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Citation

FINDLAY, Mark. Beware of the Dog: Assaults in Prison and Cultures of Secrecy. (2002). *Current Issues in Criminal Justice*. 14, (1), 119-120.

Available at: https://ink.library.smu.edu.sg/sol_research/2026

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Beware of the 'Dog': Assaults in Prison and Cultures of Secrecy

In recent months I have been involved in a series of personal injury claims made by prisoners, against the State of NSW, arising out of incidents of inmate violence. The standard scenario occurs on a Sunday where the victim is stabbed with a shiv in a prison yard, barber-shop or gymnasium, out of sight from prison officers. Most victims have suffered a history of violence and intimidation in gaol, and the injuries forming the basis of the claims, are generally shocking.

There are many reasons for inmate violence. A disturbing feature of such violence in NSW prisons today is its gang origins, and ethnic focus. Common to these assaults is the theme of pay-back. The victim may have witnessed something he should not, crossed someone in another institution, or was suspected of having given up information about another inmate. The prison telegraph is extremely efficient and memories are long when it comes to pay-back. One victim had lived in fear of attack for years following an incident in the early days of his sentence, before ending up in intensive care years later.

The response of the Department of Corrective Services is largely to rely on the cooperation of the victim in dealing with inmate violence. It seems logical to an outsider, and in the everyday world almost a duty that someone who is injured should cooperate with the authorities in the investigation of the incident and the prosecution of an assailant. In fact, in any other context we might agree with the Department's regular assertion that unless the victim identified any pre-existing threat, or provided information on the assault, he should share some contributory liability for his injuries. But this is not how it works in gaol.

Most of the prisoner victims in the cases I have reviewed were aware that they were in danger but except for general information given to the authorities did not detail the specifics of any threat to prison officers. Usually they simply asked for a transfer out of the institution. Most of the prisoners actively avoided any offer of being placed on protection. Few of them gave detailed information concerning the assault and their attackers.

Why is this so? The answer is deeply embedded in prison culture: to survive inside no-one informs on another prisoner. Anyone who does is branded a 'dog' and is fair game for violence from any other inmate in the prison population. The strength of this ethic and the fragility of its foundations was tragically evidenced in one case where the victim, despite flimsy evidence and against his constant denials, was branded a dog in one gaol and nearly killed in another as a consequence years on.

Then why don't endangered inmates simply accept the offer of institutional protection held out by the Department? To answer this again it is essential to recognise prison culture. For long term prisoners in particular, to remain in the 'mainstream' prison population is vital. The amenities and opportunities in the mainstream are superior and more accessible than what is available in protection. Possibilities to achieve the sorts of recognition which will allow for reclassification, transfer and hopefully early release are in the mainstream and not protection. Many protection prisoners are themselves outcasts with whom the inmate in fear would not wish to associate or be branded through association. As one inmate victim observed; 'You have to come off protection sometime — then what?'

If inmate victims are willing to live with the constant fear of serious assault, and tolerate the consequences of attack rather than confide in prison officers and accept the institutional protection regime what does that say about the reality of protection and its consequences? These choices cannot be dismissed in terms of some irrational, even criminal prison culture. It is a recognition and interrogation of that culture which holds the key to dealing with prison violence.

While the Department of Corrective Services holds the line that each inmate is individually responsible for their own safety insofar as it is their individual responsibility to inform, it does to some extent recognise the impact of 'dog' culture. Often, however this recognition comes too late. In another case the inmate victim had suffered years of attacks in several prisons. He had refused to inform or to accept institutional protection but continued to ask for transfers. These were denied to him either because of inappropriate classification¹ or because the identity of the threat in the prison population was not confirmed by him. The assaults, however, had a clear pattern and third parties had identified the assailants. Finally, the inmate victim was prevailed upon by the authorities and he confirmed to a senior prison officer the identity. Only days later the inmate victim was involved in a fight said to be related to his conversations with prison officers. He was given three days pound and during his detention a group of other prisoners who lived in his wing approached the prison authorities expressing concern for his safety once the inmate victim completed his cellular confinement. It was by then common knowledge amongst the prisoners that the inmate victim was to be assaulted once he completed his pound because he has been 'playing games and giving up people'. The prison administration recommended his transfer but because of classification problems he remains in the institution concerned, to await his eventual fate.

Inmate violence is a complex and almost tribal phenomenon. Banishment of the victims from the tribe for the purposes of their safety, or the requirement that they deny a binding principal of tribal loyalty seems anything but sympathetic of that complexity. The treatment of the victim through processes of further victimisation and endangerment is anything but fair. The anomalies in Departmental reactions to inmate violence was highlighted by one prisoner who observed that if you commit an assault you will be transferred out of the gaol programme immediately, but a victim can wait for a very long time before gaining the transfer he desires.

It is unrealistic, and eventually dangerous, for the Department to impose on inmate victims reporting obligations which might make sense in communities outside the prison. Lives of terror and eventual serious injury or death are not avoided in the prison by becoming a dog. For from it. No matter how vigilant, the Department has had a poor history in protecting 'dogs', no matter what regime is in place.

A new approach to the treatment of inmate victims in prison needs to be adopted by the authorities if at the very least the personal injury consequences of inmate violence are to be reduced. In other communities where the culture is homogeneous and binding, restorative justice techniques have produced very constructive outcomes when managing violent encounters between angry and disempowered individuals. The positive utilisation of prison culture, and inmate styles of communication needs to be an integral part of any new approach. In addition, the criminal justice responses which have failed so many prisoners, should not in microcosm be relied upon in prison to process inmate violence. With criminal investigation and punishment after the fact as the prevailing control paradigm, in a number of cases I have reviewed, except for the injuries sustained, it is hard to establish, between assailant and recipient, which is the victim.

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¹ The classification issue is an additional problem here. If the inmate victim fails to identify the assailant, and there is an opportunity through further investigation to clarify the victim's version of events then he may be recorded as being involved in a fight or as 'fighting' and this can go against any favourable reclassification in the future.