



Endless Punishment: What Happens after a Prison Staff Assault

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Endless Punishment: What Happens after a Prison Staff Assault

Joseph Dole¹

The Illinois Department of Corrections (IDOC) deals with acts of violence committed by prisoners in a variety of ways, depending on who the victim is. It does this despite the fact that in Illinois there is no administrative regulation that stipulates or even permits increased punishment based on the identity of the victim. Nevertheless, while those who assault another prisoner usually only face a short stint in disciplinary segregation, those who assault staff members are severely, and often both repeatedly and indefinitely, disciplined for it. A perfect storm of vague rules and regulations, an indifferent public, and an antagonistic justice system have created an environment where a prisoner can be repeatedly punished for the same offense in a plethora of ways. An environment where the bedrock logic of the Double Jeopardy Clause is easily discarded.

In *Benton v. Maryland*,² the U. S. Supreme Court ruled that the Double Jeopardy Clause of the Fifth Amendment is enforceable against the States through the Fourteenth Amendment. One of the constitutional protections of the Double Jeopardy Clause is that you can't receive multiple punishments for the same offense.³

Illinois's State constitution likewise possesses a double jeopardy provision which bars successive prosecutions of the same offense by both a municipality and the State.⁴ Although the IDOC holds more people than many municipalities,⁵ and is an agent of the State, it is not bound by either of the Double Jeopardy

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² 395 U.S. 784, 89 S.Ct. 2056, 23 L. Ed. 2d 707 (1969).

³ *North Carolina v. Pearce*, 395 U.S. 711, 89 S. Ct. 2072, 23 L. Ed. 2d 656 (1969).

⁴ Article 1, Section 10 of the Illinois Constitution.

⁵ At the time of writing in 2018 it is 42,120 (IDOC, 2018).

Clauses nor the logic behind them. This is because the courts have held that the Double Jeopardy Clause does not apply to prison disciplinary proceedings.⁶ This means that not only can prisoners be charged in criminal court for an assault and be punished in prison for it as well, but they also can't find any protection from being punished over and over again for a single offense. The result is that when you assault a guard or other staff member you will be retaliated against in numerous forms, the majority of which you'll find no relief from via the courts.

My case offers the perfect example of the gamut of discipline someone who assaults a staff member must run. On March 15, 2002, I struck an Assistant Warden at Menard Correctional Center (Menard) a single time in the face knocking him unconscious. Thereafter I put up no resistance and voluntarily "cuffed up". Quite often the first type of punishment one will encounter is the illegal kind. Immediately after I cuffed up, I was forcefully placed against a fence face first and repeatedly assaulted by a conga line of responding correctional officers. After the innumerable strikes to the back of my head and back, I was walked to the Health Care Unit (HCU) – not for medical treatment mind you, but rather for a second round of extra-legal punishment. On the way to the HCU one officer boasted that I would be glad we were going to the HCU when they "got done with me".

Upon entering a room in the HCU, still handcuffed behind my back, I was slammed head first into a metal biohazard container. I was then beaten unconscious, conscious, unconscious, and finally, conscious again by a pair of Unit Superintendents and other staff. The end result of the untold punches, kicks, and body slams, was numerous abrasions, bruises, and both a broken nose and mandible. In Menard, such retaliatory assaults by staff – or "excessive force" – are standard operating procedure. As none of the staff who assaulted me were injured, it made it difficult for them to claim that I was combative. Nevertheless, they made the effort. In addition to the legitimate disciplinary ticket, for assaulting the Assistant Warden, a second ticket was fabricated charging me with allegedly trying to use my shoulder to strike the face of one of the guards who assaulted me. This was part of their attempt at a cover-up. In their mind their assault of me would seem justifiable if they just claimed that I tried to hit one of them with my shoulder while handcuffed.

According to the law, guards and other prison staff are prohibited from assaulting prisoners or using "excessive force" in subduing them. To do so violates a prisoner's Eighth Amendment Right to be free from cruel and unusual

⁶ See, for example, *Porter v. Coughlin*, 421 F. 3d 141, 146-48 (2d Cir. 2005).

punishment.⁷ Although I was wrong in knocking out the Assistant Warden, that does not justify guards striking me as I stood compliant, nor justify staff taking me to the HCU ten minutes later – when I’m still handcuffed and fully compliant – and beating me to a bloody pulp in retaliation. The Seventh Circuit of the United States Court of Appeals, which is the federal circuit Illinois falls under, found that even where a prisoner has stabbed an officer, once he has been subdued it is unconstitutional to beat him.⁸ With that in mind, you would think that the staff responsible would face criminal charges, IDOC disciplinary proceedings, and a lawsuit for compensatory damages. Criminal charges against staff for assaulting prisoners are however a rarity. What usually happens, as ensued in my case, is that the local prosecutor conveniently won’t feel that there is enough evidence to prosecute.

When an incident occurs in prison it falls under the local jurisdiction – meaning that the prosecutor usually has numerous friends and family members working at the prison which is ordinarily the largest employer in the area. The prosecutor who reviewed the case of staff assaulting me claimed that it was just my word against theirs and there was insufficient evidence to pursue charges against them. This ignores the evidentiary value of my numerous injuries, the multiple witnesses who had been interviewed and given statements to Internal Affairs and the Illinois State Police, and the fact that I wasn’t the one who identified the perpetrators, but rather it was an internal investigation that had uncovered their identities. Had the roles been reversed however, and a correctional officer simply been pushed without injury, and it was his word against mine, I definitely would have been charged.

Surprisingly, the IDOC did take disciplinary action against some of the staff who assaulted me in the Menard HCU. One guy killed himself shortly after being walked out of the prison so no disciplinary action was needed. One Unit Superintendent retired early prior to disciplinary action. The other Unit Superintendent was demoted. A medical technician (med-tech) was also disciplined, as will be explained later, and some other staff faced minor discipline.

I did file a civil suit against those who assaulted me, but I realized it would be an uphill battle from the beginning. Society more often than not feels uncomfortable ruling in favour of any prisoner, which makes picking an unbiased jury difficult if not impossible. Additionally, just as local prosecutors will look out for correctional staff, so too does the brotherhood of correctional staff.

⁷ Constitution of The United States Of America, Amendment VIII.

⁸ Bogan v. Stroud, 958 F. 2d 180, 185 (7th Cir. 1992).

Thus, they will work together to cover up any misconduct by their co-workers. In my case, this manifested itself in numerous ways. For instance, the med-tech destroyed the initial medical records detailing my significant injuries and tried to place his own fabricated version in my file. (His version claimed that I told him I fell and there were only minor injuries, no blood, etc. The ones he threw out – which had to be subsequently rewritten – recorded my true injuries and the fact that I had been assaulted by staff). He would later be walked out of the prison by Internal Affairs and be found guilty and disciplined for his actions and lying to the disciplinary committee.

Both in an attempt to help their co-workers and hinder my ability to sue, IDOC staff in either Tamms Supermax Prison or at IDOC headquarters in Springfield destroyed or “lost” the two grievances I filed. Those “lost” grievances were later used by the defendants in my lawsuit as grounds for their motion to dismiss my complaint (failure to exhaust administrative remedies) which the trial judge granted. I was then forced to appeal that dismissal to the Seventh Circuit to get that order overturned.⁹ My complaint was then reinstated allowing me to proceed to trial. When I finally did get to trial, I found a jury packed with friends and relatives of IDOC workers (one juror was actually married to a current Assistant Warden at a different IDOC prison), and a judge who would rule that both the Internal Affairs report and the Illinois State Police report – each of which supported my claim that the defendants had used excessive force – were inadmissible at the trial. Not surprisingly, the jury ruled in favour of the defendants. After four decades of tough-on-crime rhetoric, society has been conditioned to be biased against prisoners. The public, more often than not, couldn’t care less whether a prisoner is beaten. When you add in the fact that I was beaten in retaliation for an earlier assault, the jury had little compunction about ruling for the defendants, not because they were innocent, but rather because the jury felt that I got what I deserved.

The second punishment I received was a transfer to Tamms Supermax Prison (later rechristened Tamms Closed-Maximum Security Prison, and then Tamms Correctional Center, both rebrandings being attempts to be more media savvy). This was a legitimate punishment, but the manner in which it was done – without a hearing, notice, etc. – violated my right to due process.¹⁰ The transfer itself would mean that I would not be allowed to make a single phone call for the next nine years (when Tamms would finally change the no-phone calls policy), and could only see or talk to my young daughters when my family could

⁹ Dole v. Chandler, 438 F. 3d 804 (7th Cir. 2006).

¹⁰ Westefer v. Snyder, Civil No. 00-162-GPM (7/20/10) (U.S. Dist. Ct. So. Dist. Ill).

afford the time off work, and the hundreds of dollars for gas, food, and hotel room, required to bring them the thirteen hour drive. Additionally, they would need to schedule the visit (and get it approved) two weeks in advance. Only then could they visit me by seeing me through thick security glass, while we speak one at a time into an electronic recording device, while I am handcuffed, shackled and chained to a cement stump, my seat, for four hours.

As a consequence of the transfer I would also be subjected to conditions that the courts would later rule constitute an “atypical and significant hardship”.¹¹ The reason being that prolonged isolation is not conducive to good mental health. The type of prolonged isolation used in supermaxes in America has been ruled as a violation of the United Nations Convention Against Torture (Kamel and Kerness, 2003). It causes numerous mental health problems and “can make prisoners ... either mentally ill, suicidal, or irrationally violent” (Gustitus, 2012).

Upon arrival at the notorious Tamms Supermax Prison in southern Illinois the day after the assault (16/3/02), I was put in a receiving cell and once again stripped naked by four neon-orange-clad riot officers. While naked I was photographed from head-to-toe for a second time (the first being done by staff at Menard as part of the Internal Affairs investigation; though only the first set of photos was acknowledged and disclosed by the IDOC), and told to watch two intake videos. The first video detailed the prison’s rules and regulations. The second video was of a judge attempting to intimidate prisoners out of filing lawsuits against the IDOC or its staff. He spent over a half hour detailing how unsuccessful prisoner lawsuits are, and how, no matter what, sooner or later the prisoner would have to pay the (then) \$350.00 filing fee. While watching the video, I reflected on the irony of a federal judge trying to dissuade a naked prisoner, who had just been violently assaulted while in handcuffs and completely compliant, from filing a lawsuit against the perpetrators. I should have known then that there was no justice to be found in our civil judicial system. (I was already well aware that justice had left the building on the criminal side). Before the videos were over, and prior to temporarily being provided any clothing, I was served a disciplinary ticket for “100 Violent Assault Of Any Person and 105 Dangerous Disturbance” (i.e. knocking out the Assistant Warden), and an inmate orientation manual. I was told that since I would not be allowed any property where I was going they would hold onto both the manual and my copy of the ticket. I was allowed to read the ticket though, and it made no mention of me allegedly putting up any resistance after striking the Assistant Warden.

¹¹ Westefer v. Snyder, Civil No. 00-162-GPM (7/20/10) (U.S. Dist. Ct. So. Dist. Ill).

The third punishment was both illegitimate and done for nefarious reasons, yet under current law completely unactionable in court. I was taken to Tamms Health Care Unit (HCU) where I was once again stripped naked, weighed, and placed in an 8' x 8', furniture less room. There was a toilet/sink, but no bunk, desk, or anything else. There was a thin window to the outside looking out onto a cement wall, but too high for me to look out of unless I got a running start and jumped up, pulling my face high enough to peer out. There was a larger window for people to look into the room. The floor was cement with a texture similar to sand paper –uncomfortable under bare feet. I was given three items: a see-through paper jumpsuit which had the entire front torn off of it; a half-inch thick, greasy, foam “mattress”; and a 5' x 5' security blanket which could only cover my 5' x 11" frame if I balled up in the foetal position. Once again, I was in an HCU for reasons antipodal to providing me health care. I was told that I was being placed on suicide watch. When I inquired as to why, since I was clearly not suicidal, I was told that everyone who has a natural life sentence and is written a disciplinary ticket is placed on suicide watch. Such an assertion is so outlandish that all I could do was laugh.

In reality, the reason I was wrongfully placed on suicide watch was to prevent me from contacting The Associated Press who had picked up on the story of my being assaulted in retaliation for assaulting the Assistant Warden. The administration, which was still refusing to disclose where I was in the IDOC, was trying to buy time to allow the story to grow stale. The suicide watch placement also accomplished a second objective of the administration – to increase my punishment by any means possible.

I was initially told that my placement would only last 24 hours, that I would be provided magazines to keep me occupied, and stationery to write to my family to inform them of what had happened. After 24 hours with none of the above occurring and a constant stream of staff gawking at me through the window, I was told it would be 48 hours. When I asked about the magazine and stationery, I was told that per the Tamms Assistant Warden's order I was to be given no property. I was also told that he had ordered my continued placement in suicide watch, overruling the unanimous opinion of the mental health staff that I was not suicidal. I inquired how someone with no mental health training could make that determination, and overrule those with mental health training but received no response. 48 hours became 72, which then became 96. Throughout those four days I was denied a shower or even soap to wash all the crusted blood and boot grime from my face. I was denied toilet paper, pain medication, and provided mainly inedible food – celery with shaved hair

covering it, mysterious clear and white liquid substances covering food that was supposed to be dry, and so on.

Although the courts openly acknowledge that mental suffering can be just as bad as physical pain, prisoners are barred by the Prison Litigation Reform Act from being awarded damages to compensate for their mental or emotional suffering unless it was accompanied by physical injury as well.¹² This means that no matter what stress, anxiety, anguish, etc. that the administration puts you through they won't be held accountable for it in court. For instance, they could tell you that your whole family has been murdered and threaten to rape you for days on end without consequence. In my case, even though I suffered physical injuries a day prior to the four days of mental and emotional suffering, and argued it was all part and parcel of a classic "hub and spoke" conspiracy to retaliate against me, all claims of mental or emotional suffering during those four days were dismissed from my civil suit prior to trial because I didn't suffer an additional physical injury during that time.

Upon release from suicide watch, I was taken to a completely empty wing of the prison and finally given some clothing, my mail that had accumulated, and the orientation manual. Missing was the copy of the disciplinary ticket. This was another aspect of the coverup. The original ticket needed to be disposed of and a new one written to try to further the fabricated narrative that I was combative after the assault.

Thus, the fourth punishment (or cluster of punishments actually) that came my way was a rewritten disciplinary ticket for my assault on the Assistant Warden. It was served on March 20, 2002 – the day I was released from suicide watch. While the narrative was now fabricated to show me combative, the charges themselves remained the same. Thus, this punishment was a legitimate departmental disciplinary action, but I'd soon find out it would be taken to the extreme.

After being found guilty of the charges, I was sentenced to "Indeterminate (disciplinary) Segregation" (IS).¹³ IS is the only punishment that is open-ended (Administrative Detention (AD) can likewise be indefinite, but the courts have illogically ruled that AD is preventive and not punitive,¹⁴ even though prisoners are usually subject to severe isolation and have highly diminished privileges). The section of the Illinois Administrative Code governing IS is silent on how one gets released from IS, so it has become an easily abused correctional tool. When

¹² 42 U.S.C. § 1997e (e).

¹³ 20 Illinois Administrative Code Section 504. 115.

¹⁴ See for example, *Smith v. Shettle*, 946 F. 2d 1250 (7th Cir. 1991).

the administration has unchallengeable discretion to continue IS placement its use as retaliation against prisoners who assault staff is both obvious and difficult to prove. Offenders are reviewed after one year and then every six months thereafter to determine if they deserve release from IS. At each review the Deputy Director may either leave the offender in IS or establish an IS release date. While there are seven factors listed as guidelines in determining whether to establish a specific IS release date, there are no factors that require a release date (for example, good behaviour / no disciplinary tickets for an entire year). The factors that are listed for determining an IS release date are more commonly used as arbitrary, boilerplate justification to deny a prisoner a release date.

Thus, the same factor – ‘the seriousness of the offense’ – was used to deny me both release from IS and an IS release date at the initial hearing in March 2003 and at hearings every following September and March for the next seven and a half years. So altogether, I received the same letter fifteen times from the Deputy Director stating: “due to the seriousness of the offense the Deputy Director has determined to continue your placement in Indeterminate Segregation”. The seriousness of the offense is something that will never change allowing it to be used as justification indefinitely.

Another prisoner was likewise denied for five years “due to the seriousness of the offense”. The differences between us would seem to argue that I should be released from IS in less time than him. While in IS he continued to catch disciplinary tickets, didn’t complete any rehabilitative programs, was in IS for murdering his cellmate, and still won release from IS after five years. I, on the other hand, knocked out an Assistant Warden, had an otherwise spotless disciplinary record, and completed dozens of rehabilitative programs, but was repeatedly told that I would never be released from IS, and only won release after 8 ½ years and the intervention of numerous people in the community, including an Illinois State Representative. So, while the other prisoner’s offense was more serious (murder compared to “aggravated” battery), I was the recipient of much greater punishment, and the same factor was used as justification. The obvious explanation is that the administration uses IS to retaliate against those who put their hands on staff. Since the Illinois Administrative Code does not allow for a more severe punishment based on the identity of the victim the administration circumvents this by abusing its discretion under IS.

To do so though denies an offender fair notice that assaults against staff will be punished more severely than assaults against prisoners. More worrisome is

the fact that IS is a blackhole where you have no right to release from perpetual punishment. Had I not obtained outside intervention I quite possibly could have served the next six decades or so of my life-without-parole sentence being disciplined in IS. Even the stipulation that prisoners in IS can ask for a reduction in the amount of time they have to spend in segregation¹⁵ is meaningless. It is nothing more than encoded myth. When a prisoner in IS does ask, as I did several times, he will simply be told that he has no segregation release date, as he is in IS, and cannot receive any reduction on an unknown amount of time in segregation.

Another aspect of the disciplinary action imposed on me was the order that I pay \$14,186.54 in restitution to the State of Illinois, to allegedly reimburse the State for the Assistant Warden's hospital bills. As no hospital bills or records were ever released to prove this, it is still unclear if they were legitimate hospital bills resulting from injuries sustained when I hit him. For all I know the Assistant Warden could have gone in for anything from elective plastic surgery to a vasectomy or any other unrelated medical care he may have wanted or needed. Had I refused to make monthly payments for restitution a hold would have been placed on my prisoner trust fund account, depriving me of the limited commissary privileges still available.¹⁶ This would have prevented me from purchasing not only snacks, coffee, etc. but also the numerous necessities that the State no longer provides in sufficient quantities – soap, deodorant, clothes, pens, paper, envelopes, etc. – for the rest of my life. The last aspects of the disciplinary action were to recommend that a year of good time be taken away (inapplicable due to the fact that I'm serving a LWOP sentence), and I was demoted to C-Grade¹⁷ for one year, which meant that I was limited to \$30 per month spending on commissary for that year.

The same day that I was served the rewritten disciplinary ticket for assaulting the Assistant Warden, I was also served an investigative ticket for an alleged violation of "205 Gang Or Unauthorized Activity" occurring in Stateville Correctional Center on March 16, 2002. The problem with that was the fact that not only was I in Menard and Tamms on that day, but that the first time I stepped foot in Stateville wouldn't be until more than a decade later, in 2012. Nevertheless, it took me nearly a month before this ticket was terminated and expunged on April 15, 2002. Despite the fact that I had "beat" this ticket, I was still falsely labelled an active member of an STG (Security Threat Group). This is

¹⁵ 20 Illinois Administrative Code Section 504. 115 (d).

¹⁶ 20 Illinois Administrative Code Section 504. 140 (b) (2).

¹⁷ 20 Illinois Administrative Code Section 504. 130.

yet another form of punishment as STG members are constantly discriminated against in prison by the administration.

The main objective of this false ticket and the false labelling of me as an active STG member was to ensure the freest hand to retaliate against me and keep me in Tamms. At that time, the simple act of labelling me as such ensured that I could never be released from Tamms unless I successfully renounced my alleged membership in the STG they had chosen. This is because at that time renunciation was a prerequisite to transfer out of Tamms. The renunciation process itself is a farce. It's yet another "administrative decision" that can't be challenged; and like Alcoholics Anonymous (AA) the first step is confession. In AA the first step is admitting you are an alcoholic. Renunciation requires you to admit you are a member of the STG they claim that you belong to. If you're not actually in the STG, or deny that you are, you are not allowed to even go to renounce. Your refusal to acknowledge membership is seen as proof of your insincerity in renouncing.

The similarities between the IDOC's renunciation policy and the House Un-American Activities Committee (HUAC) are astounding. HUAC was originally created to investigate Nazi propaganda and German involvement in the Ku Klux Klan in 1938, but during its nearly 40 year history it came to be a tool used by government officials to blacklist anyone from artists to politicians. Its findings were arbitrary and the stigma attached to being called before the committee was impossible to escape from. HUAC is now acknowledged as being nothing more than a politically-driven witch hunt that ruined lives. In his book, "The Warren Court and the Pursuit of Justice", Morton J. Horowitz (1999) describes HUAC as follows:

HUAC's most important function was to hold hearings at which those who were willing to recant their Communist-sympathizing past were required to engage in public repentance ... Sincere repentance was largely determined by witnesses' willingness to "name names" of those who had participated with them in a suspect organization. For those whose consciences would not permit them to involve others, a very different ritual evolved. These unwilling witnesses typically pleaded the Fifth Amendment, claiming that their refusal to testify was based on the concern that they might incriminate themselves by offering testimony that could subsequently be used against them in a criminal trial. Senator McCarthy regularly denounced these witnesses as "Fifth Amendment Communists," and many of them were fired from their jobs after invoking their constitutional rights. Those witnesses who stood on their consciences by refusing to name names were portrayed as completely uncooperative and contemptuous of

congress ... In fact, while these witnesses might have been willing to testify about their own past activities, any cooperation might trap them into having to answer every question, which would inevitably involve others.

Just as HUAC was used to harass individuals whose political opinions offended them, thus ruining their careers; so too is STG labelling and the renunciation policy used by prison officials to harass gang members and anyone else who becomes a nuisance – such as prisoners with staff assaults, those who are jailhouse lawyers, and so on. Those labelled and who fail to successfully renounce are discriminated against in a number of ways. In Stateville, for instance, former Tamms prisoners like myself are being told we cannot obtain any job or transfer unless we successfully renounce. Without a job we are kept economically depressed and without the opportunity to transfer we will remain behind the wall with extremely limited privileges, never permitted a transfer to a medium or minimum security prison where conditions are better.

Once labelled as a member of an STG it is virtually impossible to get rid of that label. Renunciation hearings are arbitrary and mainly used as an intelligence gathering tool for Internal Affairs. If a prisoner refuses to inform on other prisoners' activities, his renunciation will not be accepted. Also, just going to the hearing can put his life in danger. Many individuals in Illinois prisons who would like to renounce (especially those who are falsely labelled) choose not to do so, mainly because the mismanagement of the policy and the hearings has left them with little hope for a successful result. This reluctance is reinforced by those who have "successfully" renounced being seen as having implicated others. Thus, they see little to gain, while making themselves vulnerable to retaliation by both the administration, for not telling them what they want to hear, and by the gang because they're now labelled a snitch. Furthermore, it is not what an individual knows or relates, but rather what the committee believes he should know, and what or who the committee chooses to believe. Thus, if one individual gives false information and the committee believes it, it can have a devastating trickledown effect where anyone who fails to confirm this false information or contradicts it during their own renunciation hearing is deemed to not be sincere and denied.

Another major concern and impediment to successful renunciation is that of self-incrimination. Individuals are asked about numerous prior incidents. These renunciation proceedings are taped and preserved. If an individual pleads the Fifth Amendment his renunciation is not accepted as sincere. If he does answer he may have the evidence used against him later in a court of law. Especially

now that Illinois has passed its own version of the Rico Act and even gang recruitment is a felony offense. So even though I was not found guilty of the disciplinary ticket for alleged STG activity and am not in a gang, I am still falsely labelled as a member of an STG. Thus, I am still both stigmatized by having been in Tamms and discriminated against due to the false STG label. We'll call that my fifth punishment.

My sixth punishment was another aspect of the cover-up. Three days after receiving the bogus STG ticket, and more than a week after being assaulted, I was served the other, fabricated disciplinary ticket. This time it was for "100 Violent Assault Of Any Person, and 102 Assaulting Any Person", for allegedly assaulting one of the staff members who assaulted me. As none of the people who assaulted me suffered any injuries themselves, the ticket read "while escorting inmate Doyle K84446 to the HCU, inmate Doyle struck this officer ... in the face with his shoulder forcing me into the corner of the exam room ... I.D. was made by inmate I.D. card". Funny how my name was misspelled if they had my I.D. card. The desperation is evident as well where they charged me for a "violent assault" when no one was injured. Violent assault requires not just an injury but a serious injury. Both IDOC Internal Affairs and Illinois State Police would conduct full investigations and find no evidence that I had resisted in any way or struck anyone with my shoulder. Only then was the ticket expunged when the Adjustment Committee came to give me this news months later. The Assistant Warden of Tamms – who was the chairman of the committee, and whose appearance on the committee is unheard of – told me it didn't matter because they would never let me out of IS based on the other, legitimate assault ticket.

I had only been out of suicide watch for a few days when the last of these tickets arrived. I had already received numerous threats thrown at me by Tamms staff; had recently been assaulted and bogusly thrown in suicide watch; and was still completely isolated, when I began experiencing heart palpitations whenever I heard the door to the wing open. I constantly wondered – What now? Another ticket? Another assault? This free-floating anxiety, a symptom of both isolation and post-traumatic stress, would be a constant companion for the next decade that I would spend in isolation.

The seventh punishment I would learn of a couple weeks later when I finally received the inventory of what property of mine had followed me to Tamms. I discovered that the guards who packed my property had liberated numerous items, including a brand-new pair of Nike tennis shoes, and numerous personal items like my address book, family pictures, and a bible. Additionally, they broke

my radio, and told me that I had to send out or destroy 90% of my property as it was verboten at Tamms. Thus, I was stripped of nearly all of my property. After suing in the Illinois Court of Claims I was denied any compensation for the items that were stolen, but reimbursed for the cost of the radio.

As if the numerous punishments imposed upon me by the Illinois Department of Corrections – both legal and illegal, legitimate and illegitimate – weren't enough, the local prosecutor also felt he needed to get in on the action. A few months after my arrival at Tamms I was notified that I was being charged with aggravated battery with an extended term sentencing range of 5-10 years in prison. This would be the eighth punishment.

Although there is nothing at the correctional level that permits increased punishment for those who assault staff members, when prisoners are charged with that battery in criminal court the fact that the victim was a correctional employee means that the charge is automatically enhanced to an aggravated battery.¹⁸ This means the sentence range jumps from up to one year in jail (the maximum sentence for a Class A Misdemeanor for battery in Illinois), to 2-5 years in prison (the sentencing range for a Class 3 Felony for aggravated battery in Illinois). In addition, most prisoners who assault staff have previously been convicted of a more serious offense than aggravated battery, so this makes them eligible for an extended term, raising the sentencing range to 5-10 years. That's what happened in my case.

During the plea-bargaining process, the State's Attorney had the audacity to bluff that he was contemplating further charges by stating that if I took his offer of five years imprisonment (the minimum extended term) consecutive to my current sentence (LWOP – so after I'm dead), that he "would agree not to file [charges against me] on anything that occurred after I was taken to the Infirmary at Menard." Now, remember, the only thing that happened, according to even the Illinois State Police and IDOC Internal Affairs was that I was the victim of a retaliatory assault while handcuffed. As I could not handle the manner in which I was being transported to and from court – shackled, wrapped in chains, and triple padlocked in a steel box – I quickly accepted the State's offer of five years to avert future torturous trips to court.

The criminal conviction didn't end my punishment for the assault. Nor did being released from IS after an 8½ year battle. Instead I was punished yet again (9th time) for the same single act. The same assault ticket was then used as a basis to place me in Administrative Detention (AD). AD is not viewed as a

¹⁸ 720 ILCS 5/12-4 (b) (6) (West 2002).

punishment by the IDOC,¹⁹ or the courts,²⁰ but that is exactly what it is. Being placed in AD meant remaining isolated in the same cell in Tamms and enduring all that I had endured for 8 ½ years already.²¹ It would take me another year and a half of challenging my AD placement before I would finally win a transfer out of Tamms.

Even then though, I would not be released back into general population. Since I wouldn't renounce the administration's fabricated STG label (and couldn't even if I had been allowed to try, since I wouldn't admit to being a member of that STG) I was forced to go through a nine-month step-down program - Administrative Detention Re-Entry Management Program - to allegedly reacclimate me back into ordinary prison life (10th punishment). The administration claims this was needed due to the psychological effects of prolonged isolation. At the same time though they tell you that if you successfully renounce (tell on others), you will be released directly back into general population. I guess those who tell on others are magically cured of the psychological effects of Tamms.

To recap, prisoners who assault a staff member face the real possibility of perpetual punishment. For those with life sentences it can mean a lifetime of retaliatory acts and little they can do about it when the public supports such treatment and the courts are indifferent about it. As many of the consequences of assaulting a staff member were either illegal or illegitimate, and the majority of them are unknown to prisoners prior to assaulting staff, any deterrent effect is negligible or non-existent. Furthermore, the injustice of the illegal and illegitimate punishments, combined with the arbitrariness of the administration's actions engender less fear of further disciplinary action than it does hostility towards those treating them so unjustly. It contributes very little to prison order. Staff assaults rise and fall based on the conditions of a prison and the way staff treat prisoners. Not on how harsh or prolonged the punishments are. The best things the prison administration can do to reduce or discourage staff assaults is to: 1) improve prison conditions; 2) provide more educational programs; 3) have staff treat prisoners with respect; 4) follow the laws; 5) stop retaliatory beatings; and 6) address prisoner grievances professionally rather than dismissing them arbitrarily.

¹⁹ 20 Illinois Administrative Code Section 504. 660.

²⁰ Smith v. Shettle, 946 F. 2d 1250 (7th Cir. 1991).

²¹ Westefer v. Snyder, Civil No. 00-162-GPM (7/20/10) (U.S. Dist.Ct.So. Dist. Ill).

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