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# the Sou' Wester

A grassroots newsletter on criminal justice & prisoner reintegration

Fall 2021 Edition

The Sou' Wester name is a reference to Montreal's Southwest, where Communitas began its work in 1999

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## Life on the Outside after Prison

As an ex-con out after decades in jail, I have been asked to write an essay on what it is like to rejoin society after a long, long absence.

The best short story ever written about what it's like was published in 1819, by the famous American author of fables Washington Irving. It is set in the Catskill Mountains of the northeastern United States, a reasonable drive from Montreal that I can never make again, sadly, because of my criminal record. *Continued on page 3*



## Race relations, trauma research and compassionate activism

By Justin Muthaih

There are few wounds that cut as deep as racial oppression. Compassionate activism may allow us to fight for change while con-

sciously considering these wounds of the past. In our contentious debates about race relations, we have failed to pay adequate attention to what the last 25 years of research tells us about how racial discrimination can be addressed. Processing present day racial oppression through the lens of trauma psychology allows us to see that compassionate activism can address the trauma of the past while fighting the injustice of the present.

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## Class Action Strip Search Settlement

In the Summer 2021 edition of the Sou' Wester, the Mostly Legal column reported on a class action settlement regarding inmates in Quebec's provincial institutions who may have been subject to unlawful strip searches.

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## Race relations, trauma research and compassionate activism

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The literature on racial disparities and mental health introduces trauma psychology as the first step in the fight against racial discrimination. Trauma psychologists study trauma that arises from different life events in different populations. Trauma is different from abuse: though two people or groups may suffer the same abuse, the resulting trauma may be different. In a study of 4,539 individuals from minority groups in the United States, it was found that black Americans are at higher risk for mental illness [1]. However, when controlling for life stress, the perception of racial discrimination among black students on campus contributed to an increase in trauma-related symptoms including depression and self-harm [2]. Though there are likely many reasons that explain why black Americans suffer higher rates of Post-Traumatic Stress Disorder (PTSD), investigators suggest that discrimination is a crucial factor. Discrimination may account for both the prevalence of mental health issues among this population and the increased likelihood that a black American develops PTSD following a traumatic event when compared to white Americans [3][4]. Though there is presently no comprehensive and substantiated diagnostic model for racial trauma, these inquiries make a compelling case as to why racial discrimination must continue to be integrated into trauma research.

If ending racial abuse is a primary goal of activism, healing from the trauma that arose

out of previous racial abuse is its necessary counterpart. When left unaddressed, sufferers of trauma are at increased risk of psychological disorders [5]. This may be one of the reasons that black Americans are overrepresented in the aforementioned studies regarding the prevalence of mental illnesses across racial groups. Where many activists are inclined to believe that this is a consequence of present-day suffering, the trauma perspective offers the hypothesis that it is also the unprocessed generational pain of the past that may be perpetrating this suffering. Here in Canada, First Nations adults continue to be overrepresented in diagnoses

### **If ending racial abuse is a primary goal of activism, healing from the trauma that arose out of previous racial abuse is its necessary counterpart.**

of depression, PTSD, suicidal ideation, and suicide attempts, even in urban populations [6]. These mental health indicators are recognized in the literature as more prevalent in individuals whose parents have suffered from oppression [7]. This would suggest that to be brought up in a context removed from past abuse is not enough. As noble as it is to fight the weapons causing a wound, this does not abdicate us of the responsibility to treat the wound. Ending abuse is incomplete when the trauma allows for these scars to persist in addiction and suffering.

As we gain a better understanding of trauma, the specific beliefs and lifestyle habits of the suffering individual have shown that a single,

unitary approach to trauma treatment is incapable of abating symptoms [4]. As a result, our conversations surrounding racial trauma must allow for victims and their families to express their grief in whatever way they deem fit. Currently, research for trauma revolves around many therapies designed to address PTSD. Contemporary treatment options for PTSD range from Eye Movement Desensitization Therapy (EMDR) to Internal Family Systems therapy (IFS) and often incorporate creative and physical approaches like dance and yoga. Processing racial oppression through the lens of trauma then means that healing will look different for every sufferer.

The implications of this multi-faceted approach to treatment regarding activism also indicate the need to address trauma in parallel to abuse.

Understanding that healing from past trauma is as important as fighting current abuse changes the way we discuss racial oppression. This means we must foster an environment for grief and support that is distanced from our human tendency to politicize pain. If we see these individuals as descendants of trauma sufferers and as sufferers themselves, we will recognize that invoking stories of victims to garner political clout is not appropriate. On the flipside, this would mean that activists would have the added responsibility of sensitively navigating the fight for social change given what we know about victims of trauma. The public space is finite and there are only so many voices that can force themselves into the conversation. The cry of the activist must not stifle the threnodies of people who never got to grieve.

**You can find the notes in the original article that was first published in Concordia University's Journal of Accessible Psychology.**

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### About the author

Justin Muthaih is a member of *Communitas* and an undergraduate student at Concordia University. His research interests include the relationships between trauma and addiction and the intersection of psychology and theology. He is looking to integrate properly substantiated psychological research into religious conversations about mental health. Aside from this, he intends to contribute to the amelioration of treatments addressing trauma and addiction. Upon completing his BA, he intends to pursue graduate studies to further explore these themes.



## Life on the Outside after Prison

*Continued from page 1*

Rip Van Winkle is a lazy Dutchman living in a mountain village before the American Revolutionary War. A man after my own heart, he loves to just lie around and sleep. To escape his wife's nagging, he and his dog take a walk in the mountains.

Rip stumbles onto a group of bearded men playing ninepins in a mountain hollow. They invite him in and offer him a drink. And Rip sleeps deeply after that – for 20 years.

When he wakes up, he goes back to his village. His beard is a foot long. The sign over the inn with King George III on it has been replaced by a sign with George Washington's portrait. Rip proclaims his allegiance to George III, which is not a good idea.

Finally he is recognized and introduced to his son, now a grown man. He learns that most of his friends died in the Revolutionary War. Everything has changed. Including himself, a state of affairs he comes gradually to recognize. Gradually.

That is what getting out of jail is like. Your friends are gone; the city you once knew is the same, yet changed immensely. It takes a while to adjust. Rip didn't have to put up with cell phones, the single greatest change I have had to struggle with. Codes and numbers and a bedazzling number of procedures to learn and follow. In jail we have TV, and we can see cell phones, but if you actually use one, it's a one-way ticket to higher security.

I live in mortal fear of my cell phone being lost, damaged or stolen. My whole life is wrapped up in that little black slab. I have a job with a publisher, and it's all electronic these days. The typewriter that got me through college, and the rotary phone I used to phone people with, are long gone.

Luckily for Rip, his grown daughter takes him in, and he can go back to his usual life of long naps and laziness. Were that I had a grown daughter. Once you're outside they make you find a job and, heavens - activities. They don't want you lying around all day, which jail trains you for really, really well. You have to leave behind all that prison training and get moving again. Every morning is hard.

If you are still wondering what it is like to rejoin society after a decades-long absence, please watch one of the many cinematic adaptations of Rip Van Winkle. At least one of them must be available on YouTube. If you'd like, you could read the short story "Rip Van Winkle," which must be available in book form.

A book, for our younger readers, is a collection of paper pages bound one beside the other, inside a cover. These pages are thick with words, but don't let that scare you. Once you get the hang of it, another thing prison trains you really well for, the words flow into sentences, then into longer narratives. Books were how your grandparents once passed on information.

Or you could download a recording of someone reading the book to you, hopefully in a languid, sleepy voice. They call that "books to tape." I don't have room in this essay to explain what "tape" is. Please just Google it.

C.



*Rip Van Winkle*

## Class Action Strip Search Settlement

*Continued from page 1*

The Association des services de réhabilitation sociale du Québec (ASRSQ), which is administering the settlement, has asked that the following notice be shared.

As a reminder, the persons covered by the settlement are those who were strip searched: 1) between July 13, 2006 and July 1, 2011; 2) in one of the following institutions: Bordeaux, Rivière-des-Prairies, Roberval, Saint-Jérôme or Québec City (male sector); 3) when they were to be released under a court order; and 4) when all conditions precedent to their release had been duly completed at the time of the strip search;

The settlement agreement provides for a payment of \$4,144,950 by the Government. Each claimant will receive compensation of \$1,000 for each qualifying strip search conducted as a result of a release between July 13, 2006 and July 1, 2011, for a maximum of \$10,000 per person (maximum one qualifying search per day).

Please note that in order to receive compensation, claimants will have to complete a claim form that will be available on the class action tab of the ASRSQ website ([www.asrsq.ca](http://www.asrsq.ca)) as of July 19, 2021. They will then be able to complete this form online or print it and send it by mail to the following address:

**1340 St Joseph Blvd E, Montreal, Quebec H2J 1M3.**

For more information or for any questions you may have, please contact us at **1-888-fouille (1-888-368-4553)**.

## Part 2: Marlyn's Graduation

by Marlyn Silverstone

It's not simple to come to terms with a dramatic shift in the trajectory of one's life. There I was in the Palliative Care Unit in Mount Sinai Hospital awaiting imminent death. The Palliative Care Unit was where you receive end-of-life care and I was convinced that my life was coming to an end. None of the physicians on the unit told me otherwise. My sister was informed by one of them on February 9th 2021 that I had one to three months to live. And here we are, on April 13th, and I'm living at home alone, having been discharged from the hospital six weeks ago.

In January, at the beginning of my stay in Palliative Care, I requested Medical Assistance in Dying (MAID). I was going to die imminently, I thought. Why wait? The team in Palliative Care, eager to follow my directives, started the paperwork, while my family and friends gnashed their teeth and begged me not to do it. I would have to wait for at least 10 days for my life to be terminated. By this time, I was in no physical pain, though I was very weak and even to sit up in bed took determination. Everyone knew that Dr. A., my hematologist/oncologist at the Jewish General Hospital, had said that my lymphoma could be successfully treated. That included the Palliative Care team – Dr. A. told me after I went home that she had called one of the doctors in Palliative Care. I was not informed that she had called, presumably because it's the mandate of palliative care to follow the wishes of patients, and I had made it abundantly clear that I wanted nothing to do with treatment.

Family and friends pleaded with me to go back to the Jewish, or at least to cancel the MAID. But I was adamant and deaf to all entreaties. My bold, fearless attitude to death was actually applauded by some members of the Palliative Care Team, especially the medical residents and the students on rotation. I slept a great deal of the time but when I wasn't asleep, I was fairly alert. I was complacent and articulate, not in the least depressed and in no pain. They gave me oxygen, through tubes in my nostrils and the hacking cough went away, allowing

me to breathe easily. They gave me Lasex and without water being pumped into me intravenously, the swelling in my legs started to subside. For my frequent urination, they inserted a Foley Catheter, so I didn't have to go to the toilet but could rest in bed. Also, unbeknownst to me, they gave me small doses of Dilaudid, the effects of which I am yet to determine. It was for pain, but I wasn't in pain. It was stopped when I told the doctor I didn't want it. So I was comfortable and well taken care of. But I was too weak to walk or even get out of bed. For at least a month, an alarm would go off if I tried to get off my bed unaccompanied.

**It's painful now to make my shame public, and to acknowledge all of the misery I caused to those who care about me. My only excuse is that I believed my death was imminent and wanted to be in control. But that's not an excuse.**

I withdrew my request for Medical Assistance in Dying. This was not because of my family's and friends' distress, nor because I was feeling much better, but because I decided that suicide in my situation was morally wrong. I am not religious but I am Jewish and attached to Judaism, and in Judaism (as in other religions) suicide is forbidden. I came to realize that MAID was a betrayal of the Jewish people, an act of utter disdain of our moral code. After all, I wasn't in pain. As soon as this became clear to me, I cancelled my request for help to die (MAID). Thank goodness I came to my senses. My plan to die had quickly taken on a life of its own and was given lots of support. Looking back, I wonder if my perception was skewed. What was I thinking of? Might it have been the chemotherapy, or the trauma of my recent stay at the Jewish General, or the small doses of Dilaudid, a morphine derivative, that combined to distort my thinking? My request was in process, and two friends witnessed my lucidity. But no psychologist was summoned to do an evalua-

tion. (At a later stage in my hospitalization, when I was preparing to go home, the social worker did refer me to a psychologist, because she was concerned about my ability to take care of myself)

I still feel shame for having embraced MAID. It's one thing to refuse treatment, another to end your life. It's painful now to make my shame public, and to acknowledge all of the misery I caused to those who care about me. My only excuse is that I believed my death was imminent and wanted to be in control. But that's not an excuse. In no way do I cast blame on the Palliative team. I believe they were acting uniformly with my best interest at heart and within the mandate of the new legislation regarding medical assistance in dying. I am definitely in favor of MAID which will allow many people to terminate their suffering. In my case, however, it would have been a mistake. But even if there had been more obstacles to obtaining it, e.g. a psychological evaluation, I should probably have leapt over these obstacles in my determination to receive the service.

If you want to meet kind, compassionate people, go to the Palliative Care Unit at Mount Sinai Hospital. The people who do the humble tasks, who bring you your meals, wash you, change your diaper, emanate an infinite goodness, an amazing grace. They carry out their tasks with sensitivity, as though it is a privilege to serve. I wished I could get to know each and every one but it was difficult to identify the beautiful eyes above the masks. Likewise, the team of doctors, nurses and social worker was kind and attentive and always available, to ensure that any discomfort or concern that I had was dealt with. The kitchen staff would try their best to find dishes that pleased me. Even though for at least a month I could eat almost nothing, they kept on trying. An art therapist and a music therapist were assigned to stimulate my creativity. Towards the end of my stay, a physiotherapist helped me improve my balance and enhanced my confidence to walk. An occupational therapist assessed my capacity to live alone and provided me with equipment. On almost every weekday, I received a visit from a medical student or a resident. They seemed to have lots of time and infinite interest in getting to know me. For some, I was their first patient, or their

first palliative care patient. And as well as all of these visits, my son and my friends came also. Not surprising that they sometimes found me asleep. I had a busy schedule. At times, I didn't know they were there, or didn't remember that they had visited.

Then, after about five weeks, came the dramatic shift that was completely unexpected. I got better. My appetite for food came back and with it, my strength and my ability to walk and to perform other tasks of daily life. It all happened with astounding speed. After 2 weeks, on February 23rd, Dr. A., in charge of Palliative Care, told me I could go home. I was afraid that if I left, I would forfeit my access to palliative care. Dr. A. reassured me. He told me I'd be followed at home and that if I ever needed to be readmitted, I could return. He'd even hold my bed for me for the first week after my discharge, just in case. What marvelous reassurance. Who could ask for more? I went home on February 25th in a state of euphoria.

There are several reasons why it's taken me so long to write about my experience, among them my reluctance to disclose my interest in MAID. Another was my need to see my hematologist/oncologist and learn whether or not I was still very ill. I saw Dr. A. at the Jewish General last week. She was glad to see me, and I was very glad to see her. She thought I might have opted for the MAID. Following a blood test, she told me that I was better: the tumor has gotten smaller and my kidneys function now. Of course, I still need treatment. I still have lymphoma. I told her that this time, I won't refuse it. My life was spared. I am now committed to its preservation.

Dr. A., hematologist/oncologist, attributed my improvement to the one round of chemotherapy that I received in December. It had taken time for it to have an effect. While this may be an explanation, how do I explain the speed of my recovery? It happened between February 9th, when I was totally dependent on the Palliative Care Unit, and February 23rd, when I was able to go home alone. It's the speed that was amazing to me. How the staff cheered when I changed my hospital nightgown for regular clothes and walked in the corridor. I had also suddenly regained my appetite and I ate voraciously. Friends who visited me often observed the change, and thought it coincided with the termination of the Dilaudid. But the Palliative Care physician told me that the chemical in Dilaudid is manufactured naturally

in the body and that the small dose I was receiving would make no difference to my functioning. It was prescribed for all patients in Palliative Care because there is no fear of addiction.

I believe that the treatment I received in Palliative Care played a big part in my recovery. My body was allowed total rest. The distress was removed and I was given time to heal. I could say that I survived partly from natural causes. Believing that palliative care is end-of-life care, I felt that I had in some way exploited the service because my life was not at an end. I discussed my concern with J., the palliative care nurse who now follows me at home. She explained to me that I had every right to avail myself of palliative care because it addresses the needs of people with a terminal illness who are suffering and need help. The patient does not have to be at the end of life. Palliative care, like the intervention offered in pain clinics, treats the patient by controlling the symptoms and helping her or him to feel better, rather than by attacking the causes of the illness. My trajectory was, to say the least, unusual, but not beyond the scope of palliative treatment.

Now I feel I am enjoying the best of both worlds. I am being followed in hematology/oncology but I have the assurance that, should I need it, the Palliative Care Unit will be there for me. Dr. A. of Palliative Care, encouraged me to call Dr. A. the hematologist/oncologist, but only after I got home. Before that, I believe he was ambivalent: his hands were tied. When I was getting bet-

ter, I had asked about the possibility of a blood test to determine the changes in my condition. He did not encourage me in that pursuit. What was the point of a blood test he asked, if there would be no treatment to follow? I understood that while I was in the unit he had to work within his mandate.

I thought that in going to Palliative Care at Mt. Sinai, I had done the right thing for the wrong reasons. After my conversation with J, the palliative care nurse, I realized that it was right for me to go there. The excellent care that I received in Mt. Sinai allowed me to recover, after that first round of chemotherapy. The speed of my recovery still seems like a miracle to me, but I don't yet believe in miracles. I do believe that palliative care helped me enormously and would recommend it to anyone struggling in pain with a terminal illness. As you see, it doesn't mean you're going to die if you go there.

Tomorrow I have an appointment with Dr. A., my hematologist/oncologist, to start treatment again. Am I afraid? Yes. Will there be a part 3? Wait and see.

April 13th, 2021.







## Restorative Justice Week 2021 Reflections

2021 marked 25 years that Restorative Justice Week in Canada has been celebrated. It is usually held in the third week of November, and this year was celebrated November 21st to the 28th. Normally, there are events held across the country ranging from presentations to workshops to public forums to celebrations. However, like last year, RJ week activities were greatly curtailed this year because of COVID.

One event which did take place was the National Restorative Justice Symposium, which was held virtually, just as it was last year. More than 200 people from across Canada and from other countries took part in presentations, workshops, and networking.

This was the fourth symposium I have attended. I always find it a reinvigorating and inspiring event in which to acquire new insights into restorative justice as well as make new connections.

One thing that captivated me this year was the notion of Restorative Justice practices are not only concerned with criminal justice, but have a role to play in every element of community living, be it in schools, or the workplace, the environment, Indigenous reconciliation, neighbourhood and interpersonal disputes and much more. In fact, one could say it has a role wherever humans interact.

The guest speakers always challenge one to a new understanding of RJ. One in particular this year was Marlee Liss, a Toronto woman who opted for a Restorative Justice solution to a sexual assault instead of going through

with the criminal justice system. She found that once she laid a complaint, the way she was treated was very dehumanizing and humiliating. On discovering that there was a Restorative Justice approach, she withdrew her assault complaint and moved on with this alternative process that she felt brought her meaning and value in dealing with the impact of the assault. [Her story can be found online.](#)

Another speaker was Yves Cote who had spent 32 years in various penitentiaries across Canada for a series of crimes including two murders. Yves was known to be one of those stereotypical rough guys behind bars you would never want to tangle with. But after his second conviction for murder which took place while imprisoned, he had a change of heart and understood for the first time that he had harmed far too many people in his life, including his own younger brother whom he had introduced into a life of crime. Over a period of years that followed, his transformation continued until he was finally released on parole to serve the remainder of his life sentence in society. [More of Yves' story can be found online.](#)

One of the workshops tackled the issue of environmental justice or "green justice". Participants listened to a 15-year-old Spanish activist who argued that large multinationals feel above the law when it comes to environmental damage and climate change. She said there must be a restorative justice dimension to climate litigation. Too often, litigation is difficult because it surpasses national borders and becomes an interna-

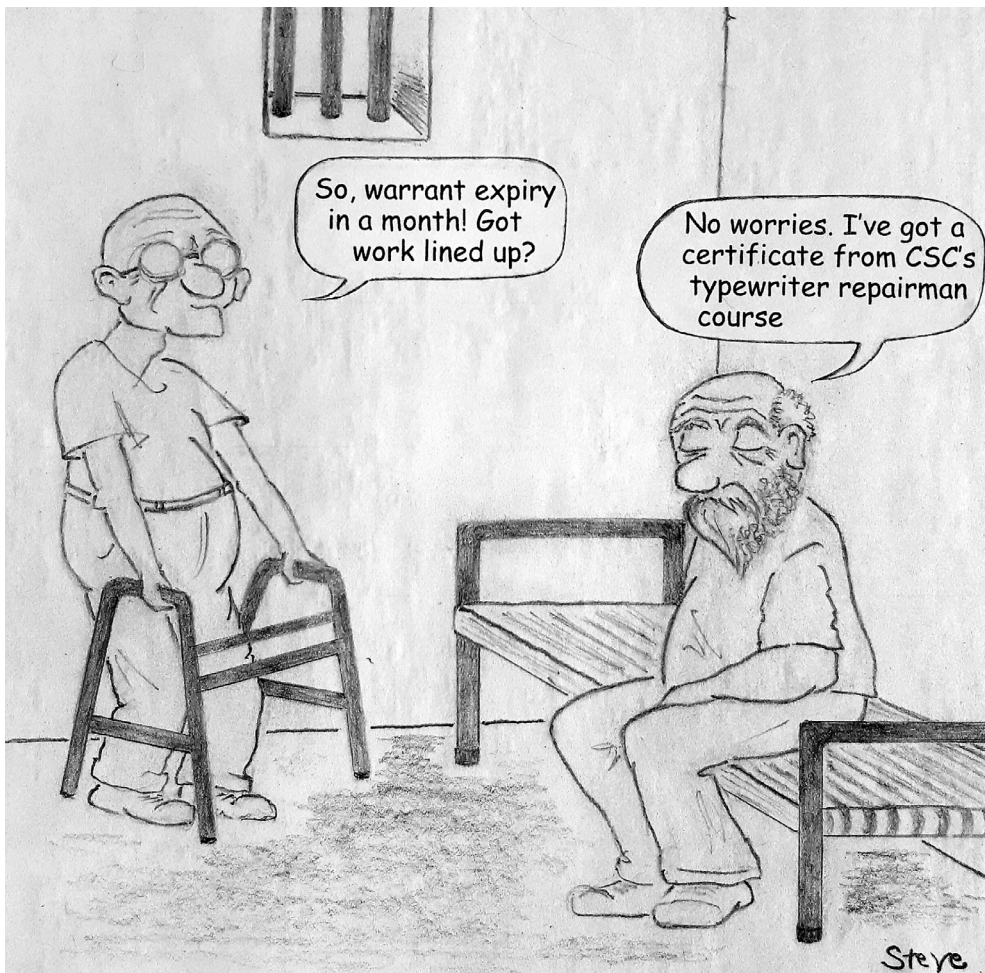
tional offense. While Restorative Justice is about repairing the harm caused to the connectedness of human beings, when it comes to the environment, that connectedness expands to all of creation.

Another workshop focused on the colonial harm felt by Indigenous peoples. From the very start of the discussion, the word Indigenous itself was debated. Many felt it was yet another colonial term that bears little likeness to the many peoples it addresses. One participant said the colonizers had to find a way to identify first nations people. She said that first and foremost they consider themselves human beings and then by the clan or tribe they are from. To lump all native people as Indigenous, puts them all into one box.

Another participant mentioned that for many Indigenous peoples, the cultural difference with the colonizers is enormous. Native languages are radically different in structure as many of those languages do not have pronouns and cannot be used to define certain concepts such as apologies. When two community members are having a conflict, they finally resolve it by sitting down and eating together, sharing together. An apology is never formally given. Apology, the person added, is just another colonial concept. That is why retaining native languages is important.

These are but a few of the many gems of knowledge I picked up at the Symposium.

*Bill*



## CSC Policy Does Not Compute

A dispiriting spectacle: people nursing antiquated contraptions, machines on life support limping inexorably toward the inevitable, final breakdown. No, these are not Cuba's famous vintage cars running on ingenuity, spare parts, and duct tape. Our dismal scene takes place in the cells of Canadian prisoners fortunate enough to own a sputtering, obsolete personal computer.

As the rest of the planet swims in an ocean of information and connectivity, why do Canadian prisoners languish in The Valley that Time Forgot? How did it come to this?

Correctional Service Canada first formalized its stance on inmate I.T. on February 17, 1997 (keeping in mind, of course, that all prisoners' personal property has been subject to controls as long as there have been penitentiaries). On that date, Commissioner's Directive 090, Personal Property of Inmates, was amended to authorize posses-

sion of computers, subject to supervisory measures such as legitimate and reasonable checks on the hardware and software, and to regulations governing repairs and improvements. Most importantly, the rules required computers to be stand-alone: access to the internet and electronic mail was (and remains) prohibited.

In issuing a policy, the Commissioner had not surrendered his authority to make revisions in the future to keep up with the evolving technology. On September 30, 1998, CD 090 was amended to authorize the use as well of certain peripheral equipment including video cards for television or computer signals (TV tuner cards). By September 10 of the following year, that permission had already been withdrawn, although equipment already in possession was safe from the reversal.

The relationship was fraught from the beginning. In a test case called *Pengelly v Canada* (2005 FC 693), the Federal Court noted the conflicting pulls on CSC policy-makers: "On the one hand, there were clear

benefits to offender rehabilitation through education and retraining using Information Technology. On the other hand, many inmates were not rehabilitated, were likely to re-offend given the opportunity, and there was grave risk that inmates could use computers to assist in criminal activity."

CSC recognized the need for definitive answers and a clear direction, and to that end, it commissioned a comprehensive external Threat and Risk Assessment of CSC's ability to safely administer its policy on inmate-owned computers. As CSC Special Project Officer Jason Cormier explained to the Court,

"That report showed technologies - which might appear to be innocuous - could be exploited, modified or used in conjunction with illicit hardware or software, thus posing a serious risk to the institution. He related incident upon incident, and the risk relating therefrom. Smuggled equipment led to multiple pornography files, internet use, illegal commerce in copyrighted software, illegal gambling, templates for fraudulent RCMP, and CSC identification cards, and lawyer's letterheads, network conduits which could lead to illegal and unauthorized access to CSC's corporate protected information, and various blank bank credit card formats, to name but a few."

The Report's conclusions accordingly were categorical and climactic: security demanded the removal of all existing computers, video games, and other electronic equipment from cells, and a ban on further introduction of these devices. Training, personal educational or legal research, and rehabilitative assignments were to be pursued only on equipment in closely controlled facilities.

On October 4, 2002, CSC acted on the task force's warning. The CD was amended, but, like the good fairy who decreed Princess Aurora should not die upon pricking her finger on a spinning wheel, but merely sleep for a hundred years, Commissioner Lucie McClung stepped up to cushion the blow: the acquisition of new computers was banned as recommended, but those acquired before October 4 were exempt and could remain, with the significant proviso that they could not be upgraded or updated. The grandfathered right would be forfeited if owners betrayed their written undertaking to abide by the rules. What is more, the exemption would be lost and the equipment



seized should a prisoner be relocated to a new institution, a measure which, on its face, might encourage computer owners to refrain from transfers otherwise conducive to their progress. (Indeed, Mr. Pengelly refused such a transfer on that very ground.) These restrictions, claimed the Directive, were justified as “the increased networking and communicating capabilities of personal computers pose a threat to the secure operation of CSC.” On June 3, 2003, further adjustments to the rules interdicted possession of peripherals, such as video cards for use with TV and computer screens, subject to certain exceptions.

Although the worst had been avoided, the new CD 090 and Annex A did not meet with universal acclaim, as the Pengelly judgment records:

“The Executive Director of the John Howard Society complained to the Solicitor General. He submitted that common room computers would be of limited use and value. If there were to be a demand for their use, only those with power will get to use them. Access times will be restricted, and computers remaining with prisoners who have been grandfathered will become major commodities and may become an aspect of the black market in prison.”

As for Applicant Pengelly, he argued that a security matter when properly managed is no longer a security matter: “A toothbrush can be honed and turned into a shiv... [yet] CSC has not responded by declaring dental hygiene a security matter.” And it was on this question of security that his court challenge failed. The case involved the institutional director’s statutory duty (per CCRA s.74) to consult the opinion of the institution’s prisoners before making decisions which touch on matters affecting the population—save in the area of security. Here, the Court found that because, at its heart, the Commissioner’s response to the Threat and Risk Assessment addressed security, and not an education issue, as asserted by Mr. Pengelly, the adoption of restrictions without consultation was reasonable, and would have been even had CSC opted for a full-out ban with no exemption for existing equipment.

Since Pengelly, the policy has been tested in Federal Court on a number of occasions. Yet one finds that any time the Court has ruled in favour of the applicant prisoner, CSC brought defeat on itself by failing or refusing to abide by the terms of its own policy. In none of these cases was CSC policy itself

adjudged to be at odds with the CCRA (i.e., contrary to law) or at odds with the Charter (i.e., unconstitutional).

In *Poulin v Canada*, 2005 FC 1293, for example, in 1997 a prisoner with a serious visual handicap purchased with permission a TV tuner card enabling him to watch television on his large computer monitor instead of his tiny television screen. Following the policy reversal of June 2003, the penitentiary seized his computer and removed the peripheral equipment at his expense. Once his challenge arrived in the Federal Court, the Attorney General’s representative sought its dismissal on the basis of “purely technical irregularities,” which the judge deemed “in all respects specious and unfounded.” Turning to the merits of the case, the Court noted that although the new version of CD 090 did away with the grandfathered right to peripheral equipment, it made an exception for persons with a visual or physical handicap. Thus, Monsieur Poulin was acting within CSC’s own rules, and the institution was not. The Court ordered the return of the computer and video card, and awarded costs to the Applicant. As there was no need here to pronounce on the legality of CSC’s ability to withdraw acquired rights, the Court did not do so. That debate would come three years later, in *Tyrrell*.

Having succumbed in *Poulin* to its own published exception to the general prohibition of peripherals, CSC proceeded on January 16, 2006, to remove that exception. In *Tyrrell v Canada*, 2008 FC 42, the applicant prisoner, who had enjoyed the use of a computer with TV tuner card since 1999, argued that the current rules, properly interpreted, allowed him to retain his TV card, and that the prohibition was at any rate an unjustifiable violation of Charter sections 7, 8, and 12, and therefore unconstitutional. The Court, however, ruled that CSC’s computer policy did not violate the Charter, and, the ‘Poulin exception’ no longer existing, that the grandfathered right to TV tuner cards had been fully purged from the policy, and at this point protected no one.

Next up was Mr. Gallup (*v. Canada*, 2008 FC 862), a prisoner who was equipped with a CD containing 7,000 pages he needed to digest for the appeal he was bringing against his conviction, but no machine with which to read them. The Court found the denial of access to a computer was no violation of Charter s.15(1), or s.4(e) of the CCRA. It did, however, direct the parties to discuss if

they could agree on the use of a CD-Rom reader in the alternative.

The consequence of flouting the computer policy was examined in *Fabrikant v Canada*, 2011 FC 375. The applicant had been in possession of a computer since 1993. In 2007, it was seized when an inspector’s report revealed unauthorized usage and other irregularities. The applicant thought CSC’s action was not lawful. The judge thought it was. Finally, in *MacDonald v Canada*, 2017 FC 1028, a prisoner with a physical disability (tremors) grieved the lengthy loss of his only means to communicate when CSC confiscated all inmate computers for an expert inspection after encountering contraband USB drives, images, and programs. The Court noted CSC’s failure to acknowledge his disability when treating his grievance, and ordered the issue be reconsidered, but here again, the lawfulness of the policy regime emerged unscathed.

Today’s CD 566-12 Annex D, the official policy instrument since January 5, 2007, is in its essentials at one with the old CD 090 Annex A. The only personal computers which survive do so by virtue of the permission acquired before October 4, 2002, the day the clocks stopped. In the case of *Rose, Shortreed, and Suen v Canada*, 2011 FC 1495, the Attorney General’s representative submitted “that a black market in contraband computer hardware has developed inside correctional facilities since the October 2002 ban on inmate-owned computers.” Meanwhile, what is authorized includes “any version of Microsoft DOSTM, Microsoft Windows up to and including Windows 98TM, Windows 98 SE and ME;” “one 1.44 Mb floppy drive;” “20 CD-ROM disks;” and “a maximum of 20 floppy diskettes.” Time stands still. Soon, attrition will have achieved what the Assessment task force proposed, computers inside the walls will dwindle and disappear, and the world will move on, leaving Canada’s federal prisoners behind.

*Stephen*

## Sou'Wester interview



### The Sou'Wester interviews Bill

by Leigh

**SW:** Where did you grow up?

**Bill:** I grew up in Quebec City. I was actually born in Vancouver, but moved to Quebec City when I was 4 years old.

**SW:** Which do you prefer, Quebec or Vancouver?

**Bill:** Oh, I'm a Quebecer now! Vancouver is nice, it's great to visit, but this is home.

**SW:** How long have you been at Communitas?

**Bill:** It goes back to about 2016 when I first started going to meetings, and after the first meeting, I was hooked. It was Open Door I was introduced to, of course, and I just kept on going back. I liked the openness, the welcome that I received, the fact that nobody there was really playing games in terms of who they were, they were just there, and if you were from inside, you talked about it. If you were in transition, you talked about it. If you were a volunteer, you were there with open ears, to listen and not to judge. I think it's the not judging that really struck me the most.

**SW:** I heard you used to be a journalist for CBC, is that true?

**Bill:** I worked for CBC for 4 to 5 years, amongst many other places. I worked at the Montreal Gazette, CFCF radio, Television Quatre Saisons and a few other places across the country – Sydney, Nova Scotia, Sudbury in Ontario.

I was a newscaster or news reporter most of the time, once I got into television I became an assignment editor, and later on a producer - A lot of memories from that time as a reporter, let me tell you!

**SW:** What were your favourite topics to report on?

**Bill:** This may sound strange and ghoulish, maybe because it's Halloween, I don't know, but when I was working at CFCF Radio, I was the first one to volunteer when we had to cover some kind of large funeral. I loved being able to report on the colour of what was going on at the funeral. I was always looking at where the emotion was in that story. I became known to some people as the funeral reporter. I wanted to capture the humanity of different stories, and that was difficult depending on what you were doing. If you were covering a news conference, about some social project or labour dispute, it's hard to get into that. But there are stories where you can become that person who is describing the humanness of it, and that was important.

**SW:** I understand that you've taken Restorative Justice courses, can you tell me a bit more about that?

**Bill:** It was back in about 2015 or so, I was sort of interested in Restorative Justice but didn't know a lot about it, and so I googled it. Of course, when you google something, the very first couple of items that come up are ads, and one of them was for a restorative justice certificate program for Simon Fraser University. So I clicked on that, and I liked what I saw, I applied and did my certificate program. It was eye opening. It literally changed the way I viewed the world.

... the justice system was flawed. I discovered in my course that even in the criminal code of Canada, the word justice isn't even described or defined. There certainly must be other ways of dealing with the ramifications of crime than just imprisoning someone. Despite their best efforts, Corrections Canada officially says they're all about rehabilitation, but in a lot of ways, that isn't what happens. Surely there must be another way. I'm not saying it's the only way, maybe the system we need is something that combines different types of justice procedures, but that restorative justice certainly should be at the heart of any criminal justice process.

**SW:** So you're interested in Indigenous issues, can you tell me a bit about that?

**Bill:** I always have been, my wife has a particular love for things Indigenous, like culture,

crafts, and so we've gone to many powwows and that kind of stuff. When I started taking the course in Restorative Justice, there was a large element dealing with the roots of Restorative Justice that come out of Indigenous communities from around the world. Some of the reading material and the videos that I had to watch certainly opened my eyes to that healing process that takes place in Indigenous communities – that's so important. It opened my eyes a bit to Indigenous spirituality, the connectedness of everyone. It increased my awareness for all things Indigenous, whether it's their struggle for justice in the world, cultural practices, or the way it's tied into nature.

**SW:** I heard that you're an avid gardener, how did you get started?

**Bill:** I've always sort of had a love. I got married, we bought this house, and the person who had the house before hadn't taken care of the yard for a few years, but he used to apparently have the best garden in the neighbourhood. The soil was really rich. So, we decided to go in with a sickle and literally cut down the weeds, they were so tall! We decided we would start growing our vegetables and what-have-you, and it just took off from there.

**SW:** What do you grow?

**Bill:** Tomatoes, parsley, cucumbers, onions, garlic, herbs, strawberries, blueberries, raspberries, quite a few things. We used to grow a lot more. We have over a hundred kinds of plants. A lot of them come in for the winter. Our house becomes a jungle in the winter-time!

**SW:** What's your favourite thing to grow?

**Bill:** It used to be tomatoes, but now it's garlic. This year I ordered some specific varieties of garlic to plant, that next year I hope I have a big harvest from, and then be able to continue on my own with my own garlic seed.

**SW:** What are you grateful for?

**Bill:** I'm grateful to be able to be part of a community. I am grateful for the togetherness, the connectedness, and that's something that's really, really important to me. No one deserves to be just totally on their own. There are too many people who are in that situation. This was one of my big goals in joining up with Communitas, to be there for people. Not only to be there, but to feel that I am with them.

# Fundraising for Communitas

Communitas has undergone several significant changes during the past few months, including moving office to the Undercroft of Christ Church Cathedral, and hiring a new part-time Coordinator, Brent, for our crucial Circles of Support and Accountability (CoSA) operations.

These changes have been momentous, but the biggest change is yet to come as the national CoSA Canada's 5 year federal funding package, and with it, 80% of our funding, comes to an end next March. Coincidentally, with the changes in priorities from the Federal government, our funding from Montreal Community Chaplaincy (ACM) also ended this year after some 21 years of support, leaving us wholly dependent on donations received from our members, supporters and the general public.

The Board of Directors is determined to ensure the continuity of our activities despite this reality. This will mean some shuffling of staff assignments, increased reliance on volunteer services, and review of what activities remain possible.

As you know, our signature Open Door program has continued virtually on Zoom

these past 18+ months, and we have been very happy at the consistent attendance over this period, with weekly presence fluctuating between 25-30 persons. With the changes in regulations we have started testing a hybrid Open Door (Zoom plus in-person attendance at Fulford Hall), and are very hopeful that this new system will prove successful and that we can have, sooner rather than later, more and more in-person participation.

In other good news, our volunteers have been allowed to start re-entering the penitentiaries to participate in Chapel activities. Again the numbers are restricted, with 5 prisoners and 2 volunteers allowed at site 600 Federal Training Centre (FTC), and 9 prisoners and 3 volunteers at 6900 FTC. The palpable joy of both inmates and volunteers on that first visit after an absence of 18+ months was beautiful to see.

Other visits to the prisons are also taking place by Communitas' staff as we restart our CoSA connections with the men on the inside who want a CoSA with Communitas when they are released. One on one pastoral accompaniment inside is also being offered by some of our members. All these possibilities are arising now that Covid lock-down regulations are being relaxed by the Correctional Service (CSC).

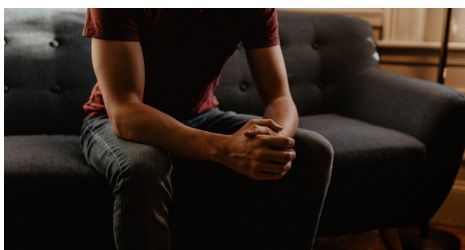
It is hoped that our volunteer escort drivers soon will be escorting men on Temporary Absences once again to our Tuesday evening Open Door meetings at Fulford Hall.

**Communitas welcomes donations for our activities and appeals for your support of our efforts to reduce Covid's aggravation of the already endemic isolation the incarcerated suffer during their enforced distancing from family, friends and the community, as we start our annual fundraising drive.**

Donors are invited to contribute to Communitas through the Canada Helps button on our website [www.communitasmontreal.org](http://www.communitasmontreal.org) – a link to which can be found in this Newsletter. Cheques are also welcome and can be mailed to the new Communitas office address shown on the front page.

We are also encouraging any who are able to consider becoming a monthly contributor to our Organization. This would assist with our long term planning – especially given the upcoming changes in our funding base at the end of this Fiscal year.

*Michele*



## What is a “Circle”?

*(My personal thoughts and feelings)*

For over twenty years, Communitas has been providing a CoSA (Circle of Support and Accountability) to some of us returning to society after time in prison. There are pamphlets, publications, videos and lots of information available clearly defining them, their goals, and operation. Basically, they are a group of volunteers who provide support and help to sex offenders. I would like however, to share my personal view of a “Circle”, and what it means to me.

I am a sex offender. I have caused harm to innocent people. Before my sentence even started, I realized I had become a pariah

and an outcast. The media fuelled public anger. Almost all of my friends, and some of my family, rejected me. Who could blame them?

After my sentence, I was terrified to return to the real world. I did not want to hurt anyone else. How could I do this alone? Of course there were Parole Officers, Psychologists and programs... though they seemed more interested in evaluation and reports than support. I was fortunate to learn about a “CoSA” from another inmate. It seemed to be a great idea, though I could not imagine how important it would be for me personally.

For me, a “Circle” helps me not offend again. It makes me less of a risk. It helps me reduce many of the stresses I experience. I get things off my chest, and try to be as open as I can be. Over many years, I have been fortunate to interact with many wonderful volunteers. At first my meetings were frequent, but have gradually reduced with time. They have helped me with my life, in every way possible. In every way that I request or wish to accept. For sure with support and ac-

countability, but also giving clear opinions and advice, listening ears, challenging and questioning my thoughts, decisions, and distortions, being compassionate and understanding... but I believe, perhaps even more importantly, giving me a feeling of belonging, of having people who care about me, encouraging me, and not judging me by my past mistakes... always there if I need to reach out, for any reason...

Convicted of a crime one faces so much isolation and rejection. Perhaps sex offenders feel this even more? It is a shame that our Governments often do not invest in positive prevention but focus so much on control and punishment. As soon as I was able, I became a financial donor to Communitas. I have also tried to make sure my family, Corrections Canada and others, are very aware of the unbelievable support I have received.

*Anonymous*

*November 2021*

# Please support **Communitas!**

**Communitas is a non-profit, volunteer-driven organization which welcomes (ex-)offenders back to the community by supporting them in their social, spiritual, emotional and practical needs.**

We rely heavily on support from individual donors like you. The stigma associated with work in this area brings unique financial and other challenges with it and so your contributions are essential in sustaining our important work.

I support Communitas and their programs and am enclosing a donation of:

\$25     \$50     \$100     Other \_\_\_\_\_

"Tax receipts will be issued for donations of \$20 or more. Please include the following information for that purpose:"

Full name including middle initial: \_\_\_\_\_

Address: \_\_\_\_\_

E-mail: \_\_\_\_\_

*Please mail to:  
1444 Union Avenue  
Montreal QC, H3A 2B8*

You may donate through our online donation page by clicking [here](#), or by filling in the form above and mailing it to our office.



## **Circles of Support and Accountability (COSA) at Communitas: Is it for you?**

Communitas is proud to have introduced Circles of Support and Accountability (COSA) to Quebec in 2000 and have provided more than 50 circles since. COSA matches individuals with a history of sexual offending with a group of everyday community members who are committed to helping you navigate the challenges of life in the community and achieve a successful, crime-free life.

If you are interested in hearing more about the possibility of having your own circle, contact:

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