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Prison Oversight*

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Prison Oversight and Prison Leadership

Stan Stojkovic*

In a previous piece titled *Correctional Leadership: A Cultural Perspective*, my co-author and I identified the critical nexus between correctional leadership and organizational culture within prisons.¹ Our purpose in that work was to show that correctional leadership mattered in how prisons were run. Moreover, we were interested in showing *how* a correctional culture could be created, one that recognized modern leadership and management practices and reflected the best values within the democratic tradition of the country. In this brief piece, I will make a similar connection between prison oversight and prison leadership. My thesis is that prison oversight matters when it comes to correctional leadership, and that it is in the best interests of everyone to have effective oversight mechanisms within our prison systems. I will pursue this topic by examining three interrelated topics that highlight the importance and criticality of oversight mechanisms to prison leadership. These three topics are: prison oversight and democratic values, prison oversight and prison effectiveness, and prison oversight and societal expectations.²

Walter J. Dickey has noted the importance of prisons being run in a manner that is consistent with democratic ideals.³

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1. STAN STOJKOVIC & MARY ANN FARKAS, *CORRECTIONAL LEADERSHIP: A CULTURAL PERSPECTIVE* (2003).

2. See Anne Owers, *Prison Inspection and the Protection of Prisoners' Rights*, 30 PACE L. REV. 1535 (2010). This revealing paper highlights the major differences between British and American ideas on oversight and is essential for those interested in prison oversight as a correctional management tool.

3. *The Management of Prisons in a Democratic Society: Written Testimony Before the Commission on Safety and Abuse in America's Prisons*, Feb. 8, 2006 (statement of Walter J. Dickey, Professor & Senior Assoc. Dean for Academic Affairs, Univ. of Wis.), available at http://www.prisoncommission.org/public_hearing_4_witness_dickey_walter.

Having been a former director of a department of corrections, Dickey experienced the difficulties of leading and managing prisons under very austere circumstances. All directors of departments of corrections operate public agencies, in the words of Michael Lipsky, with infinite expectations and finite resources.⁴ Addressing the multiple demands of institutional systems can be daunting, yet doing this within the context of public oversight and review makes things even more problematical. For most correctional administrators, the balancing act of providing everything to everyone with limited resources has forced them to pursue a state of *anonymity*.

What I mean by this is that anonymity is the preferred position when you cannot address what you need to address and where dollar limitations force you to either cut corners or evade mandates. It is not a personal choice; it is more of an *organizational* choice, one imposed by reluctant legislators who see limited political utility in advocating for adequate resource allocations for prison systems.⁵ Moreover, the resource allocation question is invariably placed within the context of a public debate regarding what aims we want to pursue with prisons. This question, more often than not, is not easily understood and answered. The proverbial “public” wants everything, yet has a limited knowledge base from which to make informed choices about what are reasonable aims for prisons.⁶

This is where oversight may be of assistance to prison officials. In order to move from a state of anonymity to one of *transparency*, prison leaders will need to be convinced of its benefits. In short, how will prison oversight assist prison

4. MICHEAL LIPSKY, *STREET LEVEL BUREAUCRACY: DILEMMAS OF THE INDIVIDUAL IN PUBLIC SERVICES* (1980).

5. Conversation with Judge William Wayne Justice at the Opening Up a Closed World: What Constitutes Effective Prison Oversight Conference, in Austin, Tex. (Apr. 23, 2006). In addition, readers should know that Judge Justice was one of the leading judicial officials of the time (in the 1970s) in promoting change in prisons so that they met the legal requirements as promulgated by various federal and state laws. Presiding over one of the most controversial cases in correctional legal history, *Ruiz v. Estelle*, 503 F. Supp. 1265, 1339 (S.D. Tex. 1980), Judge Justice had experienced first-hand the recalcitrance of political officials to agree to manage constitutional prisons.

6. See generally STAN STOJKOVIC & R. LOVELL, *CORRECTIONS: AN INTRODUCTION* (2d ed. 1997).

leaders and managers to perform their basic functions more effectively and define their aims? The state of anonymity is no longer possible for correctional officials given some of the issues that I will address later regarding democratic values, prison effectiveness, and societal expectations. *Additionally, in the 21st century prison, the oversight function will be a new way of holding prison officials accountable.* This will be a new challenge for prison leaders and managers. No longer will “out of sight, out of mind” be the norm for prisons. Anonymity will become passé in the modern correctional system. Transparency and accountability will become normative as legislatures and some “publics” become more informed and demanding of prison leaders. The confluence of democratic values, questions of prison effectiveness, and societal expectations will force transparency and oversight will be critical to not only how prisoners are treated, but in addition, to how prison leaders and managers are judged. Prison leadership will become more salient and the degree to which oversight defines prison aims will be of tremendous assistance to beleaguered correctional administrators.

Prison Oversight and Democratic Values

Justice Louis Brandeis once stated that “[s]unlight is said to be the best of disinfectants.”⁷ Such is the case with prisons. The prison is, for the most part, a public concern and requires public oversight. I will not try to address the topic of prison privatization and its relationship to prison oversight, even though it is an important part of any prison oversight discussion. Others have already addressed this topic thoroughly.⁸ In most countries, various forms of correctional privatization have been present over the past two hundred years.⁹ The question is *how* does prison oversight enhance

7. LOUIS D. BRANDEIS, *OTHER PEOPLE’S MONEY, AND HOW THE BANKERS USE IT* 92 (On Demand Publishing 2009) (1914).

8. See S. CAMP & D. DAGGETT, *PRISON PRIVATIZATION: FINANCIAL AND ADMINISTRATIVE CONCERNS*, IN *MANAGING SPECIAL POPULATIONS IN JAILS AND PRISONS* (Stan Stojkovic, ed., 2d ed. 2010); Alfred C. Amen, Jr., *Privatization, Prisons, Democracy and Human Rights: The Need to Extend the Province of Administrative Law*, 12 *IND. J. GLOBAL LEGAL STUD.* 511 (2005).

9. *THE OXFORD HISTORY OF THE PRISON: THE PRACTICE OF PUNISHMENT IN*

democratic values, and how are democratic values a *constraining* element when it comes to prison operations?

These two questions reflect differing perspectives on prison oversight and democratic values. The issue of prison transparency and attendant democratic values are enhanced when we have effective prison oversight mechanisms in place. The objective is transparency, nothing more, nothing less. The essence of democracy is that sunlight can get into institutional settings, especially those that have a history of being hidden. Operating from a position of transparency, prisons are seen with all their faults. This awareness by itself is of value, but awareness without action is meaningless in the context of the prison. Prison transparency allows for many opportunities for improvement to occur as well. I once knew a prison warden who was a bit of a maverick when it came to public access. He viewed the public as discrete entities with differential levels of power and influence. He wanted the *influential* publics to have access to his prison. These were persons and entities in the public who either controlled decision making in the legislature or had access to resources that could be directed to the prison. He viewed them as leveraging points to assist him in running the prison.

This contrarian view (transparency) was viewed by many of the prison warden's correctional colleagues as not only problematical but almost heretical. He told me that the transparency allowed him to get to people "who mattered" and forced the state to do something about deplorable conditions in the prison. By being anonymous, he was left in a defensive position vis-à-vis the courts. This was a position that eventually led to failure at many levels. His opposing viewpoint at the time did not engender many supporters, especially among his professional peers, and some in the legislature even labeled him as a "pain in the ass."

Notwithstanding the latter view of this warden, he was being a correctional leader. He recognized that the old ways of doing business (circa, 1985!) were not working for him as a correctional leader. He, in addition, defined correctional leadership as the ability to use democratic institutions to his benefit, not his detriment. The courts, for example, were not

WESTERN HISTORY (Norval Morris & David J. Rothman, eds., 1995).

the enemy. They could be used to move a recalcitrant, and sometimes, defiant legislature to act. A similar view was recently expressed by Reginald Wilkinson, the former Director of the Ohio Department of Rehabilitation and Correction, at a prison oversight conference.¹⁰ Mr. Wilkinson was able to use the courts positively to make effective changes in his department's operations. In effect, prison transparency, and in this case, the use of the courts and other relevant parties, had definite benefits for prison officials.

Additionally, prison transparency serves to constrain prison officials. In this way, the transparency allows outside people to see correctional operations and to comment on their appropriateness. Often times, appropriateness is defined relative to some standard of conduct expected of prisons. Organizations like Europe's Committee for the Prevention of Torture ("CPT"),¹¹ the International Committee of the Red Cross ("ICRC"),¹² the United Nations proclamations against torture,¹³ Amnesty International,¹⁴ and Human Rights Watch¹⁵ all have expressed standards regarding codes of conduct for prisons.¹⁶ Again, a discussion on the aims of imprisonment becomes important here.

10. Statement made at the Prison Oversight Conference, LBJ School of Government (Apr. 2006).

11. See Council of Europe, About the CPT, <http://www.cpt.coe.int/en/about.htm> (last visited Mar. 31, 2010).

12. See ICRC, Strengthening Protection and Respect for Prisoners and Detainees, <http://www.icrc.org/Web/Eng/siteeng0.nsf/htmlall/detention?opendocument&link=home> (last visited Mar. 31, 2010).

13. See, e.g., Press Release, General Assembly, Convention Against Torture "Next Generation Treaty" that Places Value on Prevention Over Cure, Third Committee Told, U.N. Doc. GA/SHC/3955 (Oct. 20, 2009), available at <http://www.un.org/News/Press/docs/2009/gashc3955.doc.htm>.

14. See Amnesty International, Detention and Imprisonment, <http://www.amnesty.org/en/detention> (last visited Mar. 31, 2010).

15. See David Fathi, *Custody vs. Treatment Debate: Addicted to Punishment*, HUM. RTS. WATCH, July 1, 2009, <http://www.hrw.org/en/news/2009/07/01/custody-vs-treatment-debate-addicted-punishment>.

16. See Michelle Deitch, *Annotated Bibliography on Independent Prison Oversight*, 30 PACE L. REV. 1687 (2010). These standards serve as minima criteria upon which prisoners are to be treated, yet unanimity on these standards is much more problematical. Governments differ on what these standards are and how imprisonment is viewed.

For many countries, human rights standards are critical and the deprivation of liberty is taken very seriously. In the United States, the importance of the deprivation of liberty has waned as a central value when assessing the aims of imprisonment. This is ironic given the democratic traditions of the United States. How did the deprivation of liberty issue become relegated to an unimportant issue within the political discussions of the United States regarding the aims of imprisonment? This topic cannot be adequately addressed here. Others, again, have examined this important question.¹⁷ Typically, prison oversight meant litigation as the mechanism to force prisons to be accountable to the laws of the land, yet we have seen a massive retrenchment in the laws to hold prison officials accountable over the past ten years, largely due to the passing of legislation that limited prisoner access and prison oversight.

As noted by S.F. Hanlon, the most significant piece of legislation that has limited prisoner access and prison oversight in the United States has been the Prison Litigation Reform Act (PLRA).¹⁸ Passed under dubious circumstances and limited congressional debate, no other piece of legislation has altered the landscape of prison oversight in this country as much as the PLRA. Not only did the PLRA limit prisoners' abilities to litigate the conditions of their confinement, it also allowed prison administrators to evade their leadership responsibilities. In my words, they could sustain a condition of anonymity when transparency was what they needed to adequately function. Instead of speaking out against PLRA and other legislation that actually worked against their

17. See, e.g., *The Role of Litigation in Correctional Oversight: Written Testimony Before the Commission on Safety and Abuse in America's Prisons*, Feb. 8, 2006 (statement of Alvin Bronstein, U.S. Bd. Member of Penal Reform Int'l (London)), available at http://www.prisoncommission.org/statements/bronstein_alvin_j.pdf [hereinafter *The Role of Litigation*] (exploring the progression of civil rights and civil liberties in the post-World War II era).

18. *The Role of Litigation in Correctional Oversight: Written Testimony Before the Commission on Safety and Abuse in America's Prisons*, Feb. 9, 2006 (statement of S.F. Hanlon, Partner, Holland & Knight), available at http://www.prisoncommission.org/statements/hanlon_stephen_f.pdf (discussing the impact of the PLRA on prison conditions). See also Prison Litigation Reform Act of 1995, Pub. L. No. 104-134, § 801, 110 Stat. 1321, 1321-66 (1996) (codified as amended in scattered titles of the U.S.C.).

correctional interests, prison leaders and managers were, for the most part, silent on these changes.

The net effect has been that prisons have become less transparent and prison leaders, in many cases, have become less effective in what they do. The benefits of transparency and prison oversight were lost during the 1990s, and when it comes to democratic values, there were no longer brakes being applied to correctional practices that harmed prisoners and citizens alike.¹⁹ Transparency, like other democratic values such as freedom and liberty, are not divisible. You cannot be half-transparent. You are either transparent or you are not transparent. Legislation in the 1980s and 1990s in America worked against not only prison oversight, but in addition, for the purposes of this paper, actually worked against the ability of correctional leaders to effectively lead.²⁰ As a result, on many levels, American society became less democratic and correctional leaders and managers became less effective. No effective prison oversight, with its requisite transparency, and no effective correctional leadership.

Prison Oversight and Prison Effectiveness

What are the aims of imprisonment in America? The answer to this question has been discussed and debated for centuries. The lack of consensus and some degree of unanimity has created both conceptual confusion and practical difficulties for the public and prison officials. For the correctional administrator, the rule has always been: do what you have to do to maintain the prison. This meant security, security, and more security. Lofty notions of rehabilitation, effective intervention, and meaningful skill development among prisoners were given short shrift by correctional professionals, largely because they did not have a clue on how to achieve these aims. Ironically, while the country was headed toward

19. See TODD R. CLEAR, *IMPRISONING COMMUNITIES: HOW MASS INCARCERATION MAKES DISADVANTAGED NEIGHBORHOODS WORSE* (2007).

20. This legislation includes, for example, "Three Strikes and You're Out Laws" and mandatory minimum laws, as well as a host of federal and state legislation designed to incarcerate drug offenders, beginning with the Anti-Drug Abuse Act of 1986, tit. I, subtitle A, Narcotics Penalties and Enforcement Act of 1986, Pub. L. No. 99-570, 100 Stat. 3207.

an “imprisonment binge” through the 1980s, 1990s and into the 21st century, social scientists were developing more knowledge about what interventions were efficacious with what prisoners.²¹

At the same time, politicians were touting societal protection, deterrence, and retribution as the aims of imprisonment. These latter aims led toward the largest lockup of men and women in our country’s history, replete with a myriad of unintended consequences, such as the disproportionate incarceration of people of color, especially African-American and Latino-American citizens. Coupled with an ill-conceived “drug war,” the stage was set for the wholesale incarceration of millions of people.²² The United States has over 7.3 million people under correctional supervision, with over 2.3 million people incarcerated.²³

Moreover, the net effect of such a strategy was to make prison oversight more difficult. As previously stated, under such strained conditions, correctional administrators have traditionally sought a position of anonymity. Quite ironically, this view, again, actually made things worse. Without adequate oversight, correctional problems compounded. Issues like correctional health care, prison crowding, prison violence, and the management of prisons became almost impossible to address. Correctional administrators, pursuing a position of anonymity, actually retreated behind their walls. This is not the first time in correctional history that this has occurred. James B. Jacobs documented how perceived illegitimate intrusion by the courts in the 1960s and 1970s forced correctional professionals to retreat to the walls. Feeling abandoned by society’s institutions, especially the courts,

21. See Conversation with Edward Latessa, at the American Society of Criminology Meeting, in Ont., Can. (Nov. 22, 2005) (This conversation noted the growing body of evidence showing the importance of assessing offenders by their risk and need levels and matching them to appropriate interventions.).

22. See JAMES AUSTIN & JOHN IRWIN, *IT’S ABOUT TIME: AMERICA’S IMPRISONMENT BINGE* 5, 7, 59 (3d ed. 2001). This work, more than any other, makes a convincing claim that America’s penchant for incarcerating large numbers of people is misdirected, overly expensive, and counterproductive to any reasonable penal aims.

23. HEATHER C. WEST & WILLIAM J. SABOL, U.S. DEP’T OF JUSTICE, BUREAU OF JUSTICE STATISTICS, *PRISONERS IN 2007*, at 6-7 (2008), available at <http://bjs.ojp.usdoj.gov/content/pub/pdf/p07.pdf>.

prison officials hid behind the walls and favored anonymity over transparency to address the perceived threat to their autonomy.²⁴

The modern day correctional leader has, for the most part, done the same thing. He or she has pursued a strategy of anonymity at a time when transparency would be more beneficial. Why is it more beneficial to pursue transparency over anonymity? The answer to this question lies in prison effectiveness. If we *only* expect prisons to feed, cloth, and watch-over prisoners for the length of their sentences, we cannot even say that this is being achieved. I used to discuss with correctional administrators through the various training sessions I have given that if a prisoner came out of prison no worse than when he walked in we were successful. Set aside this minimal aim, can we with certainty say this is even being achieved in many of our correctional institutions?

If we answer this question honestly, I think we would conclude that prisons, on the dimension of effectiveness, have failed prisoners and society. How is this tied to prison oversight? The fact of the matter is that prison oversight can have tremendous benefit in allowing us to gain resources and bring to the table other actors who can assist in the management of prisons. The nature of correctional problems, whether they are conceptual or practical, requires generating other perspectives for solutions. Steven Luke has argued that many public problems require leadership that moves outside of a simple organizational domain.²⁵ This is true of prisons given their stated aims. Prison effectiveness will never be possible if we do not recognize this important fact.

Prison oversight mechanisms provide correctional leaders and managers other ways to view their problems and aims. I have stated in public hearings and before various legislative committees that the current prison suffers from too much tradition and very little innovation. Unless there is change in how we understand correctional effectiveness and ways to

24. JAMES B. JACOBS, *STATEVILLE: THE PENITENTIARY IN MASS SOCIETY* (1978). This work is a classic in the penology literature and a must read for anyone interested in understanding the changing nature of incarceration in American society and how prison systems evolve.

25. JEFFREY SCOTT LUKE, *CATALYTIC LEADERSHIP: STRATEGIES FOR AN INTERCONNECTED WORLD* (1998).

address it, prisons will continue to fail to achieve any aims, except being simply places of incapacitation. Later in this paper I will show how this aim is unacceptable from a societal perspective. For now, the contemporary prison has to redefine itself in a way that makes prison effectiveness possible. Prison oversight mechanisms provide one opportunity for prisons to become more effective.

Prison Oversight and Societal Expectations

The shifting sands of public expectations for prisons can be a correctional administrators' nightmare. For many correctional professionals trying to figure out what the "public" wants or expects of prisons is as laborious as Sisyphus rolling the proverbial rock up the hill. Nevertheless, I believe there are some core beliefs and values held by many in the various publics that should help correctional officials to see what societal expectations are regarding imprisonment. These societal expectations are more varied and complicated than what is espoused by elected officials. Many elected officials overstate the imprisonment aims of retribution, deterrence, incapacitation, and societal protection when discussing public attitudes toward prisons. The empirical reality is more complicated than expressed by many politicians.²⁶ Imagine that!

The evidence shows that most publics support the traditional aims of retribution, deterrence, incapacitation, and more recently societal protection, yet the mosaic of societal expectations for prisons is more diverse and rich and moves beyond these traditional aims. In fact, the evidence indicates that most of the citizenry additionally expects prisons to do something with prisoners. *By this I mean promoting some type of change among prisoners so they do not return to prison.* I stated earlier that if one were honest, it is not clear that prisons do well in achieving the traditional aims of imprisonment. How can we expect that they would fare any better in achieving a treatment or rehabilitation agenda with many prisoners, especially when the correctional history of America has been replete with examples of not only failure in

26. See *The Role of Litigation*, *supra* note 17.

this area but abject failure, and in some cases, under the rubric of treatment, prisons have actually brutalized prisoners?²⁷

So, while there may be some publics who want more intervention and rehabilitation programming for prisoners, the evidence has been scant that correctional professionals actually can achieve such an aim. Additionally, setting aside the epistemological question of the state of scientific knowledge on changing, for the most part, intractable prisoners, how do you in a practical sense make this happen? I am always amazed when I look at some of our prisons and wonder how anything gets accomplished in them at all. Take, for example, the California Medical Facility in Vacaville, California. It is a prison hospital for all intents and purposes, serving thousands of prisoner patients. Would you go to a hospital with three to five thousand other patients? What type of medical coverage do you think you would receive?

This is not to denigrate the excellent staff at this particular facility, but the fact of the matter is that we have *structured* a prison system in this country to fail in achieving many of its aims. Notwithstanding some good scientific evidence that some treatment programs work well with some prisoners, a process of matching offenders to appropriate treatment interventions, the reality is that most correctional institutions are not staffed nor equipped to meet the treatment needs of prisoners.²⁸ For most prisoners, prison serves as a respite from the harsh reality of the streets. Many of them get no worse and many get no better in prison. In prison, they get nothing!

What is the role of prison oversight given these realities? By again, illuminating these realities, prison officials can work with prison oversight monitors to aid prisons on two levels. First, they can begin the long and difficult discussion of what we, as a society, can reasonably expect from prisons. In this way, the prison oversight function provides debate within and

27. See DAVID J. ROTHMAN, CONSCIENCE AND CONVENIENCE: THE ASYLUM AND ITS ALTERNATIVES IN PROGRESSIVE AMERICA 18-20, 122, 388 (1st ed. 1980); DAVID J. ROTHMAN, THE DISCOVERY OF THE ASYLUM: SOCIAL ORDER AND DISORDER IN THE NEW REPUBLIC 86-89, 239, 287 (1st ed. 1971).

28. See Francis T. Cullen & Paul Gendreau, *From Nothing Works to What Works: Changing Professional Ideology in the 21st Century*, 81 PRISON J. 313 (2001).

among the various publics regarding what reasonable expectations for prisons are. This will be a difficult discussion since there are many interests that will seek to define this debate to their advantage. For example, there could be private prison vendors who seek to define societal protection as the primary aim of imprisonment, with the net effect of more people being incarcerated. In addition, political figures may want to define this discussion so as to highlight rehabilitative programming as part of a political agenda. I faced this in one state when a former Secretary of the Department of Corrections sought my opinion on a name change of the department from the “Department of Corrections” to the “Department of Corrections and Rehabilitation.” I did not support this proposed change. My reasoning was that to believe that the Department of Corrections would be able to address the rehabilitative needs of tens of thousands of prisoners and parolees was an unrealistic expectation. I held this view because the state was not able or willing to invest in the department in a way that would make the aim of prisoner rehabilitation possible. Moreover, for most prisoners, the issue of personal change reaches well beyond the borders of prisons and includes family, friends, employment availability, educational opportunity, and a host of prisoner reentry issues. In short, the department cannot own the rehabilitative aim alone.

By accepting the name change, the department was *explicitly* accepting the responsibility for the treatment and rehabilitation of offenders. It could accept some of this responsibility, but not all of it. Under current structural arrangements within the prison system, the department was being set up to fail, with its most ardent critics waiting to pounce when the department failed to achieve this aim. Why own something, in totality, when the outcome rests with multiple societal institutions? Prison oversight, however, can assist in the discussion about what prisons can reasonably accomplish and what they cannot reasonably accomplish. Additionally, the prison oversight function begins creating awareness among those relevant actors in the various publics that responsibility for achieving the aims of imprisonment rests with many societal institutions. This awareness also begins the discussion about *how* prison aims will be addressed

and *what* entities are responsible for the multitude of outcomes when assessing prison effectiveness.

Second, prison oversight serves the purpose of defining societal expectations relative to legal and human rights standards. Through prison oversight, we keep correctional leaders and managers on their toes. Prison oversight serves to hold correctional officials accountable for their actions not only within the legal realm of society but within the moral realm as well. This point was brought home in the Abu Ghraib prison scandal and continues today regarding the operations of the detention facility in Guantanamo Bay, Cuba.²⁹ Questions of legality aside, the moral compass of the United States was clearly out of kilter with the expectation of its own citizens and other citizens of the world when the Abu Ghraib scandal broke. No reasonable person can accept the practices of the United States military or the Central Intelligence Agency in this case. It is only through oversight that such aberrant behaviors can be put in check. In a democratic society, prison oversight provides the checks needed to control unyielding power, and without it we have fewer effective prisons and a less free society.

Concluding Comments

My purpose in this essay was to highlight the connection between prison oversight and prison effectiveness. I showed this nexus by examining three important issues: prison oversight and democratic values, prison oversight and prison effectiveness, and prison oversight and societal expectations. The correctional leader and manager of the 21st century does not have the luxury of being anonymous. A greater emphasis on democratic values, prison effectiveness, and societal expectations regarding imprisonment aims has forced prison officials to change how they lead and manage their prisons.

29. Even though the detention facility in Guantanamo Bay is run by the United States Military, the importance of prison oversight is still relevant and important. The U.S. Supreme Court ruled in *Hamdan v. Rumsfeld*, 548 U.S. 557, 631-35 (2006), that the U.S. military was in violation of international law and U.S. law and thus could not deny specific rights to detainees, most notably the right to be treated humanely in accord with Article 3 of the Geneva Conventions.

The glue that ties these issues together is prison oversight. *Prison oversight, in its varied forms, will be the norm for prison leadership and management in the 21st century prison.*

For correctional professionals, the only question remaining is how they will adjust to this change. They can decide to fight oversight, but this is a losing battle for the reasons that I have explicated in this paper. Instead, it is better that prison leaders and managers embrace the oversight function that best serves their interests. I have tried to show that this involves greater transparency on the part of prison officials and that in the long run this will be in the best interest of improving prison effectiveness and maintaining the democratic values that we cherish as a society. The challenges facing the prison administrator will be daunting in the years ahead. With an effective prison oversight mechanism in place, these challenges will be better addressed to enhance the aims of imprisonment and to hold prison leaders and managers accountable to the democratic values of a free society.