arises, on a case-by-case basis and work to reform the system with a few policy changes, a few new rules and regulations, and some lobbying for better rehabilitation programs.

However, AFSC and Quaker experience suggests that piecemeal attempts to reform the justice system, without fundamentally re-imagining and restructuring justice practices around principles of human rights, healing, and right relationship, simply transmute into new measures that promote the same institutional violence.

A challenge AFSC and many others face is how to engage with the system in a constructive way while also remaining clear that piecemeal reform will not end systemic violence, and often is co-opted in ways reformers did not intend. How do we address immediate concerns while maintaining a long-term vision of justice practices that promote universal human rights, right relationship, and healing from violence and the harms of other forms of mistreatment?

It’s not easy to break out of 30 years of national immersion in the “get tough” approach to criminal justice and law enforcement. Yet, we must try. In doing so, many of us will discover just how deeply the “get tough” movement has shaped our own vision of justice.

Imprisoning a People’s Vision of Justice

To examine the jails and prisons of the United States is to see a society that is losing its way — politically, economically, and spiritually.

The telltale symptoms of a society in crisis: increasing investment in prisons, policing and war; decreasing investment in human needs and civic infrastructure; incarceration and —harsher sentencing as the preferred means for dealing with violence and a whole host of social and economic problems; policies that have produced the mass incarceration of people of color; and more.

“Toughness” and a determination to forcibly subjugate enemies substitute for an unequivocal, universal respect for human rights.

The cultivation of an atmosphere of fear and suspicion, and the manipulation of fear and anxiety by too many political and religious leaders substitute for commitment to building communities that are just, safe, and inclusive.

Justice, we are told by so many politicians and pundits, is a function of building enough prisons to hold all of society’s enemies.

But a continual hunt for enemies produces neither safety nor justice. It only produces a need for more enemies—and for more legal, spiritual, economic, and physical walls, fences, gates, policies, and prisons to keep *us* separate from *them*.

To create lasting safety and authentic justice, our society must address not only the harm done by individuals, but the ways in which public and private, secular and religious, institutions reinforce the lethal dualism of *us* and *them*.

That is why AFSC is working with friends and partners in the United States and around the world, to create conceptual and practical tools for thinking, talking, and organizing in our communities, and making policy decisions about justice in fresh ways.

Immediate Next Steps

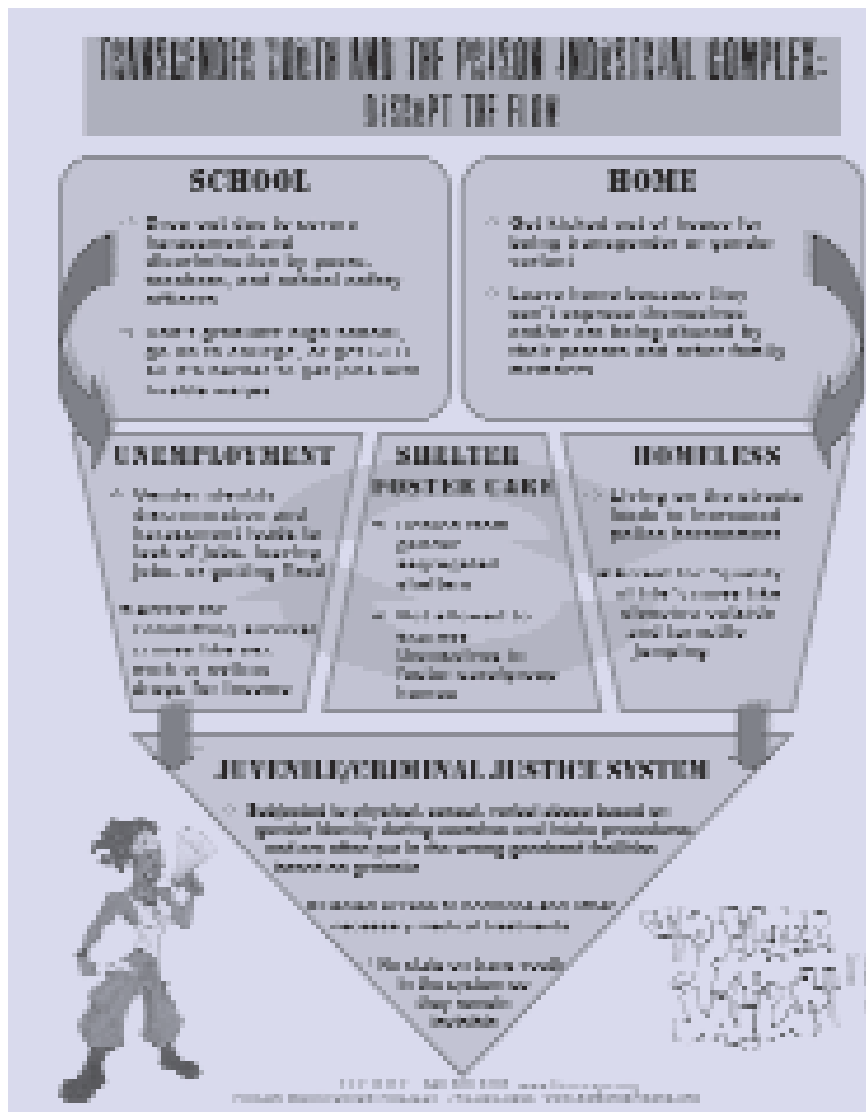
While re-imagining justice is a long-term undertaking, there are some small, but significant, steps we can take right now.

■ Educate Ourselves About Institutional Violence.

One powerful way to truly understand a society’s commitment to human rights and human dignity is to look deeply inside its justice system and see what is happening within its jails and prisons to people who are out of public sight, and largely out of the public mind (except, perhaps, as demonized stereotypes).

A continual hunt for enemies produces neither safety nor justice. It only produces a need for more enemies

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A Society's Priorities: Education or Prison?

Research clearly shows that having a good education is one of the best methods of crime prevention. Most prisoners in state correctional facilities do not possess a high school degree, much less any realistic hope of attending college. Yet over the past twenty years, funding for prison and jail spending has grown much more than funding for public education. The consequences are devastating.ⁱ

■ Between 1985 and 2000, state corrections spending grew at six times the rate of higher education.

■ During that period, corrections spending doubled or tripled in most states. By contrast, only one state doubled its overall higher education spending.

■ The explosive growth in prison populations over the past thirty years affects African American communities more than any other. In 2000, there were more than 791,000 African American males in jails and state and federal prisons. That same year, there were about 603,000 African American men enrolled in higher education. This “education v. incarceration” gap for African American men increased significantly from the gap documented in 1993/4.

■ The harsher sentencing policies and conditions of confinement that accompany the “get tough” movement have also produced a marked decline of educational and training programs within prisons. The concepts of constructive rehabilitation and educational opportunity have ceased to exist in any meaningful way in federal and most state prison systems.

ⁱ *Cellblocks or Classrooms? The Funding of Higher Education and Corrections and Its Impact on African American Men*, Justice Policy Institute, August, 2003 <http://www.justicepolicy.org/article.php?list=type&type=20>

NO VOTE, NO VOICE: The Impact of Felony Disenfranchisement

Most states have some form of disenfranchisement law, removing the right to vote temporarily or permanently from incarcerated people and ex-prisoners convicted of felonies. Many prohibit persons from voting who are convicted of felonies and are on probation or parole.

■ An estimated 4.7 million persons have temporarily or permanently lost their voting rights because of a felony conviction.ⁱ 1.7 million of these persons are ex-offenders who have completed their sentences.

■ 1.4 million of these people are African American men. That means that 13% of all African American men are disenfranchised. African American men are at significantly higher risk for disenfranchisement than others.

■ Significant numbers of Latinos are prohibited from voting by felony disenfranchisement laws, and they have disproportionately higher rates of disenfranchisement than the general population.ⁱⁱ

■ About 676,000 women are disenfranchised. Of these, 245,925 are African American. That means that 1 out of every 50 black women cannot vote.ⁱⁱⁱ

■ Processes for restoring the right to vote vary widely from state to state, and are generally complicated. Many who could reclaim their right to vote are discouraged from doing so.

ⁱ *Felony Disenfranchisement Laws in the United States*, The Sentencing Project, <http://www.sentencingproject.org/pdfs/1046.pdf>

ⁱⁱ *See Diminished Voting Power in the Latino Community: The Impact Felony Disenfranchisement Laws in Ten Targeted States*, by Demeo and Ochoa, MALDEF, 2003, <http://www.maldef.org/publications/pdf/FEB18-LatinoVotingRightsReport.pdf>.

ⁱⁱⁱ *Felony Disenfranchisement Rates for Women*, The Sentencing Project, <http://www.sentencingproject.org/pdfs/fvrwomen.pdf>

I tend to believe
the system itself has
replaced the physical act
of lynching.

Dominique Robinson,
Co-Area Director, AFSC
Baltimore Program

■ Examine the Intended and Unintended Consequences of “Get Tough” Measures

Find and talk with local community activists who are working on criminal justice/ prison-industrial complex issues.

■ Examine Our Own Assumptions & Stereotypes About “Criminals”

Do we think about the people in our society’s jails and prisons as human beings, or in demonized and stereotypical ways as “monsters” or people who can easily be discarded? Do we justify violence done to them while they are locked up? How are stereotypes about “criminals” coded in terms of race, class, and age?

How do we respond to LGBT people who are arrested or incarcerated if they become the target of police violence? Do stereotypes shift at all? Do queer prisoners shift in our imagination from them to us?

■ Develop a Deeper Understanding of Human Rights

Human rights—including the right to the integrity of one’s own person and culture and the right to a decent standard of living—are inherent. No one has to earn them, and no one can give them away. Some of these human rights are articulated in United Nations documents and some—such as the human rights of LGBT people—exist but are not yet recognized by the United Nations or other national and international institutions. Human rights come in many forms: physical, cultural, economic, religious/spiritual, and more. They apply to individuals and entire peoples.

The problem comes in how particular individuals and groups are treated by others—especially by those who wield the power of the state.

A human rights framework helps to connect all anti-violence work and all struggles for justice, and places the human rights struggle of any one group into a broader social, legal, and economic context.

■ Think About LGBT Policy Choices in Relation to the “Get Tough” Movement

What policy choices best help us respond to, reduce, and ultimately prevent violence directed against queers and other targeted communities?

Many hate crimes laws have provisions for mandatory data collection and reporting and civil remedies. Some address the issue of training for law enforcement personnel. These provisions are useful in breaking through societal denial of hate violence. Enhanced penalties, by contrast, are part of the “get tough” toolkit, with its consistent emphasis on longer periods of incarceration for more individuals and harsher conditions of confinement and release.

At the same time, the “unintended harmful consequences” of school-based zero-tolerance policies have been well-documented. This is important information for all LGBT activists and organizations struggling to end harassment and mistreatment of queer youth in school systems. Are uncritical demands for LGBT inclusion in policies that are quick to suspend students or funnel them into the criminal justice system, but fail to address the deeper causes of conflict, bullying, or behavior that places self and other students at risk of harm, really the best way to go?

Consider convening private and public discussions in which these issues are addressed in their full complexity. Be sure to offer information about how “get tough” policies impact communities of color, queers, and youth.

Consider stepping back from “get tough” measures in LGBT policy advocacy.

■ Start Thinking About Alternatives to Harsher Penalties and Retribution

It’s impossible to think of moving in a new direction if we have no idea what kinds of new directions might be possible.

PERPETUAL PUNISHMENT: Setting Up Ex-Offenders for Failure

Punitive “get tough” policies follow many people who have completed their sentences back into the community. Most people who have been incarcerated return to poor communities. According to The Sentencing Project, obstacles to constructive re-entry include these:

- A 1996 federal “welfare reform” bill included a lifetime ban on the receipt of welfare and food stamp benefits for those convicted of felony drug offenses. While states can choose to opt out of this provision, about 20 states fully enforce them, and many others enforce them in part. Women, primarily women of color, are particularly impacted by this.

- Federal laws permit public housing authorities to refuse housing to anyone who has ever engaged in “drug-related” activity. The number of applicants denied housing doubled after these laws went into effect.

- Amendments to the Higher Education Act suspend eligibility for student loans for those convicted of drug offenses.

- There are too few excellent drug treatment programs available to poor people. Additionally, there is extremely limited access to affordable housing, temporary emergency public aid benefits, funds for higher education, self-employment through occupational licensure, or decently-paying jobs.

A great deal of work is going on in many different communities and arenas to re-imagine how our communities can respond to and prevent violence and restructure criminal justice policies and practices. However imperfect, flawed, or unfinished these efforts are, there is some benefit in simply exposing ourselves to thinking that challenges and departs from “get tough” orthodoxy—then examining this thinking more closely through the lens of race, class, sexuality, and gender, and asking whether it tackles institutional wrongdoing as well as the wrongdoing of individuals.

It’s also useful to learn from the successes, failures, and tensions inherent in various “truth and reconciliation” processes undertaken in various locales to help societies or communities come to terms with massive violence directed against a subjugated and despised “other”—including the violence of apartheid, genocide, and racial and ethnic “cleansing”—and search for ways for former perpetrators and victims of violence to live together in just, safe, and peaceful community.

¹⁰ Two centuries ago, members of the Religious Society of Friends (Quakers) advocated for the creation of penitentiaries, where prisoners could reflect on their wrongful actions in a spirit of solitude, humility, and repentance in a healing environment as an alternative to execution and the cruelties of corporal punishment. In reality, the unrelenting isolation and other indignities prisoners experienced drove many insane. In the 1970s, AFSC and others advocated for fixed sentences that would solve the problem of great inequities and well-documented bias in indeterminate sentencing. This call for reform was misappropriated to support the drive for “get tough” policies, which resulted in the mass incarceration of people of color and poor people.

Impoverished & Imprisoned Communities: Economic Impacts of the Incarceration Industry

Rural communities, hard hit by the loss of rural industry and family farms in the 1980s and 1990s, have been targeted for new private prison development by corporations promising jobs and thriving local economies. Prisoners are seen as one more economic commodity, and the possibility of continued large numbers of prisoners is translated into hope for small towns and rural communities.

But the gap between promise and reality is large.

- In just one decade, the 1990s, a prison building boom produced 245 new jails and prisons in small towns and rural communities.

- In an effort to secure what they hope will be lucrative private prisons, local and county officials often offer free land, tax breaks, housing subsidies for staff, upgraded water and sewer systems, and other incentives to corporations.

- In various states, regulations exempt prisons from state level environmental review, permit the state to override local governments in selecting sites for correctional facilities, or have priority claim to water in the event of water shortages.

- Environmental degradation is a major issue for many communities with new prisons. So is wastewater management.

- On average, 80 percent of new prison jobs are held by people who don’t live or pay taxes where the prison is sited, and contrary to promises made by prison promoters, new prisons don’t really create many links to the local economy or strongly support small businesses.

- Some municipalities are expanding local jail facilities primarily for the purpose of renting out jail bed space for the housing of prisoners from out of state jurisdictions. Some have built prisons on speculation that they could not keep filled and, as a result, are struggling to pay off large bond debt.

Source: *Prison Town: Paying the Price*, The Real Cost of Prisons Project, 2005 <http://www.realcostofprisons.org/comics.html>.

See also *Big Prisons, Small Towns: Prison Economics in Rural America*, by Ryan S. King, Marc Mauer and Tracy Huling, Sentencing Project, 2003, <http://www.sentencingproject.org/pdfs/9037.pdf>.

PRISON LABOR

When the use of leased convict labor threatened the ability of non-incarcerated workers to unionize in the late 19th century, a host of state laws were passed prohibiting the use of prison labor by private businesses. A federal law followed in 1935, prohibiting the transport of prison-made goods between states.

That all changed in 1979 with the passage of the Justice System Improvement Act, which contained a provision that broke through the firewall of federal prohibition. Today, many well-known private businesses use prison labor, including that supplied by the Federal Prison Industries, Inc., or UNICOR, which produces a variety of products, including missile and bomb parts.

- Prison workers are not protected by federal safety and health standards, and they receive no health benefits. They cannot protest any conditions of employment.

- Prisoners may receive minimum wage, but much lower wages are also common, and up to 90% of the pay may be deducted for incarceration costs, victim compensation, taxes, and other mandatory expenses.

- Corporations utilizing prison labor pay much less in labor costs than they would pay for non-incarcerated labor—and they may receive added incentives, such as tax breaks or facility subsidies.

- While proponents of prison labor claim inmate participation is voluntary, prisoners who do not volunteer may lose privileges, placed in lockdown, or otherwise receive sanctions.

For more information, see the Prison Activist Resource Center’s Prison Labor links, including a state-by-state list of links to state-owned prison industries, <http://www.prisonactivist.org/prison-labor/>.

Educational and Organizing Resources

LEARN MORE! GET CONNECTED! GET INVOLVED!

Listed here are selected organizations, websites, and specific resources offering more in-depth information, commentary, and resources on prisons, prisoners, the U.S. criminal justice system, and/or the prison industrial complex. Through these websites, links to additional organizations and resources are available.

All of the organizations listed here do not necessarily share the same analysis of the prison industrial complex. Because website content changes frequently, AFSC does not endorse or vouch for specific websites.

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This issue brief is available in downloadable (PDF) format at:
<http://www.afsc.org/lgbt/criminaljustice/generalresources.htm>



American Friends Service Committee

The American Friends Service Committee (AFSC) is an internationally recognized Quaker organization whose work for peace, social and economic justice, and humanitarian service is carried forward by women and men of various faiths. The Service Committee, in its historic role of mending lives shattered by World Wars I and II, won the Nobel Peace Prize in 1947 along with the British Friends Service Council, on behalf of all Quakers, for peace building and humanitarian service. AFSC's quick reaction to the internment of Japanese Americans at the beginning of World War II helped aid, educate, and relocate thousands of American citizens who were unjustly targeted, corralled, and warehoused because of race. In 1963, at the request of an aide of Dr. Martin Luther King, Jr., AFSC published the first complete edition of Dr. King's historic Letter from a Birmingham Jail, addressed to a group of white clergy who opposed his nonviolent civil rights campaign. Throughout the years, AFSC has worked for human rights of many (including lesbian, gay, bisexual, and transgender people), challenging both the violence of individuals and the violence of the state.

AFSC Resources

LGBT & Other AFSC Criminal Justice Resources

<http://www.afsc.org/lgbt/criminal-justice/general-resources.htm>
<http://www.afsc.org/justice-visions.htm>

LGBT Programs

National: <http://www.afsc.org/lgbt>
Regional: <http://www.afsc.org/lgbt/programs.htm>

Criminal Justice Programs

National: <http://www.afsc.org/community/criminal-justice.htm>
Regional: <http://www.afsc.org/issues/program.php?id=323>

Immigrants Rights Programs

National: <http://www.afsc.org/immigrants-rights/default.htm>
Regional: <http://www.afsc.org/immigrants-rights/programs.htm>

Prison Industrial Complex/Impacts of Mass Incarceration

Center on Juvenile & Criminal Justice

<http://www.cjcj.org>

CJCJ provides direct service, technical assistance, and policy research in the field of criminal justice. Its policy center includes excellent material on juvenile justice policy and a series on the prison industrial complex.

Critical Resistance

<http://www.criticalresistance.org>
Critical Resistance seeks to build an international movement to end the prison industrial complex (PIC) by challenging the belief that caging and controlling people makes us safe. CJ believes that basic necessities such as food, shelter, and freedom are what really make our communities secure. The success of the movement requires that it reflect communities most affected by the PIC.

Grassroots Leadership

<http://www.grassrootsleadership.org>
Grassroots Leadership is a multiracial team of organizers who help Southern community and labor organizations think critically, work strategically, and take direct action to end oppression, gain powers, and achieve justice and equity. Excellent materials reflect a recent emphasis on addressing the impacts of the private prison industry in the South. See also *Corrections Corporation of America: A Critical Look at Its First Twenty Years*, by Philip Matterna and Mafruz Khan, 2003, Grassroots Leadership. This report is a joint project of Grassroots Leadership, the Corporate Research Project of Good Jobs First and Prison Privatization Report International, with support from the Open Society Institute's Community Advocacy Project.

http://www.soros.org/initiatives/justice/articles_publications/cca_20_years_20031201

Incite! Women of Color Against Violence

<http://www.incite-national.org/involve/statement.html>
Incite! is a national activist organization of radical feminists of color advancing a movement to end violence against women of color and their communities through direct action, critical dialogue and grassroots organizing. See *Critical Resistance/ Incite! Statement on Gender Violence and the Prison Industrial Complex*, <http://www.incite-national.org/involve/statement.html>

Justice Now

<http://www.jnow.org>
Justice Now works to end violence against women and stop their imprisonment. JN believes that prisons and policing are not making our communities safe and whole but that, in fact, the current system severely damages the people it imprisons and the people most affected by it. Justice Now promotes alternatives to policing and prisons and challenges the prison industrial complex in all its forms.

Not With Our Money!

<http://www.notwithourmoney.org>
Not With Our Money! is a network of student and community activists working to end the use of prisons for profit. Their mission is to provide the training, tools and informational resources communities need to hold prison profiteers (particularly corporations that finance the private prison industry) accountable for their actions.

Prison Moratorium Project

<http://www.nomoreprisons.org>
PMP is a group of young activists, community members, and formerly incarcerated people calling for an end to prison expansion and mass incarceration, and a restoration of the communities devastated by the criminal (in)justice system. PMP is also committed to bringing the voices of directly affected people into the center of the criminal justice debate through grassroots organizing, training, and technical assistance.

Prison Activist Resource Center

<http://www.prisonactivist.org>
PARC is committed to exposing and challenging the institutionalized racism of the criminal injustice system and to further developing anti-racism as individuals and throughout our organization. We provide support for educators, activists, prisoners, and prisoners' families. This work includes building networks for action and producing materials that expose human rights violations while fundamentally challenging the rapid expansion of the prison industrial complex.

Real Cost of Prisons

<http://www.realcostofprisons.org>
The Real Cost of Prisons Project, an activity of The Sentencing Project, seeks to strengthen and deepen the organizing capacity of grassroots prison/justice activists and to broaden the public's understanding of the economic and social consequences of mass incarceration. Excellent materials, including comic books, research papers, a prison industrial complex timeline, and more.

The Sentencing Project

<http://www.sentencingproject.org>
The Sentencing Project promotes reduced reliance on incarceration and increased use of more effective and humane alternatives to deal with crime. It is a nationally recognized source of criminal justice policy analysis, data, and program information. Its reports, publications, and staff are relied upon by the public, policymakers and the media.

FIGHTING HATE VIOLENCE FIGHTING STATE VIOLENCE

Support AFSC's LGBT "New Visions of Justice" Work. AFSC LGBT Program, Community Relations Unit, 1501 Cherry Street, Philadelphia, PA 19102

Queers, Incarceration & Police/Prison Violence

Audre Lorde Project (Working Group on Police Violence) <http://www.alp.org>

Fierce! (Transgender Youth & the Prison Industrial Complex)

<http://www.fiercencyc.org/transPICflow.pdf>

National Center for Lesbian Rights (Fact Sheet: Rights of Transgender Prisoners)
<http://www.nclrights.org/publications/pubs/tgprisoners0804.pdf>

Sylvia Rivera Law Project (Rights of Trans Prisoners/Abuse of Trans Prisoners, Criminal Justice Issue page)

<http://www.srlp.org/index.php?sec=03K&page=criminaljust>

TGI Justice Project (Challenging human rights abuses committed against transgender, gender variant/genderqueer and intersex (TGI) people in California prisons and beyond)
<http://www.tgjip.org>

Trans/Gender Variant in Prison Committee (A California Prison Focus Committee)
<http://www.prisons.org/TIP.htm>

Queers for Economic Justice (Criminal Justice Resources in QJ Library)
<http://www.queersforeconomicjustice.org>

Queer to the Left (Anti-Death Penalty Organizing)
<http://www.queertotheleft.org/deathpenalty.html>

Faith-Based Resources

Buddhist Peace Fellowship

Information and resources from the BPF Prison Project
http://www.bpf.org/html/current_projects/prison_project/prison_project.html

Grassroots Leadership

Keeping Faith: A Religious Response to Private Prisons
<http://www.grassrootsleadership.org/Newsletter/story6.html>

Jews for Racial and Economic Justice

Selected Bibliography on the Prison Industrial Complex <http://www.jfrej.org/prisonindustrialcomplexreadinglist.html>

Mennonite Central Committee

MCC Washington Office Guide to the Prison Industrial Complex, compiled by David Whettstone, May, 2001.
http://www.mcc.org/us/washington/prisons_guide.pdf

Presbyterian Church USA

Rationale for the Resolution Calling for the Abolition of For Profit Private Prisons
<http://www.pcusa.org/generalassembly>

Fellowship of Friends of African Descent (Quakers)

Fall 2004 Newsletter from Fellowship of Friends of African Descent including resolution calling for Friends divestment in for-profit prisons and prison programming.
<http://fellowshipoffriendsof african descent.org/ffad04.pdf>

Unitarian Universalist Association

Revised Draft Unitarian Universalist Association Statement of Conscience on Criminal Justice and Prison Reform, March 2005, for consideration at the UUA 2005 General Assembly.

<http://www.uua.org/csw/criminal%20justice.htm#Revised%20Draft>