

# Michigan Law Review

---

Volume 77 | Issue 3

---

1979

## *A Prison and a Prisoner. The Provincial's View*

Emily Calhoun

*University of Colorado at Boulder*

Follow this and additional works at: <https://repository.law.umich.edu/mlr>



Part of the [Law Enforcement and Corrections Commons](#)

---

### Recommended Citation

Emily Calhoun, *A Prison and a Prisoner: The Provincial's View*, 77 MICH. L. REV. 751 (1979).

Available at: <https://repository.law.umich.edu/mlr/vol77/iss3/29>

This Review is brought to you for free and open access by the Michigan Law Review at University of Michigan Law School Scholarship Repository. It has been accepted for inclusion in Michigan Law Review by an authorized editor of University of Michigan Law School Scholarship Repository. For more information, please contact [mlaw.repository@umich.edu](mailto:mlaw.repository@umich.edu).

## **A PRISON AND A PRISONER: THE PROVINCIAL'S VIEW**

*Emily Calhoun\**

A PRISON AND A PRISONER. By Susan Sheehan. Boston: Houghton Mifflin Co. 1978. Pp. viii, 275. \$10.95.

Were Susan Sheehan's book simply an account of the life of a specific prisoner, the pseudonymous George Malinow, or a description of a specific state prison, the Green Haven facility in New York, I would be hard pressed to find serious fault with it. Sheehan is a perceptive journalist who manages to convey with ease a quantity of information about both Malinow and Green Haven which, having no independent knowledge of either, I am bound to accept.

*A Prison and a Prisoner* is not, however, about a single prison and a single prisoner. Rather, it purports to describe the typical life of a prisoner in a typical prison. Moreover, it is an accessible and absorbing book which has been and probably will be widely read. It was published initially in a well-respected periodical (the *New Yorker*) and has been favorably reviewed. It is likely to be a source of information for many people. Because Sheehan's writing clearly will influence a large audience, her claim that her prison and prisoner are typical must be carefully examined.

Literary style and explicit statements confirm that Sheehan does, in fact, intend to encourage the reader to draw generalized inferences about prisons and prison life from the more specific information given about Malinow and Green Haven. In the early pages of her book, Sheehan skillfully leads the reader from narrative accounts of Malinow's life at Green Haven, to statistical summaries of general characteristics of inmate populations, and back again. Thus, she effectively accustoms the reader to move easily from the specific to the general, to draw broad inferences about prison life throughout the United States, almost as a matter of unwitting habit, from each specific detail of Malinow's life. The comparison which the reader is encouraged to make is identified at the outset: "one might . . . say that Green Haven is every prison and every prison is Green Haven. Or one might say, as Malinow does, in unknowing imitation of Gertrude Stein, 'A

---

\* Associate Professor of Law, University of Colorado at Boulder. B.A. 1967, M.A. 1968, Texas Technological University; J.D. 1971, University of Texas.—Ed.

prison is a prison is a prison'” (p. 4). It is this comparison, and the suggestion both that Green Haven is like any other prison and that Malinow's experience at Green Haven corresponds to the experience of all other prisoners, with which I quarrel.<sup>1</sup>

Take Malinow himself. He is fifty-seven years old. Only 12.4% of New York State's prisoners are over the age of forty (p. 13). Malinow is Caucasian. Only 26.7% of New York State's prisoners are white (p. 16). Malinow spends much of his time painting pictures on glass, writing letters, or reading (p. 1). He has “outgrown idle prison conversations,” “rarely goes to the yard,” and does not participate in prison sports (p. 85). He is “one of the few men at Green Haven without a centerfold pinup from *Playboy* or *Penthouse* or *Hustler* on display in his cell” (p. 37). He does not use drugs, although “[f]ifty-eight percent of the men imprisoned in New York are users of drugs” (p. 14). He “isn't particularly embarrassed by the lack of privacy,” “has no trouble sleeping through the night,” and says that “bars don't bother him and never have” (p. 38). He is not moved by poems about the physical and psychological horrors of cell confinement and, were he a photographer, he would probably not take photographs of men's hands gripping cell bars, as other inmates have done (pp. 37-38). Malinow, who is an honor cell resident, breaks prison rules “quietly,” unlike residents of nonhonor cell blocks in Green Haven (p. 35). He has not been caught breaking a prison rule since 1971 (p. 59). Malinow is a long-termer, among the 11.7% of those men serving time in the New York prison system who have life sentences (p. 16). Thus, in any easily quantifiable respect, Malinow is rather strikingly atypical of the inmates in the New York prison system.

Indeed, Sheehan acknowledges this fact but excuses her choice of protagonist in this way:

[T]here is no typical inmate . . . . In some respects, Malinow seems unique. He probably writes the longest letters to the most distant country, and he justifies their length with the most idiosyncratic logic. He is more experienced at swagging [stealing from the state], more likely to get away with it, and consequently better off than most of the younger men at Green Haven . . . .

What is interesting about Malinow's special and relatively easy life at Green Haven in 1976 is how much it still has in common

---

1. The third chapter of Sheehan's book treats, for the most part, Malinow's personal history, his childhood, early brushes with the law, and previous prison experiences. The criticisms which I make, therefore, largely apply only to the first two chapters.

with, say, the life of a young black inmate assigned to the optical shop rather than to parole clothing, who spends his free time playing basketball instead of painting on glass, writes no letters, and smokes marijuana whenever he can get it, in addition to drinking homemade booze. [P. 116]

It is a rather astonishing passage. After writing over one hundred pages primarily about Malinow, after implying that he is representative of other prisoners in some undefined way, and after including innumerable statistics which characterize the New York prison population by race, age, sentence, education, and otherwise, Sheehan tells the reader that not only is Malinow not typical, but that there is no typical inmate.

When I reached this point in my reading, already having been made uneasy by the incompatible juxtaposition of Malinow with that much different, statistically average prisoner, I almost concluded that I had been mistaken as to Sheehan's intent. Perhaps *A Prison and a Prisoner* was meant to serve no purpose other than describing Malinow and Green Haven. On looking a second time at Sheehan's concession of Malinow's atypicality, however, I realized that it was qualified and that my initial assessment should be confirmed. For one thing, Sheehan understates to an extreme the differences between Malinow and other inmates. Malinow is conceded to be unique simply because he writes long letters and is better at swagging, says Sheehan. She fails to refer to all of those other differences in age, race, intelligence, outlook, and length of sentence. Moreover, her offhand statement that Malinow is better off than most of the younger men at Green Haven is made without reference to the fact that "most of the younger men" probably constitute well over ninety percent of the prison population. Further, while conceding that Malinow is atypical in some respects, Sheehan simultaneously extends the comparison between Malinow and other prisoners in a more critical, but an equally misleading way: although Malinow may be somewhat unique, his life has much in common with that of a young black inmate, and that life is "relatively easy."

It is difficult for me to believe that Malinow's life is any more typical of the life of the average inmate at Green Haven than Malinow himself is typical of the average inmate. Malinow lives on an honor block reserved for inmates who "break prison rules quietly" (p. 35). He is "better off" than approximately ninety percent of the other inmates. He is assigned to work in parole clothing which, according to Sheehan, is "an oasis at Green Haven" (p. 118). There is a "new element" in the prison which

Malinow perceives as a threat to himself and the prison and which he avoids by not dining in the mess hall or visiting the yard (pp. 83-84). Malinow, who "often sounds like a longtime Irish resident of South Boston talking about how nice the neighborhood used to be" (p. 17), laments that when he first began serving time "[w]e had a much better calibre of men—black and white—in prison in dem years" (p. 200). Thus, somewhere in Green Haven is a much different prison inmate whose character and lifestyle are not explored by Sheehan and from whom Malinow, painting on glass in his honor cellblock, avoiding the mess hall and the yard, or working in the parole clothing "oasis," remains largely isolated. I cannot prove that the life of this unidentified "new element" is any different than Malinow's life (if Sheehan's account contained enough information for me to prove my point, I would not complain about her misleading portrayal of prison life), but I and other readers must suspect that there are surely some differences and that those differences are at least significant enough to cause Malinow to avoid the "new element" whenever possible.

Like the assertion that Malinow's life is typical of that of other Green Haven inmates, the assertion that life is "relatively easy" cannot be disproved, but I suspect that it is not so. Certainly, at least from the perspective of a middle class working person, Green Haven prison life sounds easy. For one thing, says Sheehan, the workday is short (p. 116). In addition, working hours coincide with other scheduled prison activities, so there is much work absenteeism (p. 117-18). For those who do not work in prison industry, there is also relatively little productive activity. Nothing of much benefit to the inmates occurs in the lethargic prison classroom (pp. 120-21). The idleness is the same whether the inmate is assigned to industry or to an academic or vocational school (p. 125). It appears that talk about prison politics and personalities fills the idle hours (pp. 128-30).

Anyone reading *A Prison and a Prisoner* would find little evidence of frustration or violence among prisoners, of racial tension, or of an imminent breakdown of prison order and discipline. Yet Charles Silberman, author of *Criminal Violence, Criminal Justice* (1978), believes that these are important and pervasive aspects of contemporary prison life.

Intra-inmate violence has increased dramatically in recent years, although precise statistics are hard to come by. . . .

According to estimates for the country as a whole, intra-inmate homicides more than tripled in a decade. . . . And murder

is but the tip of the iceberg: for every inmate who is stabbed to death—homemade “shanks” are the principal weapon in prison—at least nine or ten others are stabbed and survive.

. . . .

From early 1972 until January, 1975, 15 inmates at Massachusetts' Walpole Prison were murdered, and hundreds were stabbed, assaulted with pipes, and beaten by a small group of prisoners who roamed the 500-inmate facility.

In all four Alabama prisons, U.S. District Court Judge Frank M. Johnson, Jr., found in a January, 1976, ruling, “robbery, rape, extortion, theft and assault are everyday occurrences among the general inmate population. Rather than face this constant danger, some inmates voluntarily subject themselves to the inhuman condition of prison isolation cells.”<sup>2</sup>

According to Silberman, a breakdown of control has occurred in prisons throughout the country.

Contemporary prisoners—especially black prisoners, who comprise a majority of the prison population in a number of states and about 50 percent nationwide—are no longer “buying all the bullshit”; they are unwilling to accept the kinds of mutual accommodations and understandings between inmates and staff that, in the past, had kept the pressures toward anarchy and violence under some sort of control. In effect, inmates have withdrawn the consent on which prison government has always rested; they have shifted the measure of an individual's worth from adjustment back to rebellion.<sup>3</sup>

In short, “prisons have become racial battlegrounds.”<sup>4</sup>

Sheehan does indicate that these problems may in fact exist at Green Haven, but she certainly does not emphasize what is, at least to Silberman, a most disturbing aspect of contemporary prison life. Accounts of incidents which point to racial tension and intra-inmate violence are so scattered or are made in such an offhand manner that they do not convey the enormity of the problem. For example, Sheehan does describe two inmate slayings of a racial nature (pp. 17-18); she does not, however, even imply that the slayings are but a single manifestation of a critical situation. Subsequently, she refers to racial tensions in the prison, but does not explain their source or nature (p. 64). At one point, she describes the racist attitudes of many Green Haven guards, who refer to the visitors' bus as the African Queen and

---

2. C. SILBERMAN, *CRIMINAL VIOLENCE, CRIMINAL JUSTICE* 379-80 (1978) (footnotes omitted).

3. *Id.* at 403.

4. *Id.* at 415.

to the visitors as Zulus (p. 51), and who excuse the filth in the prison kitchen by saying that to most prisoners from black and Puerto Rican ghettos in the city, "this is clean" (p. 79). It is only much later, however, that she suggests that racist attitudes and tensions translate into violence when, in discussing a general breakdown of control at Green Haven, she notes that assaults on white guards have increased in recent years (pp. 147-51). When she states that homosexuality and homosexual rape occur at Green Haven, the inherently violent and potentially racial aspect of the problem is ignored (pp. 20-21).<sup>5</sup> Although she admits that many inmates ask to be sent to segregation cells for their own protection (p. 61), she does not relate these requests to the pervasive problem of inmate violence. She mentions that inmates do cover up incidents of intra-inmate violence, but she gives no estimate of how much violence there is at Green Haven (p. 62).

In short, although there is some evidence of violence and racial tension in *A Prison and a Prisoner*, it is conveyed in such a disjointed way that it makes little impression on the reader. The plentiful statistical information which Sheehan uses to help describe other aspects of prison life does not supplement the meager references to racial tensions or violence. And, of course, as long as Sheehan insists on using her atypical protagonist Malinow as a Greek chorus, turning to him for comment on the problem of prison violence, that problem will remain understated. For example, Malinow the old-timer, the long-termer who isolates himself as much as possible from daily prison life, who much prefers the former days of mutual adjustment between inmate and prison official to the current days of inmate rebellion, has only the following comment to make respecting the phenomenon of inmate requests to be placed in protective segregation: inmates who make such a request are "'weak types of individuals—rats or punks who aren't to be trusted'" (p. 61). The implication is that physical abuse is not a general prison problem but a problem only for those inmates who are informers or who are otherwise untrustworthy.

Is life relatively easy at Green Haven? Both guards (p. 134) and inmates, including Malinow (p. 97), say that the prison is "hell." Despite Sheehan's failure to address adequately the existence of prison violence at Green Haven, there is evidence to support the guards' and inmates' view. The most important defi-

---

5. As Silberman reports, homosexual rapes, especially those which involve a black attacker and a white victim, are a major problem. C. SILBERMAN, *supra* note 2, at 415-16.

ciency of *A Prison and a Prisoner* is not, however, the possibility that Sheehan may have inaccurately portrayed the quality of prison life at Green Haven. Rather, it is that Sheehan, in selecting Green Haven and Malinow as her subjects, has misrepresented the nature of life in a significant number of prisons in other parts of the country.

For example, consider Southern prisons. The single most striking characteristic of these prisons, and the characteristic which most affects the quality of life there, is severe overcrowding.<sup>6</sup> The existence of overcrowding and its effects are documented in *Pugh v. Locke*,<sup>7</sup> a decision rendered in 1976, the same year of Malinow's life which is described in *A Prison and a Prisoner*.

In the Alabama prison system which gave rise to the *Pugh* lawsuit, in facilities designed for a maximum of 632, 540, 632, and 503 inmates, there were housed over 1100, 750, 1000, and 700 prisoners, respectively.<sup>8</sup> According to the court,

The effects of severe overcrowding are heightened by the dormitory living arrangements which prevail in these institutions. Bunks often are packed together so closely that there is no walking space between them. Sanitation and security are impossible to maintain. There was testimony that the quarantine population at Kilby is so crowded that inmates have to sleep on mattresses spread on floors in hallways and next to urinals. As will be noted, overcrowding is primarily responsible for and exacerbates all the other ills of Alabama's penal system.<sup>9</sup>

The court went on to describe "extremely unsanitary living conditions," the use of "[o]ld and filthy cotton mattresses" which contribute to the spread of "contagious diseases and body lice," inadequate heat and ventilation, facilities which are "overrun with roaches, flies, mosquitoes and other vermin," a dormitory area "housing well over 200 men" where there is "one functioning toilet," "[f]ood service conditions" that are "equally unsanitary," and "[m]echanical dishwashers [which] are not adequately maintained and therefore do not even approach the minimum temperature required for proper sanitation."<sup>10</sup> There was testimony from a United States public health official who toured the prisons and found them "wholly unfit for human habitation."

---

6. See C. SILBERMAN, *supra* note 2, at 375; SOUTHERN EXPOSURE, Winter 1978, at 28.

7. 406 F. Supp. 318 (M.D. Ala. 1976), *affd, sub nom.* Newman v. Alabama, 559 F.2d 283 (5th Cir. 1977).

8. 406 F. Supp at 322.

9. 406 F. Supp. at 322-23.

10. 406 F. Supp at 323.



He concluded that "if such facilities were under his jurisdiction, he would recommend that they be closed and condemned as an imminent danger to the health of individuals exposed to them."<sup>11</sup> With respect to inmate violence, the court observed that "rampant violence and [a] jungle atmosphere" pervaded the prisons.<sup>12</sup>

Violent inmates are not isolated from those who are young, passive or weak . . . [T]he latter inmates are repeatedly victimized . . . Testimony shows that robbery, rape, extortion, theft and assault are everyday occurrences among the general inmate population. Rather than face this constant danger, some inmates voluntarily subject themselves to the inhuman conditions of prison isolation cells.<sup>13</sup>

In the isolation cells, "as many as six inmates were packed in four foot by eight foot cells with no beds, no lights, no running water, and a hole in the floor for a toilet which could only be flushed from the outside."<sup>14</sup>

In an earlier opinion pertaining to the same Alabama prison system, *Newman v. Alabama*,<sup>15</sup> the court found the medical care provided inmates constitutionally inadequate. Because of understaffing,

Medical personnel are continually called upon to perform services for which they have not been trained and for which they are not qualified . . . [T]he worst abuse is found among inmate personnel. Unsupervised prisoners, without formal training, regularly pull teeth, screen sick call patients, dispense as well as administer medication, including dangerous drugs, give injections, take X-rays, suture, and perform minor surgery.<sup>16</sup>

As a result of the poor medical care, one inmate delirious with pneumonia was left unattended, treated himself with cold showers, and died; untreated bedsores of another inmate developed into open wounds which became infected with maggots; and it took two days for one inmate needing emergency care to be seen by a physician.<sup>17</sup>

It must be remembered that the district court in *Pugh v. Locke* and *Newman v. Alabama* is not describing a single, unique

---

11. 406 F. Supp. at 323-24.

12. 406 F. Supp. at 325.

13. 406 F. Supp. at 324.

14. 406 F. Supp. at 327.

15. 346 F. Supp. 278 (M.D. Ala. 1972), *affd.*, 503 F.2d 1320 (5th Cir. 1974), *cert. denied*, 421 U.S. 948 (1975).

16. 349 F. Supp. at 283.

17. 349 F. Supp. at 285.

prison which is unrepresentative of other prisons. The *Pugh* and *Newman* litigation involved every facility in the Alabama prison system. Moreover, most other Southern prisons suffer from deficiencies similar to those found in Alabama, as numerous court decisions attest.<sup>18</sup>

From these court decisions, I would hazard a guess that life in a typical Southern prison does not differ significantly from the life in Alabama's prisons which is described in *Pugh* and *Newman*. That life does differ significantly, however, from the life described at Green Haven where, one would gather from Sheehan's account, there is some intra-inmate violence, but not enough to affect the otherwise "relatively easy" life; where medical care is mediocre, but not bad enough to have resulted in any successful prison lawsuits (pp. 52-56); where there is some filth in the prison kitchen (p. 79) but evidently little elsewhere; where segregation and segregation cells are "relatively benign" (pp. 73-74); where the state spends \$9768 a year for each prisoner (p. 89) instead of the average \$3916 per inmate per year spent by Southern states;<sup>19</sup> and where inmates are "housed one to a cell," as at all maximum security institutions in New York (p. 29).

Lest I seem unduly critical of Sheehan's report, let me attest that much of what Sheehan describes in the way of the poverty of the inmates (pp. 19, 90-92), prison hustling and swagging (pp. 91-95), the background and attitudes of the guards, who come for the most part from rural areas (pp. 22-23, 135-46), and the inmates' attitudes toward their own crimes is important and is characteristic of other prisons. In particular, she is able to capture the depth of resentment held by most inmates toward their white-collar counterparts and other, wealthier individuals who break the law and who, inmates believe, are no better than any prison inmate (p. 128).<sup>20</sup> Malinow himself, who says that he would not

---

18. See, e.g., for Alabama: *McCray v. Sullivan*, 509 F.2d 1332 (5th Cir.), cert. denied, 423 U.S. 859 (1975); Arkansas: *Holt v. Sarver*, 309 F. Supp. 362 (E.D. Ark. 1970), affd., 442 F.2d 304 (8th Cir. 1974); Florida: *Costello v. Wainwright*, 397 F. Supp. 20 (M.D. Fla. 1975), revd. and remanded on other grounds, 539 F.2d 547 (5th Cir. 1976), revd. and remanded, 430 U.S. 325 (1977); Louisiana: *Williams v. Edwards*, 547 F.2d 1026 (5th Cir. 1977); Mississippi: *Gates v. Collier*, 349 F. Supp. 881 (N.D. Miss. 1972), affd., 501 F.2d 1291 (5th Cir. 1974); Oklahoma: *Battle v. Anderson*, 376 F. Supp. 402 (E.D. Okla. 1974), affd., 564 F.2d 388 (10th Cir. 1977); Tennessee: *Trigg v. Blanton*, 24 Cr. L. 2018 (Tenn. Ch. Ct. 8/23/78); Texas: *Ruiz v. Estelle*, No. 5523 (W.D. Tex., Tyler Div.), and *In re Estelle*, 516 F.2d 480 (5th Cir. 1975), cert. denied, 426 U.S. 925 (1976); Virginia: *Woodhous v. Virginia*, 487 F.2d 889 (4th Cir. 1973); *Landman v. Peyton*, 370 F.2d 135 (4th Cir.), cert. denied, 385 U.S. 881 (1966); and *Landman v. Royster*, 333 F. Supp. 621 (E.D. Va. 1971).

19. SOUTHERN EXPOSURE, *supra* note 6, at 27.

20. Compare Silberman's suggestion that inmates try to maintain a sense of identity,

have stolen in the first place if he had come from a middle class family (p. 170), believes that if he or his family had had any money he would not have been sentenced initially to five to ten years in a state prison but would instead have been sent to a reformatory or been given a suspended sentence (p. 179). He laments, " 'I only wish to God that when I was younger I'd had someone to teach me economics and banking. Then I could have stolen millions of bucks with a few strokes of the pen and maybe been sent away only once for a couple of years' " (pp. 14-15). He plans to buy a book entitled *How to Rob Banks Legally* when he is released (p. 270).

Sheehan does not, however, write about solely these matters. Instead, she purports to give the reader an account of a typical life in a typical prison. That she has not done.

Perhaps the differences between Malinow's life at Green Haven and the life in Southern or other prisons are simply differences of degree. Even so, differences of degree can be significant. They may move readers from passive reflection about penological theory or sardonic contemplation of inmate escapades to an outraged commitment to prison reform. And it is that commitment to reform which is needed. The prison life which Sheehan describes at Green Haven is tolerable, but prisons as they exist in many parts of the country are fundamentally intolerable institutions.

I would liked to have concluded this review by recommending *A Prison and a Prisoner* to anyone wanting to assess current efforts at prison reform in light of a realistic portrayal of prison life. I myself would have like to have used *A Prison and a Prisoner* in evaluating judicial responses to lawsuits which challenge prison conditions. I cannot do so, however, for I cannot rely with confidence on Sheehan's portrayal of prison life. In far too many respects, it simply is unrepresentative of prison life. I can only hope that others do not rely on it to the exclusion of more representative portrayals.

---

in an environment which is designed to destroy it, by persuading themselves that "it is unjust and hypocritical to single [them] out for punishment in a society in which everyone is corrupt." C. SILBERMAN, *supra* note 2, at 386.