SUMMER OF BLOOD: VOYAGE THROUGH SAN QUENTIN STATE PRISON'S COVID-19 OUTBREAK

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In this article, Kevin Sawyer documents his pandemic year inside San Quentin State prison, where a transfer of incarcerated people from another facility led to a devastating COVID-19 outbreak. Drawing on personal journal notes and interviews with other incarcerated people, Sawyer recounts the uncertainty and dread within the facility before the outbreak, and the chaos and devastation that followed its arrival. He also describes the survival tactics incarcerated people used to challenge state abandonment and incompetence throughout the pandemic.

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I.
UNPREPARED

There are any number of ways men prepare to survive a prison sentence. If you're Black, instructions come early in life. How to endure the death-dealing coronavirus wasn't one of those lessons for me.

As a small child living in a San Francisco public housing project in the 1960s, I remember Black men returning home from the Vietnam War and prison. Some of them were later consumed by the Black Liberation Movement as the Civil Rights Movement wound down. Others were drawn to the presence of the Nation of Islam, colloquially known as "Black Muslims." Soldier, ex-con, so-called militant, or Muslim, each in their own way imparted a universal message to us "young bloods" on what to do if captured and taken prisoner by the white man. From them, I learned seven guiding principles on how to outlive a term of imprisonment. In prison, these unwritten rules are analogous to the seven deadly sins.

So, I learned to mind my own business; never inform or "snitch" on a prisoner; never drink alcohol or use drugs; don't gamble; don't mess with "punks";[1] never join a gang; and don't joke or play around with the guards. All of that was easy for me. I've never concerned myself with the next person's matters, especially cops. I have no problems with addiction. I keep company with like-minded people. Gambling was something that I did in places like Las Vegas, Reno, or Lake Tahoe, and I never saw a need to align myself with a gang.

Still, during my twenty-four years of incarceration, no one ever said anything about how I was supposed to live through a pandemic inside prison. I, like many others, was on my own in a prison on-the-job-training situation. My sudden encounter with COVID-19 tested me and others before we eventually realized that, long before the pandemic, our lives had been in danger and we'd developed the skills to survive in prison.

II.
LOOMING EMERGENCY

Life was about as good as it could be at San Quentin State Prison when coronavirus began to ravage America. Prisoners, correctional officers, and other staff went about their daily routines behind prison walls as the world appeared to crumble outside. Nonetheless, out of caution, on Saturday, March 14, 2020, prison officials placed the prison's West Block on "modified program," a virtual lockdown.

Real or imagined, many people in the United States believe the past year-and-a-half has been a "difficult time," "stressful time," "strange time," "crazy time," "uncertain time," "unsure time," or "unprecedented time." I've heard it all. But, in prison, it's just time, and lockdowns are a normal part of the incarceration routine. This one, however, felt foreboding.

[1] This is the language my elders used to share the "rules" with me when I was a child fifty years ago. I realize it is hurtful, but want to convey the reality of the rules I learned and how they were explained to me.

Back then, there were only about a dozen deaths in the United States from COVID-19, but I could sense the disease moving toward the Bastille by the Bay. In my personal journal I wrote, "West Block went on quarantine/lockdown. I was expecting it."[2] So far, San Quentin had remained unscathed by the virus, but I was monitoring the situation, gathering documents, doing interviews, and taking copious notes.

I knew the state would attempt to control the narrative about what was happening inside the prison walls. That is why I, along with a handful of other incarcerated journalists at San Quentin, took notes and interviewed prisoners. We didn't know then that we were about to live through what has been described as the worst infectious disease outbreak in the prison's 169-year history—a disaster on par with what took place fifty years ago at Attica State Prison in New York, when thirty-eight prisoners, guards, and civilians were massacred by the state. But we knew we couldn't let the state conceal the truth of what was happening. An unpublished story I wrote early in the pandemic reads in part:

> Luckily, after more than five weeks, San Quentin State Prison hasn't been faced with the challenge to maneuver through the crisis on the same scale that has overwhelmed the nation, at least not yet. But if COVID-19 does strike California's oldest prison, the inmates there are doomed, because the state, like the rest of America, does not appear to have a viable plan to handle this kind of emergency.[3]

I was right. Inside San Quentin, the first weeks of the lockdown set the stage for how the virus would rage through the prison. Everyone played a role in what was about to happen: custody staff, regular staff, medical staff, and prisoners—although it was the dereliction of duty on the part of the custody staff that allowed the virus to spread. A late-March journal entry reads:

> One thing is certain about the California prison system: Inconsistency. . . . If the prison (San Quentin) experiences an outbreak, it's going to hit hard. There is no social distancing in practice. The state (California Department of Corrections and Rehabilitation, or "CDCR") is not managing the spread of the virus and prisoners move about as if they're immune to coronavirus.

I was trapped, a realization underscored by the fact that the United States had passed China and Italy in number of COVID-19 infections.

In another passage in my unpublished story I wrote:

> More than five weeks after the quarantine started, San Quentin Medical Providers circulated a letter that stated, "The CDCR has

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[2] All references to Mr. Sawyer's journals and unpublished writing herein are on file with the author. Where relevant, *The Harbinger* has included citations to legal documents, periodicals, and cases referenced in this piece.

[3] Kevin Sawyer, Coronavirus San Quentin 1 (2020) (unpublished manuscript) (on file with author).

> reported COVID-19 cases among officers and inmates across California. At the time of this letter, we have had no cases among our patients." The letter said Governor Newsom's shelter-in-place order will continue "at least until May 3" and [the Prison Industry Authority] "is currently working very hard to make cloth masks for the inmate population. . . . They will be distributed soon."[4]

As I watched death lurch toward me, my paranoia became debilitating. "Why are prison officials not bracing San Quentin for this cortege of disease?" I asked myself. I held the answer to my own question. Under normal circumstances, prison officials claim to care about rehabilitation. But the truth is that for more than twenty-four years I've been sequestered inside an overtaxed, behemoth system in sore need of its own reform.

Knowing that, I wondered how I would survive. The importance of a hyper-attuned sense of self-preservation in a deadly environment provided answers. I use two words to describe my philosophy: Carceral Darwinism. And so I was reminded of those seven deadly sins in prison. Social distancing became a sub-category of "mind my own business." I tried to stay away from people. But that was impossible to do inside of a prison originally constructed in 1852, with five-feet-by-ten-feet double-occupancy cells designed for one inhabitant.

III.
CORONAVIRUS ARRIVES AT SAN QUENTIN

On May 30, 2020, CDCR made the ill-fated decision to transfer 121 prisoners from California Institution for Men ("CIM") to San Quentin. At the time, CIM had the most infections and deaths from the virus in the California prison system. Many of the transferred prisoners were positive for coronavirus. By June, all hell broke loose. Suddenly, California's oldest prison was in the midst of the pandemic along with the rest of America.

I was housed in San Quentin's West Block. As anyone who lived there could have predicted, the prison administration wasn't prepared to handle the crisis, or what some called a "PLANdemic." On June 25, 2020, I wrote in my journal, "Three and a half months after San Quentin shut down all programs due to coronavirus, the prison finally tested me and other men in West Block." My nostrils felt violated for days after I was tested. Five days later, I wrote:

> I've felt a "bug" or illness of some sort trying to invade my body. It's not a cough, sore throat, headache, sneeze, etc. My nasal passage has been irritated since I was tested for COVID-19, five days ago. Maybe more dust and other particles are finding their way inside my nose.

[4] *Id.* at 18.

I had a keen understanding of the forces at play with COVID-19, the prison administration**,** and its healthcare system. The administration and the healthcare system did not work together and frequently provided conflicting information that, taken at face value, made it seem like one or other was incompetent or lying. I, like others, wondered if prisoners in West Block, and perhaps throughout the prison, were tested for coronavirus or in fact deliberately infected. It's doubtful I'll ever be certain which occurred.

Unbeknownst to me and the rest of San Quentin, the COVID-19 situation at the prison was about to become ugly. A July 1, 2020, journal entry reads:

> Last night was miserable for me. I was sick. From what? I cannot say. I think it was that "bug" trying to attack me. Well, it got in and did a number on me, but I drank a lot of water, took something to make me sleep and tried to sweat it out. I tossed and turned all night, feeling light-headed and drowsy, yet I could not sleep. I awoke at 3:00 a.m., suffering.

After that night, I did not wake up for breakfast once I managed to fall into a deep slumber. When I finally woke, I took a shower, drank a cup of coffee**,** and ate some oatmeal that was in my personal property. Years of lockdown time in other prisons had prepared me to do cell time. The prisoners' platitude, "Stay ready, so you don't have to get ready," has intrinsic value for survival. My mind was awash with thoughts of self-preservation.

"I feel much better now," my July 1, 2020, journal entry reads. "Getting sick during a pandemic is scary, even if I didn't test positive for COVID-19." The result of my June 25, 2020, COVID-19 test had been negative. At face value, the result seemed plausible. But I was skeptical of the CDCR medical system, California Correctional Health Care Services. After all, it has been under federal receivership for a decade. Why would I trust it now?

About a week later, I was tested again. This time the result read, "A repeat test will be ordered. . . . Your COVlD-19 test results are positive for coronavirus." However, before I received the result of my second test, a dental hygienist tapped to work as a nurse tested me a third time. When I asked her about my previous test, she said, "That test was no good." She explained it had "sat around too long" and the prison had "switched to a new lab." By then, I, and other prisoners, had good reason to feel incredulous and distrustful about anything we were told.

On July 15, 2020, the day following my third test, Dr. Yao-Cohen came to my cell with a grim look in her eyes. She said, "You've tested positive." Weeks later, I received my third test result through the mail. It read the same as the second test result.

IV.
DEATH REACHES THE PRISON GATE

During the first week of July 2020, while I was sick with that "bug," death breached the walls and prison gate at San Quentin. "Control, I have a man down in

cell l-West-7 complaining about feeling dizzy," a correctional officer called into his radio from the cell next to mine. The buzzing of an alarm sounded in the housing unit as medical staff and other officers hurried to the scene. "Man down, second tier, yard side," inmates shouted, using the universal cry for help in the California prison system.

"Medical, man down, 2-11, West Block," a correctional officer said into his radio another July day. I think he was calling from Mac "Spanky" Brown's cell. I'd interviewed Mac earlier for my unpublished story. At the time, Brown told me that, come August 2020, he'd be incarcerated fifty-one years. He was more than a little agitated by the mistreatment of prisoners in West Block. "All the time I've been incarcerated, I've never been treated this bad," Brown said. "I'm tellin' you, it's terrible."[5] He complained repeatedly to the warden about unsanitary living conditions, to no avail.[6] He'd already been placed in isolation (the hole) after he was exposed to COVID-19 by his supervisor, who was placed on a fourteen-day quarantine.[7] The next time Brown was taken away, he died.

An Asian inmate named Eric also died from coronavirus. I didn't know him well. He worked as a barber in West Block. Most of the men called him "E." He was easy to spot because one of his legs was amputated below the knee, so he walked with a prosthetic device.

During this period, I listened to many "man down" cries broadcast over corrections officers' radios and the housing unit's public address system. I made note of cells—3-30, 1-03, 4-25—as the calls went out for help, never sure if the occupant was someone I knew. Men were whisked away from the building on gurneys and taken by ambulance to the prison's triage treatment area. Those who could sit up rode on golf carts. "These guys are falling out every day," an inmate in an adjacent cell said. "It started out with nobody, and now the whole building is falling out."

The corrections officers were catching hell too. "I'm just trying to make it through today," a sergeant said. Another said there were only three officers working inside the housing unit, where more than 700 prisoners lived. "Everyone's tired," a line officer said. "I'm beat. Everyone's struggling." We knew it was bad when we saw Sergeant Dutton and Lieutenant Hobbs—very senior officers—passing out bag lunches and sweeping trash in the building. I asked a corrections officer how he was handling the situation. "I'm drinking more," he said with a forced laugh. Then he walked off.

Most of this took place before any N-95 masks were issued to prisoners, so the virus continued to spread. The University of California-San Francisco donated four-ounce bottles of hand sanitizer for individual inmate use, but, once it was gone, no replacement or refill was provided. Yet, on a local news station, the prison's press office reported that we could get refills upon request.

V.
EMPTY WORDS

[5] *Id.* at 8.
[6] *Id.* at 9.
[7] *Id.*

During my nearly twenty-five years of incarceration, rarely have I seen correctional supervisors doing grunt work, unless there was a state of emergency. Although Governor Gavin Newsom declared a state of emergency for California, San Quentin did not follow suit. The prison's sick inmates overwhelmed outside hospitals when they had to be intubated or required ventilators. Twenty-eight prisoners and one correctional sergeant died. Yet, as the virus wreaked havoc on staff and prisoners, San Quentin never officially declared a state of emergency.

Instead, with more than 2,400 prisoners and hundreds of staff infected with COVID-19, the prison simply remained on a "modified program." The prison's Daily Program Status Report (CDCR Form 3022), signed by acting warden Ron Broomfield on July 27, 2020, explains in part, "The quarantine/modified program is to manage exposure to the COVID-19 virus."[8]

California law provides that:

> Each warden must have in effect at all times an Emergency Operations Plan, approved by the Emergency Planning and Management Unit, to assist in the preparation for response to and recovery from "All Hazards" incidents. All hazards incidents are defined as any natural or manmade disasters or accidents that may significantly disrupt institutional operations or programs.[9]

These words requiring a procedure to handle emergencies were empty; they had no teeth when COVID-19 swept through the prison. Judge Tigar of the Northern District of California federal court underscored this point when he said there was a "significant failure of policy and planning" by prison officials with respect to the pandemic.[10]

By the end of June 2020, the number of confirmed cases at San Quentin was increasing exponentially. I watched as prison conditions deteriorated. Prisoners were out of control; there was no social distancing; food service collapsed under the weight of staff shortages, state incompetence, inmate apathy, and poor administrative oversight from the governor's office down to the warden. We were served pre-packed lunches three times a day, consisting of crackers, pretzels, bread, cookies, and cheese—no fruit or vegetables.

Custody staff also seemed to receive a new set of orders daily, if not hourly. Most news during this period focused on prisoners, but the state failed its correctional officers too. By virtue of their need for employment, they became willing victims of a disaster precipitated by their employer.

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[8] Daily Program Status Report Part A, Ron Bloomfield, San Quentin State Prison (July 27, 2020) (on file with author).

[9] CAL. CODE REGS. tit. 15, § 3301 (2011).

[10] Charles Dresow, *Ending Mass Incarceration in the Face of COVID-19: Solutions Are More Needed than Ever*, MARIN COUNTY BAR ASS'N (Sept. 1, 2020), https://marinbar.org/news/article/?type=news&id=578 [https://perma.cc/F2ZK-BKUS] (citing Transcript of Case Management Conference at 12, *Plata v. Newsom*, No. CV 01-01351-JST (N.D. Cal. June 19, 2020)).

Posters and memos were placed around West Block instructing prisoners to do the obvious, such as "wash your hands," or "maintain social distance." Some memos were ridiculous, like the one that told us to sleep with our head in the opposite direction from our cellmate in our tiny cages. Some memos were signed by prison officials who never visited the cell block. They were perfunctory efforts, carried out so state officials could later say in court that they had done something, however meaningless. I wasn't shocked or surprised as the situation worsened.

Those who didn't live through the COVID-19 pandemic inside San Quentin last year would probably find it challenging to visualize what it was like to have been there, and survived. In the beginning, prisoners weren't "all in this together" as people outside expressed, especially at the beginning of the pandemic. By the end of the year, state indifference and incompetence made sure we had a death rate unmatched by the rest of the world. It was a reminder to us that prisoners' lives don't matter.

VI.
TENT CITY: A RESPITE?

After testing positive at the height of San Quentin's outbreak in mid-July 2020, I was moved to a ten-man tent on the recreation yard. I was placed in tent number six of nine. All nine tents had been constructed on the baseball field. My property was packed in boxes and accompanied me to the tent. Once inside, the other men's and my worldly possessions, consisting of commissary items, radios, televisions, hot pots, books, and clothing, were placed beside our cots.

Decades of doing time in other prisons had taught me to walk with caution when entering a new carceral environment. Moving to a tent was no different, so I was initially apprehensive because of the volatile nature of prison. Prisoners named our new housing area "Tent City." It reminded me of the military field hospital from the 1970s TV show MASH. But this was no situation comedy.

Cobalt Equipment of Livermore, California, supplied the accommodations. Cobalt placed an Emergency Operation Support trailer on the yard with a 1,500-gallon portable water tank for eight showers. Four propane tanks heated the water. Unlike life inside West Block, prisoners could shower whenever they wanted. The bathroom trailers rivaled some upscale motels. Inside were porcelain sinks, toilets, and urinals; real full-size glass mirrors; hand soap; and an endless supply of toilet paper and paper towels. Cables crisscrossed the yard to supply power to each tent's 208-volt air compressor, hand wash stations, restrooms, LED lighting, and tents. I had forgotten what it was like to be treated as a human being until these amenities were provided.

The humanity and respect for each other was infectious in Tent City. Corrections officers and nurses were pleasant. The contractors were good-natured. As we moved our property into the tents, recalling the organized chaos of dorm move-in day on a college campus, I asked one contractor if he realized prisoners had so much personal property. "I had no idea," he said.

Prisoners became the people we know we're capable of being when given the chance. Because there was no laundry exchange, everyone shared buckets and set

up makeshift laundry lines inside tents and on the yard. Inmates placed discarded books in boxes outside tent number seven for others to read. Someone wrote "camp city library" on one of the boxes. I sifted through each box and found *Utilitarianism* by John Stuart Mills and *A Lesson Before Dying* by Ernest J. Gaines. I read them both. The Bible could also be found, along with *The Jungle* by Upton Sinclair, *Common Sense* by Thomas Paine, *French for Dummies*, and *All the President's Men* by Carl Bernstein and Bob Woodward. Books on critical thinking, philosophy and public speaking abounded.

Cooperation between prisoners of all races became our new normal in Tent City. On many evenings, the men of faith, from all races, made a prayer circle on the yard—wearing masks, practicing social distancing—as part of their Christian fellowship. They spoke about why they were grateful and said prayers for people who'd passed away during the pandemic. In the two weeks I spent in Tent City, I didn't see or hear of any fights, arguments, or racial incidents. The prospect of death made cooperation with each other easier.

Living in a tent was a nice respite from the noise inside the cell block. And only a wall and one gate separated me from accessing other parts of the prison grounds. Public safety had seemingly been abandoned to accommodate the prison's modified program. It was the first time in more than two decades that I was allowed to walk outside at two or three in the morning, unescorted by a cop. Sure, there were some officers armed in gun towers and others who carried batons and pepper spray on the yard. COVID-19 or not, because I'm serving a life sentence, my custody and classification status make me too "violent" and dangerous to be eligible for dorm housing, much less an unsecured tent.

But I welcomed the breach of security. I'm supposed to be housed inside the fortress, where, to enter the five-tiered structure, I have to walk through an iron gate and a big steel door. To enter a cell, a steel lever has to be unlocked and pulled to release a bar that holds all cell doors shut. And each cell door has a key lock—just like in the movies. Concrete and steel, safety and security, were all supplanted by tents made of aluminum frames and tarp-like material fastened together with pins, nuts, and bolts.

It was an enjoyable experience. The $100,000 it costs California taxpayers each year to keep me locked up was, temporarily, earmarked for my comfort—until my medical condition was upgraded to "resolved."

VII.
TENT CITY: A TRAP?

Not everyone was happy about their move to a tent. "They say we're sick and then they bring us down here in a tent with nine other people," said Jerome Fosselman, age sixty-four. "I was in a single cell, with no cellmate. I could have quarantined by myself." He said some men in his assigned tent showed symptoms like coughing, not eating, and no appetite. However, the nurses didn't know because those inmates refused to have their vital signs checked: they didn't want to be sent to a place worse and more restrictive than Tent City.

The men wanted answers about all the movement around the prison. "All it is is cross-contamination and incubating death," said Jason Robinson, age forty-two. "You got people in a cell with people who are positive and negative. We weren't sentenced to death by negligence. Because we're in prison we don't have no value."

"The confusion is I tested [positive] on June 29. On July 20, they moved me down here," said Robert Tyler, age fifty-eight. He tested positive in West Block, and said that, afterwards, he was allowed to shower at the same time as everyone else in the building. Tyler asked why he had to move. "We don't know. The doctors make the moves," a nurse told him. Yet, another nurse told him custody made the moves.

"That's the ineptitude, confusion, and maybe outright lying," Tyler said. Aside from that, he enjoyed the fresh air, food from the contracted outside vendor, exercise, and mental health days afforded him by time on the yard. Still, it wasn't easy. "This was a challenge. It's a lot of stress," he commented. He said the youngsters in his tent stayed up late at night so he had to get used to that, but "the camaraderie in the tent is not bad."

"You have medical, CDCR, and [Office of Emergency Services, or] 'OES' making decisions, but none of them are talking to the people it affects," said Marcus Henderson, age forty-eight. Prisoners were at the bottom of the food chain when it came to decision-making about their own health and safety. Locked down, infected, moved, and not consulted; disappeared, dismissed, and now dying. That's how many of them believed they'd been treated.

Logistics were not ideal. Most of the time, soap, tooth powder, razors, indigent envelopes, medical forms, clothing, and sheet exchange were not available. Social distancing remained a challenge. "They kept us close together [in Tent City]," said Joe Reed, a fifty-one-year-old who was doing a parole violation. He noted that he could hear conversations in adjacent tents. And, when he asked the officers for a medical form, there were none. "They should have all the forms just like in the building," he commented.

Everyone pushed through it to help each other, in spite of the sickness, death, and low spirits. "I appreciate what you guys do," a correctional officer said to an inmate. "You guys are really helping us out." I asked the officer if morale was any better among the correctional officers. "Not really," he said.

When OES representatives drove a white SUV onto the prison yard, inmates approached them to get answers. Gabe Kerney of OES observed the safety and living conditions at the prison, including inside Tent City. After examining a tent on the yard with space to house more than 100 men, he said, "I can't tell if it's for people cleared [of the virus] or positive." In fact, no one in Tent City—including Kerney—knew how the tent was supposed to be used. This was concerning, as, according to Kerney, one of the objectives of the tents was to separate those who were clear from those who were still positive. He said the state wanted to reduce the number of inmates who required hospitalization and ventilators. Inmates who refused to get tested for the virus were treated as positive. "We have to try and work with them to educate them," said Kerney. Yet, separating men who tested positive from those who were "resolved" proved to be a challenge for CDCR.

"How long are we going to be down here?" an inmate asked. "It all depends on numbers in this location," Kerney said, adding that the protocols at the prison were

similar to those in Marin County, where San Quentin is located. I explained to him that, in spite of all that had taken place at the prison, including the deaths of inmates, none of the prison's Daily Program Status Reports were ranked as a state of emergency, even though Governor Newsom had declared a state of emergency for California. Kerney appeared shocked and wrote something in his field notebook.

Understandably, many prisoners were incredulous. Michael Moore, age sixty, was one of them. He said the state was "making a big show in response to their proven negligence." He was not pleased about what the state had subjected him to. "They're making day-to-day decisions jeopardizing lives. It's total chaos," he said, adding that CDCR was making "a huge move in response to bad publicity."

The prison administration's lack of communication created other seemingly avoidable problems. One week into my stay in Tent City, inmates in tents seven, eight and nine were told they had to move to the chapel. They refused. They had grown tired of being pushed around, moved, and lied to each day. A standoff ensued, and dozens of correctional officers were called to the scene. The officers encircled the entire camp. At least one captain and an associate warden came down to the yard. The administration explained the reason for the move, namely that All American Emergency Services—the contractor that preceded Cobalt Equipment—was leaving and needed to dismantle the tents. The answer seemed to satisfy the inmates, so they packed and moved that evening without any further incident.

Another not-so-visible effect the virus had on prisoners in Tent City was the impediment it created to their access to the court. There was no place to do legal work, such as research, or to make copies for those who had filing deadlines. Although the prison had a paging system in the buildings to allow inmates to send the library written requests for services, it was not in place for those living in tents. This lack of access forced prisoners to file motions in court requesting extensions of time.

At no time during the pandemic did I see outside media inside the prison. I saw one familiar face, though. It was Sergeant Gardea, one of San Quentin's public information officers. He was at Tent City with a transportation correctional officer taking photos with his cellphone, inspecting some of the tents. I approached him with my note tablet and pen. When I pressed him for answers about what was going on, he said all media inquiries regarding the COVID-19 outbreak at the prison were being fielded by Dana Simas, who works in Sacramento, California, ninety miles northeast of the prison.

Simas is the Press Secretary for CDCR's Office of Public and Employee Communication ("OPEC").[11] OPEC set up a command center to answer all media questions. As a journalist who is incarcerated, working from a tent, OPEC was out of my reach. Months earlier, citing California's Public Records Act,[12] I had mailed a formal request to San Quentin's public information officer to ask for all press releases regarding the COVID-19 outbreak at the prison. I never received a response.

Despite rarely receiving information beyond snippets in memos, fliers, and posters, the men cooperated with each other and the prison administration. Brian

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[11] *Executive Staff*, CAL. DEP'T CORRECTIONS & REHABILITATION, https://www.cdcr.ca.gov/about-cdcr/executive-staff/ (last visited Oct. 9, 2021) [https://perma.cc/QGT2-P9D8].

[12] CAL. GOV'T CODE § 6250–76 (West 2021).

Shipp, age sixty-two, served forty years in prison before he paroled several months after living in a tent. While living in Tent City, he volunteered to help keep tent life running smoothly for other inmates. His rationale for doing so, he explained, was "to step up to be of service to the community wherever I am." He was the parliamentarian chairman of the West Block Inmate Advisory Council, a liaison between inmates and the prison administration. He also worked closely with Cobalt Equipment to make sure other prisoners were taken care of with supplies such as soap and toilet paper. "Even though it becomes a headache, I do what I can," he said.

It seemed like people on the outside were more concerned about us than prison administrators. The warden allowed prisoners to receive an additional quarterly care package and other outside support, but many saw that as the state shifting its responsibility for the care of its wards to inmate families and friends. The prison had failed us and then passed the buck.

In April 2020, the nonprofit Prison University Project ("PUP") extended its reach inside the prison by providing every inmate at San Quentin with a care package. Jody Lewen, PUP's executive director, was given permission to drive a rented U-Haul truck inside the prison to personally deliver the goods. Before the year ended, all prisoners received a second package from PUP. "Please know that a huge number of people on the outside are thinking about you, and trying to figure out how to help," a PUP letter stated. While I lived in Tent City, Lewen also drove a golf cart on the yard and delivered boxes of donated books from the college for inmates to read. Before the lockdown ended, PUP also donated books to the West Block housing unit. Needless to say, the majority of the men appreciated PUP's generosity. "That was huge," said Malik Ali, age fifty-one. "At least I wasn't forgotten."

VIII.
BACK TO WEST BLOCK

My July 31, 2020, journal entry reads, "After fifteen days in Tent City, I was moved back to West Block. I was assigned to my old cell with my former cellmate. . . . Moving my boxes placed a strain on my hips because of my arthritis." Constant time in the cell with little exercise exacerbated the osteoarthritis in my hips due to muscle atrophy. By the time the lockdown was over, deterioration of cartilage in my left hip was determined to be "severe," and, with the wasting away of my muscle mass from too little movement and exercise, I now have arthritis in my right hip. Some days it's very difficult to walk.

Another journal entry reads, "Returning to West Block allowed me the opportunity to contrast 'outside' life with prison life. The cell block is a very depressing and gloomy place. It's still noisy and dirty; maybe more filthy than when I left."

By choice, I hadn't watched television in two weeks. My battery-operated radio kept me updated with news events. I wasn't surprised to learn the number of COVID-19 cases and deaths continued to rise during my "vacation." Like most days, on August 1, 2020, I recorded the latest coronavirus statistics:

> World - 17,000,000 cases; 680,000 dead
> USA - 4,600,000 cases; 153,000 dead
> California - 485,502 cases; 9,000 dead

"The days all bleed together. We've entered the sixth month of this quarantine-lockdown at San Quentin," I wrote on August 18, 2020. "Only unusual events separate the days. It's still not the longest, nor is it the harshest, lockdown situation I've endured in prison. California State Prison Sacramento's 'New Folsom,' level-IV maximum-security prison, and California State Prison Solano, level-III medium-security were much worse." Not counting the 700-plus men on Death Row, San Quentin is a level-II, medium-minimum-security prison.

A year after the lockdown, almost one year to the day, on March 16, 2021, I recorded the following coronavirus statistics in my next journal:

> World: 120 million cases; 2.66 million dead
> USA: 29.4 million cases; 535,628 dead
> California: 3.62 million cases, 56,674 dead
> Bay Area: 415,194 cases, 5,685 dead

The numbers continued to rise. The United States makes up a mere 5% of the world's population, yet it had recorded roughly 25% of the world's COVID-19 infections and deaths from the disease. It's a country that leads the world with other shameful statistics, such as[13] holding more than 20% of the world's prisoners: 2.3 million people locked up, by some estimates.

IX.
COVID-19 AND THE COURT

There are too many people housed at San Quentin. The prison was first established in 1852. It's the state's oldest prison. Each cell was designed to hold one man. Today, most have double occupancy.

As coronavirus began to peak, inmate Ivan Von Staich filed an administrative CDCR appeal to seek relief from the impending threat of the disease, for himself and other inmates similarly situated. When that failed, Von Staich filed a petition for a writ of habeas corpus in superior court. The denial of the relief he sought led to an appeal. In October 2020, California's Court of Appeals granted Von Staich relief and ordered San Quentin to reduce its population by 50%.[14]

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[13] *See Mass Incarceration*, ACLU, https://www.aclu.org/issues/smart-justice/mass-incarceration [https://perma.cc/Z9JX-LVE9] (last visited Dec. 28, 2021) (stating that, "[d]espite making up close to 5% of the global population, the U.S. has more than 20% of the world's prison population"); Wendy Sawyer & Pete Wagner, *Mass Incarceration: The Whole Pie 2020*, PRISON POL'Y INITIATIVE (Mar. 24, 2020), https://www.prisonpolicy.org/reports/pie2020.html [https://perma.cc/86YF-GK6Y] (reporting that the "American criminal justice system holds almost 2.3 million people").

[14] *In re* Von Staich, 270 Cal. Rptr. 3d 128, 153 (Ct. App. 2020), *review granted and cause transferred sub nom.* Staich on H.C., 477 P.3d 537 (Cal. 2020).

I interviewed Von Staich for a story that appeared online in *Filter Magazine*.[15] I learned that his litigation had won him disdain from some prison officials. He told me retaliation against him was followed with threats. Meanwhile, in court, the state appealed the decision in his case and it was sent back to the lower court.[16] The time had arrived for San Quentin to defend its handling of the outbreak during the summer of blood. In the interim, hundreds of prisoners filed petitions for writs of habeas corpus to seek relief similar to Von Staich.[17] The court scheduled hearings and inmates were called to testify by video conference from the prison. Big-screen televisions inside the prison chapel broadcast the event on closed-circuit television for inmates to view.

"I was kind of surprised that the attorney general asked me if I thought things were better at San Quentin since there were no more reported cases of COVID-19," Juan Haines told me. Judge Geoffrey Howard allowed Haines to testify as an expert witness because he, like myself, is an award-winning journalist who writes primarily for the inmate-run publication *San Quentin News*. Haines believed the attorney general had asked him a leading question in an effort to get him to agree that life had improved at San Quentin. But Haines made clear that there had been no such improvement. "They're not better," Haines said. "Infectious diseases will always cause unnecessary deaths in an overcrowded prison, and San Quentin has been overcrowded the entire fourteen years that I've been incarcerated here."

The hearings lasted nearly two weeks. Joe Garcia, another inmate who writes for *San Quentin News*, covered them. "I'm not one of those guys who really thinks about reliving trauma, but listening to all those guys testify for twelve straight days really made me revisit the pain and suffering we all went through as a community," he said. "It was very cathartic sitting in the chapel alongside about one hundred of my fellow prisoners." Garcia said many guys would scream, cheer, and boo, depending on who was testifying. "Now we all sit and wait for how the court's decision will directly impact our living conditions."

X.
THE OFFICE OF THE INSPECTOR GENERAL INVESTIGATES

Toward the end of summer, after the state assembly requested an assessment of the policies and directives made by the CDCR when the pandemic began, the state's Office of the Inspector General ("OIG") released the first component of a three-part report.[18] I'd observed how San Quentin responded to coronavirus by suspending

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[15] Kevin Sawyer, *"They Want To Do Me In": The Prisoner Who Fought COVID Over Crowding*, FILTER (Feb. 8, 2021), https://filtermag.org/prisoner-covid-overcrowding-california/ [https://perma.cc/YGJ6-F5PA].

[16] Staich on H.C., 477 P.3d 537, 538 (Cal. 2020).

[17] *In re* Michael Hall, Darious Sommons, Dontaye Harris, & Ivan Von Staich, Nos. SC212933, SC213244, SC213534, & SC212566 (Marin Cty. Sup. Ct. Nov. 16, 2021), https://www.marincourt.org/PDF/SQ_Consolidated_Writ_Proceeding_Groups_1-3_FINAL_ORDER.pdf [https://perma.cc/VMX5-4A6W] (final order in consolidated writ proceeding).

[18] CAL. OFFICE OF THE INSPECTOR GEN., COVID-19 REVIEW SERIES PART ONE: INCONSISTENT SCREENING PRACTICES MAY HAVE INCREASED THE RISK OF COVID-19 WITHIN CALIFORNIA'S PRISON

programs, halting visiting, placing the prison on a modified program, and screening staff before they entered the prison during the first quarter of 2020. But from the confines of my cell, I was blind to the totality of its mishandling of the pandemic. The OIG was not:

> Despite the department's statewide directives that staff and visitors be screened for signs and symptoms of COVID-19 upon entry to prisons, we found that the department's vague screening directives resulted in inconsistent implementation among the prisons, which left some staff and visitors entering prisons unscreened. Specifically, we found prisons took different approaches to implementing the same department-wide directive.[19]

This first OIG report found that some prisons permitted staff and visitors to enter prisons "without having been appropriately screened," and a "lack of standardized guidance from the department . . . ."[20] The report recommended better prevention to control the spread of COVID-19 inside CDCR prisons.[21]

Looking back on my two weeks living in Tent City, I recall my observation of different colored wristbands worn by custody staff, medical personnel and contractors who worked inside the prison. When I asked about the purpose of the bands, I was told each band indicated who was screened, and when. "They check us when we come in," a correctional officer informed me. A nurse confirmed the same when I asked about his band.

The second OIG report, released in October 2020, focused on personal protective equipment.[22] The report observed that, "although the department distributed face coverings to its staff and incarcerated population, and the department issued memoranda communicating face covering and physical distancing requirements, we found that staff and incarcerated persons frequently failed to follow those requirements."[23]

I thought I and a few others were the only ones who'd noticed the temerity of everyone's behavior. I had written in my unpublished story about how "not all inmates heeded the warnings," and "[b]ecause of their disconnect from the disruption of society and presence of death in the wake of coronavirus, many seemed unmoved by what was taking place."[24] This behavior was brazen even during

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SYSTEM 1 (2020), https://www.oig.ca.gov/wp-content/uploads/2020/08/OIG-COVID-19-Review-Series-Part-1-Screening.pdf [https://perma.cc/U8HF-9EXC].

[19] *Id.* at 2.

[20] *Id.* at 15.

[21] *Id.* at 31.

[22] CAL. OFFICE OF THE INSPECTOR GEN., COVID-19 REVIEW SERIES PART TWO: THE CALIFORNIA DEPARTMENT OF CORRECTIONS AND REHABILITATION DISTRIBUTED AND MANDATED THE USE OF PERSONAL PROTECTIVE EQUIPMENT AND CLOTH FACE COVERINGS; HOWEVER, ITS LAX ENFORCEMENT LED TO INADEQUATE ADHERENCE TO BASIC SAFETY PROTOCOLS (2020), https://www.oig.ca.gov/wp-content/uploads/2020/10/OIG-COVID-19-Review-Series-Part-2-%E2%80%93-Face-Coverings-and-PPE.pdf [https://perma.cc/S4RN-C3MU].

[23] *Id.* at 2.

[24] Sawyer, *supra* note 3, at 15.

inspections by government officials. "The frequent noncompliance by staff and incarcerated persons was likely caused at least in part by the department's supervisors' and managers' lax enforcement of the requirements," the report stated.[25] This affirmed what I'd already noted about how convoluted communication was to staff and inmates. Instructions placed on walls for everyone's safety began to look like wallpaper, and eventually much of it went unnoticed and unread.

The OIG reported, "In an attempt to mitigate the spread of COVID-19 among its staff and incarcerated population, the department began implementing face covering and physical distancing requirements in April 2020. However, we found that staff and incarcerated persons frequently failed to follow the department's requirements."[26] To some degree, this account resonated with my own documentation of the period. In my unpublished story, I wrote:

> [S]ome officers [in West Block] brazenly defied mandatory safety orders. For example, by the end of the fifth week of the lockdown-quarantine, the prison passed out masks to all inmates in West Block; masks manufactured by other inmates who work in CalPIA. Once the masks were passed out, a correctional officer who wasn't wearing a mask made an announcement over the building PA system at dinner. "Step out with it, or don't step out at all." It was an antagonistic remark that solicited yelling and grumbling throughout the building. Inmates took the comment as an "or else" type of threat.[27]

Although the prison posted two public health memos stating prisoners and staff must wear masks,[28] at any given time no less than four officers could be seen not wearing a mask. "Do as I say, not as I do," was the tacit message—and there was no emergency update to the Code of Regulations or the Institutional Operation Procedures, and no Warden's Bulletin, Administrative Bulletin from CDCR headquarters, or change in the state Penal Code, Health and Safety Code, Government Code, caselaw, or any other authority.

The OIG's third report took a close look at the CDCR and its medical department's decisions to transfer prisoners between prisons during the pandemic, writing:

> Once the incarcerated persons arrived at San Quentin, staff quickly became concerned. San Quentin nursing staff immediately noted two of the incarcerated persons had symptoms consistent with COVID-19 . . . . In response to the concerns, the prison's health care staff promptly ordered COVID-19 tests for all . . . of the incoming incarcerated persons. In addition, the prison housed the

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[25] CAL. OFFICE OF THE INSPECTOR GEN., *supra* note 21, at 2.
[26] *Id.* at 20.
[27] Sawyer, *supra* note 3, at 5.
[28] *See, e.g.*, Memorandum from Cal. State Prison – San Quentin, Cal. to "All Staff & Inmates" 1 (July 28, 2020) (on file with author).

> two symptomatic persons in its [A]djustment [C]enter facility, the prison's only housing unit containing cells with solid doors. However, even though the prison's health care staff suspected the arriving incarcerated persons may have been exposed to COVID-19, the prison still chose to house the other 119 persons from the California Institution for Men in a housing unit without solid doors, which allowed air to flow in and out of the cells. By the time the COVID-19 test results were available, [fourteen] of the transferred incarcerated persons infected with COVID-19 had been housed in this unit for at least six days, and [fifteen] transferred incarcerated persons had tested positive for COVID-19 within two weeks of arriving at San Quentin.[29]

Most of the prison and its staff were eventually exposed to the virus and infected by mid-summer, and a vaccine was months away from being approved by the Food and Drug Administration.

XI.
VACCINATIONS

A report released by the Kaiser Family Foundation in January 2021 stated that, in sixteen U.S. states, white people had received COVID-19 vaccines at rates up to three times higher than Black people.[30] At the same time, "[a]ccording to a Centers for Disease Control and Prevention analysis, African Americans, Latinos and Native Americans are dying from COVID-19 [at] nearly three times the rate of white people," the *Oakland Post* reported.[31]

Suspicions about medical neglect, abuse and government complicity with experimental treatment has run high for decades in African American communities. One of the best-known examples fueling mistrust is the Tuskegee Syphilis Study done on 399 Black men from 1932 to 1972. These men were infected with the disease but not treated. They had "bad blood" is what they were told.[32]

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[29] CAL. OFFICE OF THE INSPECTOR GEN., COVID-19 REVIEW SERIES PART THREE: CALIFORNIA CORRECTIONAL HEALTH CARE SERVICES AND THE CALIFORNIA DEPARTMENT OF CORRECTIONS AND REHABILITATION CAUSED A PUBLIC HEALTH DISASTER AT SAN QUENTIN PRISON WHEN THEY TRANSFERRED MEDICALLY VULNERABLE INCARCERATED PERSONS FROM THE CALIFORNIA INSTITUTION FOR MEN WITHOUT TAKING PROPER SAFEGUARDS 41 (2020), https://www.oig.ca.gov/wp-content/uploads/2021/02/OIG-COVID-19-Review-Series-Part-3-%E2%80%93-Transfer-of-Patients-from-CIM.pdf [https://perma.cc/9ETQ-62YY].

[30] Stacy M. Brown, *Black Americans Are Being Vaccinated at Far Lower Rates*, OAKLAND POST, Jan. 27, 2021, at 9.

[31] *Id.*

[32] *The U.S. Public Health Service Syphilis Study at Tuskegee*, CENTERS FOR DISEASE CONTROL & PREVENTION, https://www.cdc.gov/tuskegee/timeline.htm [https://perma.cc/9JSG-X2QK] (last visited Oct. 9, 2021).

Until the 1970s, nearly 90% of all drug tests were done on prisoners, according to *The Abolitionist.*[33] These tests and experiments were performed mostly for the U.S. Army, Dow Chemical, Johnson & Johnson, and RJ Reynolds.[34]

When vaccinations were made available to prisoners at San Quentin in January 2021, Juan Haines and I wrote stories about vaccine hesitancy. He surveyed 100 men in North Block and I surveyed 100 men inside West Block. The findings in our stories appeared online in *El Tecolote*, *The News Station*, and the *Prison Journalism Project*.[35] My standalone West Block story revealed that more than 20% of prisoners there would not take a COVID-19 vaccination, or were undecided.[36] "I don't trust the system or the science," Kevin Sample, a fifty-five-year-old African American told me. "I need to trust both of them."[37] As I reported at the time, he had no immediate plans to get vaccinated.[38]

XII.
BACK TO NORMAL

The prison officially returned to "normal program" on May 5, 2021. After 416 days spending 22.5 to 24 hours in a five-by-ten-foot cell with another man, I returned to my job as associate editor at *San Quentin News*. I noticed the last Word of the Day that I had written on the white board was still there: "Deipnosophist (n.): a person who is an adept conversationalist at a meal."

I'd been fed wisdom years ago on how to survive prison, in conversations with men who knew what I might face. And I supplemented their advice by reading books. It occurred to me that, when the lockdown ended, my count of books read during my more than twenty-four years of incarceration was 416—the same number of days the lockdown lasted.

I thought about those brothers who'd counseled me and other boys so many years ago, and recalled book number forty-nine, which I read in county jail. It was *Whoreson* by Donald Goines, the forerunning author of the urban novel. There's a passage in the book that stuck with me: "The jungle creed, said the strong must feed, on any prey at hand. I was branded a beast, and sat at the feast, before I was a man."[39] In many ways, I'm a product of that jungle. My life had always been in danger, and I knew it. Maybe that's why I survived.

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[33] Liz Samuels, *Critical Condition*, ABOLITIONIST, Winter 2006.
[34] *Id.*
[35] Juan Moreno Haine & Kevin Deroi Sawyer, *Following Deadly COVID-19 Outbreak, Incarcerated People at San Quentin Grapple with Vaccinations*, TECOLOTE (Apr. 8, 2021), http://eltecolote.org/content/en/following-deadly-covid-outbreak-inmates-at-san-quentin-grapple-with-vaccinations/ [https://perma.cc/7LET-62Y2]; Kevin Sawyer, *Survey: Some San Quentin Prisoners Dubious of COVID Vaccinations Too*, NEWS STATION (May 19, 2021), https://thenewsstation.com/prisoners-dubious-of-covid-vaccinations-too/ [https://perma.cc/6DF7-8MFN]; Kevin Sawyer, *San Quentin Prisoners Speak Out on Vaccinations*, PRISON JOURNALISM PROJECT (May 19, 2021), https://prisonjournalismproject.org/pjp-stories/san-quentin-prisoners-speak-out-on-vaccinations [https://perma.cc/579F-UE69].
[36] Sawyer, *San Quentin Prisoners Speak Out on Vaccinations*, *supra* note 34.
[37] *Id.*
[38] *Id.*
[39] DONALD GAINES, WHORESON 296 (1972).