

MILITARY COMMISSIONS TRIAL JUDICIARY
GUANTANAMO BAY, CUBA

UNITED STATES OF AMERICA

v.

KHALID SHAIKH MOHAMMAD, WALID
MUHAMMAD SALIH MUBARAK BIN
'ATTASH, RAMZI BIN AL SHIBH, ALI
ABDUL-AZIZ ALI, MUSTAFA AHMED
ADAM AL HAWSAWI

AE563 (AAA)

**Mr. al Baluchi's Motion to Invalidate
Restrictions on Public Dissemination
of Mr. al Baluchi's Artwork**

13 April 2018

1. **Timeliness:** This motion is timely filed.
2. **Relief Sought:** Mr. al Baluchi respectfully requests the military commission to invalidate the restrictions on dissemination of Mr. al Baluchi's artwork. In the alternative, the military commission should instruct the military panel that it cannot return a sentence of death.
3. **Burden of Proof:** The defense bears the burden of persuasion.
4. **Facts:**
 - a. In May 2017, in response to a request from the John Jay College of Criminal Justice in New York, counsel for Mr. al Baluchi released four pieces of Mr. al Baluchi's original artwork for a public exhibition of art created by Guantanamo Bay detainees.¹
 - b. The exhibition, entitled *Ode to the Sea*, ran from 2 October 2017 until 26 January 2018, and received widespread public attention, including over 200 articles and editorials worldwide.² According to *Ode to the Sea* curator, Professor Erin Thompson, "Mr. al Baluchi's artwork was displayed in almost all of these reports."³ Additionally, at least 22 of those articles, in more than

¹ John Jay College of Criminal Justice, "Ode to the Sea," online resources and artist biographies available at www.artfromguantanamo.com.

² Att. D, Declaration of Erin Thompson at para. 8.

³ *Id.* at 9. Mr. al Baluchi's work was also spotlighted in the recent BBC Radio piece: BBC Radio, "The Art of Now," 29 Mar. 2018, available at

14 countries, specifically referenced Mr. al Baluchi's pending military commissions proceedings, and his years of CIA torture.⁴

c. On 14 June 2017, the military commission issued AE018T(Sup), attaching AE018U (Amended Order), a modified Privileged Written Communications Order (PWCO). AE018U (Amended) contains the following definitions:

f. Lawyer-Client Privileged Communications:

(1) Communications that are privileged within the meaning of Military Comissions Rule of Evidence (M.C.R.E.) 502, which may include original handwritten or typewritten correspondence between the Accused and his Defense Counsel bearing the signature of the Defense Counsel (or a representative of the Defense Counsel encompassed by M.C.R.E. 502).

(2) Attorney Work Product is encompassed within Lawyer-Client Privileged Communications.

g. Other Case-Related Material:

(1) Communications between a Defense Counsel and the Accused that are directly related to the Accused's military commission but are not privileged within the meaning of M.C.R.E. 502. This includes discovery and related material that is releasable to the Accused, and records of commission proceedings, including court filings when releasable to the Accused.

<http://www.bbc.co.uk/programmes/b09wvvg4>.

⁴ Att. E, Declaration of Jane Ginsburg.

(2) Documents initially identified as Other Case-Related Material that are subsequently incorporated by Defense Counsel or the Accused into work product or lawyer-client communications or that are aggregated to support a particular communication or reflect the lawyer's mental impressions or strategy, may become Lawyer-Client Privileged Communication under M.C.R.E. 502. If such material is already in the possession of the Accused, JTF-GTMO personnel are not responsible for retrieving documents previously submitted as "Other Case-Related Material," or re-marking them in conformity with paragraph 5.b. below.

(3) Letters of introduction by the Accused that are directly related to the Military Commission involving that Accused and necessary to the preparation of the defense can be classified as "Other Case-Related Material" if they meet all Privilege Team security review requirements.

h. Military Commissions Non-Legal Mail and Material: All correspondence, documents, media in any form, or similar material that do not fall within paragraphs ~~12~~.f or ~~12~~.g, above.

Counsel for Mr. al Baluchi have, until further clarification from the military commission, treated Section 2(h) of AE018U as inclusive of Mr. al Baluchi's original artwork.

d. The military commission's legal basis for issuing AE018U was, in part, the Special Access Measures imposed in *United States v. Ghailani*. The military commission stated that "The Defense has not persuaded the commission that having the capacity to send, communicate, or divulge legal mail from the [Defendants] to third-parties is material to their representation of the [Defendants] through lobbying or otherwise."⁵

⁵ AE018T(Sup) at 7.

e. AE018T(Sup) further states that

(7) The Commission recognizes there may be situations where a Defense Counsel can show distribution of an Accused's legal mail to or from a third party outside the Defense Team is necessary to defend the Accused before the Commission. To address such situations, the Commission will further amend the PWCO to authorize Defense Counsel to file an *ex parte* motion with the Commission requesting authorization for Defense Counsel to distribute specific legal mail of the Accused to or from a third party. Any such motion will include an explanation as to why application of normal mail handling processes is inconsistent with the principles enunciated in this Ruling.³¹

f. Paragraph 7 (above) of AE018T(Sup) does not make provision for distribution for Mr. al Baluchi's non-legal mail, as defined by Section 2(h) of AE018U (Amended Order).

g. AE018U does include the following provision, without including details regarding handling/dissemination measures:

(4) Notwithstanding sub-paragraphs 42(i)(1) - (3), above, no information shall be considered Contraband if defense counsel reasonably believes it is directly related to the Military Commission proceeding involving the Accused.

h. Section 3(b) of AE018U states that

b. With the exception of letters of introduction under paragraph 3.g.(3), Defense Counsel may not send, communicate, or otherwise distribute an Accused's mail, or any portion of its contents (legal or otherwise) to third parties. Only Commission case-related legal mail will be presented by Defense Counsel to the Accused. No member of the Defense Team will forward third-party mail to or from the Accused.

i. In response to the publicity received by *Ode to the Sea*, the Department of Defense issued a series of public statements, without reference to written policy or U.S. law, regarding the status of detainee art. Such statements included declarations of ownership of detainee artwork and threats to end the detainee art classes that have been open to detainees at Camps 5 (historically) and 6. In November 2017, for example, the DoD spokesman stated that “all Guantánamo detainee art is ‘property of the U.S. government.’”⁶

j. The DoD’s public statements on detainee artwork culminated in a press conference given by JDG Commander Rear Adm. Edward Cashman on 2 February 2018, in which he stated that “The recent policy decision to stop the transfer of detainee-made objects off the island was just that. It was a policy decision.”⁷

k. Since the issuance of AE018U, counsel for Mr. al Baluchi have not disseminated any original artworks by Mr. al Baluchi. Mr. al Baluchi has received numerous requests to contribute artwork to museums and other public space exhibitions, and to disseminate artwork to journalists

⁶ Miami Herald, “After Years of Letting Captives Own Their Artwork, Pentagon Calls it U.S. Property. And May Burn It,” 16 November 2017, *available at* <http://www.miamiherald.com/news/nation-world/world/americas/guantanamo/article185088673.html#storylink=cpy>.

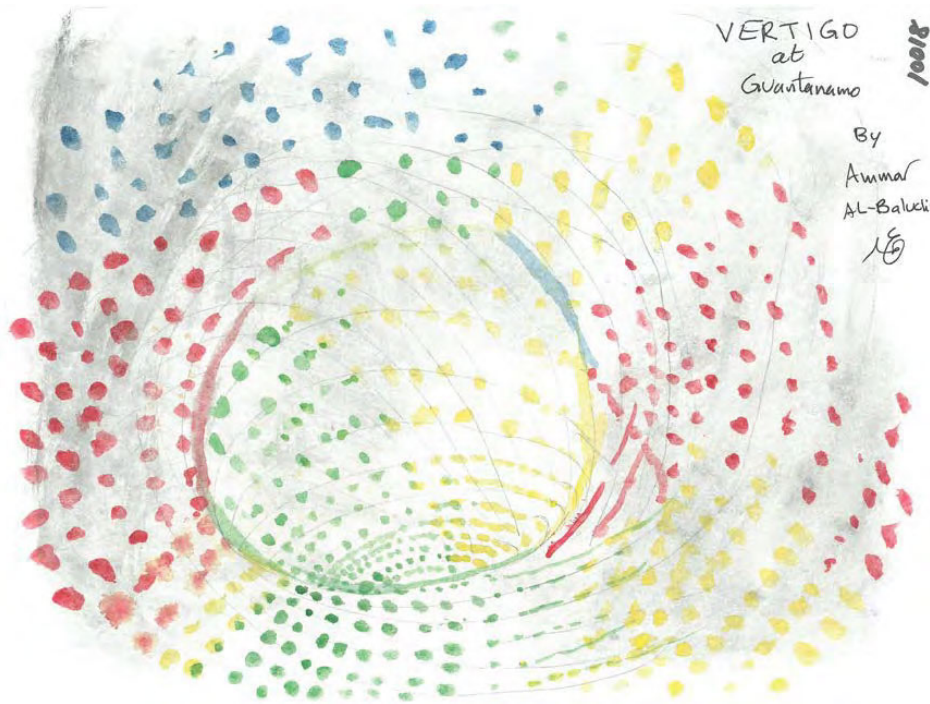
⁷ Att. S, Miami Herald, “Detainee Art? What Detainee Art? Popular Stop Vanishes From Prison Media Visit,” 10 February 2018 [“Feb. 10 Miami Herald article”].

wishing to discuss his case.

5. Law and Argument:

a. Mr. al Baluchi's artwork is an important mitigation tool in his forthcoming death penalty proceedings.

Mr. al Baluchi is a torture victim whose artwork represents the years he spent in illegal detention by the CIA. He has now been detained at Guantanamo Bay since 2006, following 3.5 years in CIA detention. One of the most effective ways Mr. al Baluchi has found to manage the effects of his years of CIA torture is through creation of artwork. His most famous piece, *Vertigo at Guantanamo*, was born of necessity: he drew his own vertigo, a whirl of disorienting colored lines, in order to externalize his constant resting state, so that his counsel could better represent the symptoms of his head injury from CIA "walling" to outside independent medical personnel. Yet *Vertigo* and other artworks by Mr. al Baluchi have also illustrated his humanity and triggered widespread public discussion about his previous torture, the legality of the proceedings against him, and his current conditions of confinement. It is clear why the Department of Defense opposes such attention, but neither they nor the military commission may restrict such dissemination or public discussion when it has obvious mitigating value to Mr. al Baluchi.



i. Both AE018U and the DoD’s new policy preventing public release of detainee artwork violate Mr. al Baluchi’s right to mitigation

“Developing mitigation evidence and making a case for the life of their client is one of the most important tasks defense lawyers must handle.”⁸ The American Bar Association has stated that, “Inherent in the approach to competent capital defense dictated by the [ABA Guidelines for the Appointment and Performance of Defense Counsel in Death Penalty Cases] is the recognition that the mitigation function is multifaceted and multi-disciplinary, even though

⁸ Robin Maher, “The ABA and the Supplementary Guidelines for the Mitigation Function of Defense Teams in Death Penalty Cases,” *Hofstra L. Rev.*, Vol. 36: Iss. 3, Article 5, *available at* <https://scholarlycommons.law.hofstra.edu/cgi/viewcontent.cgi?article=2616&context=hlr>.

ultimate responsibility for the investigation of such issues rests irrevocably with counsel . . . the mitigation function is of utmost importance in the defense of capital cases”⁹

In detailing the many factors that must be considered by the defense in mitigation, the ABA specifically provides that “It is the duty of the team members to aid counsel in preparing and gathering demonstrative evidence, such as photographs, videotapes and physical objects (e.g., trophies, artwork, military medals), and documents that humanize the client or portray him positively”¹⁰ The inclusion and promotion of client artwork in mitigation, therefore, is an affirmative duty of defense counsel. Indeed, MC Rule 1004(3) states that “The accused shall be given broad latitude to present evidence in extenuation and mitigation.”¹¹

In AE018T(Sup), the military commission noted similarities between security considerations in the case of Ahmed Ghailani, for whom Special Access Measures (SAMs) were imposed, and the 9/11 case.¹² The former Attorney General’s memorandum regarding Mr. Ghailani’s SAMs argued the danger of Mr. Ghailani’s “communication or contacts with persons” outside the prison system, in justifying restrictions on attorney dissemination of both legal and non-legal mail.¹³ If AE018U remains as amended, Mr. al Baluchi’s artwork – which cannot

⁹ American Bar Association, Supplementary Guidelines for the Mitigation Function of Defense Teams in Death Penalty Cases (2008), *available at* https://www.americanbar.org/content/dam/aba/uncategorized/Death_Penalty_Representation/Standards/National/2008_July_CC1_Guidelines.authcheckdam.pdf.

¹⁰ *Id.*

¹¹ AE 018N at 33, Attach. C at 1.

¹² AE018T(Sup) at 6.

¹³ Mr. al Baluchi maintains his arguments, articulated in AE018LLLL and AE200MM, that public use of his unclassified written communications are consistent with his 5th, 6th, and 8th Amendment rights. Indeed, in AE200QQ(Rul), the military commission did not address one of the key questions posed in AE200MM, regarding whether counsel’s public advocacy use of Mr. al Baluchi’s statements met the military commission’s definition of use for the purpose of preparing Mr. al Baluchi’s defense.

properly be described as either “communications or contacts with persons,” seems to fall under the definition of “non-legal mail,” which is newly prohibited from any public distribution by Section 3(b).¹⁴ Moreover, the DoD’s “policy decision” to prevent all detainee artwork from leaving the island, while uncertain in procedure regarding Mr. al Baluchi and other “High Value Detainees” subject to separate protective orders, is nevertheless an additional blanket prohibition on Mr. al Baluchi’s ability to pursue his mitigation strategy.

The mitigating aspects of Mr. al Baluchi’s artwork, hypothesized as an avenue of exploration by the ABA, have come into sharp focus with the *Ode to the Sea* exhibition. An article from CBS News commented that “To judge by the lingering visitors, [*Vertigo at Guantanamo*] is also one of the most popular artworks. ‘It’s like trying to describe something that no one can understand, especially not in my world,’ said one student, Xander.”¹⁵ Digital Journal quoted *Ode to the Sea* curator Erin Thompson as commenting that “[*Vertigo at Guantanamo*] is here so we can learn about [Mr. al Baluchi’s] experience, his life.”¹⁶ PBS News described *Vertigo at Guantanamo* as “reflect[ing Mr. al Baluchi’s] torture at the hands of the CIA, which was documented in a Senate report.”¹⁷

The most powerful comments regarding the humanizing and mitigating effects of Mr. al Baluchi’s artwork have come from some of the victims of September 11. Phyllis Rodriguez, who

¹⁴ AE018U.

¹⁵ CBS News, “Art From Behind the Walls of Guantanamo,” 21 January 2018, *available at* <https://www.cbsnews.com/news/art-from-behind-the-walls-of-guantanamo/>.

¹⁶ Digital Journal, “A Different Guantanamo: Detainee Art on Display in New York,” *available at* <http://www.digitaljournal.com/news/world/a-different-guantanamo-detainee-art-on-display-in-ny/article/509953>.

¹⁷ PBS News, “The Art of the Guantanamo Bay Detainees,” 20 Nov. 2017, *available at* <https://www.pbs.org/newshour/show/the-art-of-the-guantanamo-bay-detainees>.

lost her son Gregory Rodriguez in the North Tower on September 11, wrote that,¹⁸

5. The exhibit displayed 36 artworks made by eight detainees during their time in the Guantanamo Bay detention camps. One of these artworks was by Ammar Al-Baluchi, titled "Vertigo at Guantanamo".
6. My first response to Mr. Al-Baluchi's work was of deep sadness, particularly when learning that he had created it to describe his state of mind as a result of the torture he endured before being transferred to Guantanamo in September 2006 from an unknown site. He wanted his attorneys to understand him better.
7. I also felt empathy for him as a human being and not just an abstract being one of the alleged "masterminds" of the 9/11 attacks in the Military Tribunals at Guantanamo Bay.

Ms. Rodriguez went on to state that¹⁹

10. On each visit, I spoke with other viewers about the exhibit. Of the 15-20 people I met, most felt empathy for Mr. Al-Baluchi, and anger that our nation is responsible for treating individuals in such a way as to permanently damage them physical and emotionally.

Prof. Thompson also noted that²⁰

12. A wide variety of people, other than scholars, visited the exhibition. I had the opportunity to discuss Mr. Al-Baluchi's artwork with veterans, former Guantanamo guards, and many family members of victims of the September 11, 2001 terrorist attacks. They told me that looking at Mr. Al-Baluchi's artwork was a deeply moving experience that prompted them to think about their own and their loved one's lives, the best ways of obtaining justice for the victims of terrorist attacks and of preventing terrorism in the future, and even about what it means to be human.

¹⁸ Att. B, Declaration of Phyllis Rodriguez at paras. 5-7.

¹⁹ *Id.*

²⁰ Att. D at para. 12.

Valerie Lucznikowska, the aunt of Adam Arias, who died in the North Tower, confirmed the humanizing effect of the detainee art exhibition²¹:

5. As an artist myself, I was overwhelmed by the seemingly undiminished creativity of people who have been confined to prison for extended periods. Human resiliency and the emotions we feel are shared by all of our species, and it is a testament to American values that we continue to encourage and preserve prisoner art. To see their personal expressions and views is a valuable insight to have.
6. Adam would have loved the ship models – he loved art and appreciated my knowledge of it – we talked of touring museums in London together not long before he died.
7. GTMO prisoners have been described repeatedly as the “worst of the worst”, demons at best. But they are human like us. “Demons” is how some of them thought of us in the West. How we treat these people now is key to restoring our image with the world.
8. There is no healing for us without compassion and understanding of others. The horrible wounds suffered by myself, my family and other 9/11 families cannot be minimized, but revenge only begets more hatred and ultimately retaliation. It is time to come together in the cause of humanity.

Even former U.S. service members were moved by Mr. al Baluchi’s artwork. Sergeant [REDACTED] who served in Kuwait and Iraq and has spoken publicly about his own trauma resulting from his service, has written that²²

19. One work from *Ode to the Sea* exhibition that stood out was Ammar Al-Baluchi’s *Vertigo at Guantanamo*. Full of bright colors and swirling lines it left me off balance. It was

²¹ Att. C, Declaration of Valerie Lucznikowska at para. 5-8.

²² Att. G, Declaration of [REDACTED] at para. 19.

introspective and reflective, a work of internal exploration of trauma. It highlighted the chaotic feeling that I have personally had in the midst of the anxiety attack triggered by past trauma. The fact that humans react to structural violence in similar ways is important to uplift. It highlights our shared humanity.

Mr. al Baluchi's country of citizenship, Pakistan, whose consular assistance he has been denied, also featured his artwork in their press in a significant and rare recognition of his circumstances: "Ammar al Baluchi's drawing is striking: it is a series of colourful dots, drawn over and over again, as al Baluchi tried to describe his condition of vertigo. [Guantanamo] seems to be . . . forgotten in Pakistan, where Guantanamo or the Pakistanis held there are largely missing from political or social discourse."²³ Pakistani newspaper *The Express Tribune* also featured Mr. al Baluchi, commenting that "Pakistani detainee Ammar al-Baluchi, the exhibit's only artist to have been charged formally over the 9/11 attacks, wanted to convey to his lawyers the precarious feeling he says he has suffered since being 'tortured by the CIA,' Thompson explained."²⁴ Such attention from the Pakistani press could prove useful to Mr. al Baluchi in ongoing military commission investigative efforts, pre-trial proceedings, and any future trial.

Ms. Margaret O'Donnell, who has represented a number of inmate-artists on federal death row at Terre Haute, says -- regarding one particular client whose art creation is prolific -- that "[a]lthough his case is on direct appeal, whether he obtains a new trial or sentencing or proceeds to further post-conviction litigation, my client's art . . . will be a significant part of his mitigation and story of redemption."²⁵ Similarly, the mitigating value of Mr. al Baluchi's

²³ Att. T, Dawn, "Footprints: ARTWORKS FROM GUANTANAMO," 2 January 2018.

²⁴ Express Tribune, "A Different Guantanamo: Detainee Art on Display in NY," 14 Dec. 2017, available at <https://tribune.com.pk/story/1583742/3-different-guantanamo-detainee-art-display-ny/>.

²⁵ Att. M, Declaration of Margaret O'Donnell at para. 12.

artwork, much of which represents his torture at the hands of the U.S. government and all of which humanizes him to individuals who will eventually decide the outcome of the military commission proceedings, must be fully developed and presented by counsel. This is particularly true given that the members of the military commission will be U.S. service members, some of whom—like Mr. ██████—are likely to have themselves suffered the effects of Post-Traumatic Stress Disorder and other physical and psychological effects of war.

b. The Department of Defense has not assert any rationales under *Turner v. Safley* for restricting the creation or public dissemination of Mr. al Baluchi’s artwork.

If Mr. al Baluchi’s artwork does fall under the “non-legal mail” category, the military commission stated in AE018T(Sup) that such items would fall into the “JTF-GTMO non-legal mail process,”²⁶ The military commission has previously stated that it will intervene in prison operations when “they impact on specific cases and issues properly before the commission,”²⁷ and the foreclosure of an important mitigation avenue for Mr. al Baluchi is one such issue. The military commission must therefore examine the non-legal, non-security rationales set forth recently by the DoD in ending the creation and dissemination of artwork at Guantanamo Bay. Such restrictions have no basis in law and are not applicable to Mr. al Baluchi in any case due to Mr. al Baluchi’s status as a death penalty defendant.

²⁶ AE018T(Sup), p. 7.

²⁷ See, e.g. AE254JJ Interim Order (“[The commission] lacks authority to engage on . . . conditions of detention save as they impact on specific cases and issues properly before the commission.”); AE093A Ruling on Mr. al Baluchi’s Motion to Request One-Time Audiovisual Communication Through the ICRC With Mr. al Baluchi’s Family (“The commission . . . will defer to the judgment of the facility commander unless that judgment impacts on the legal proceedings in some manner.”); AE038E Order on Joint Motion to Cease Psychological Dislocation Techniques and Denial of Detainees’ Right to Dress in the Clothing of Their Own Choosing.

“Restrictions on an inmate's [rights] are valid only if reasonably related to legitimate penological interests,” such as security concerns.²⁸ Such cases are extreme. In *McClain v. Leisure*, for example, the Seventh Circuit applied the four criteria of *Turner v. Safley* to a complaint in which a prisoner's artwork had been confiscated for depiction of Nazi imagery. After careful analysis, the court reached the conclusion that the confiscation was proper pursuant to a determination by the prison's security group that the art had the potential to incite hostility or violence.²⁹

Here, DoD has made absolutely no assertion that any detainee artwork posed any kind of security threat, including Mr. al Baluchi's art. On the contrary, DoD's public statements regarding detainee artwork have focused exclusively on the negative press received since the *Ode to the Sea* exhibition.³⁰

DoD's most recent statements confirm this, as the Guantanamo cultural advisor stated to the Miami Herald: “[For years,] nobody in the government had an issue with it. The artwork was going to their families, it was given as gifts to their lawyers . . . everything was going fine until the lawyers decided to parade their artwork in New York City . . . there is no need to parade it in the streets and to have people take pictures of it and show it. That's where the screw-up was.”³¹

²⁸ *McClain v. Leisure*, 192 Fed.Appx. 544 (7th Cir. 2006), citing *Turner v. Safley*, 482 U.S. 78, 89, 107 S.Ct. 2254, 96 L.Ed.2d 64 (1987); *Lindell v. Frank*, 377 F.3d 655, 657 (7th Cir. 2004). The Bureau of Prisons does allow the warden to “restrict the content of work in accordance with community standards of decency,” but must consult with regional counsel before imposing any such restrictions, “to ensure that the appropriate legal standards are met.” See Att. Q, Bureau of Prisons Program Statement (2008) at 12.

²⁹ *Id.* at 549.

³⁰ Att. S, Feb. 10 Miami Herald article. In fact, at one point a detainee reportedly made a portrait of Brigadier General Martins and was able to present it to him prior to his release from Guantanamo.

³¹ *Id.*

The government's embarrassment over nearly two decades of detainee torture and indefinite detention without due process is not a legitimate security consideration under *Turner*. In *Hudson v. Palmer*,³² the Supreme Court stated that "prisoners enjoy many protections of the Constitution that are not fundamentally inconsistent with imprisonment itself or incompatible with the objectives of incarceration . . . intentional deprivations do not violate [the Due Process] Clause, provided, of course, that adequate state post-deprivation remedies are available."³³ The Seventh Circuit in *Stewart v. McGinnis*³⁴ further explained that intentional deprivations of prisoner property violating the Due Process clause occur when they are "random and unauthorized," and not pursuant to "established regulatory procedure."³⁵ There is no such legislative or regulatory procedure at Guantanamo Bay governing confiscation of detainee artwork. Nor could there be any meaningful post-deprivation remedies, under *Hudson*, offered by the Department of Defense for embargoing Mr. al Baluchi's artwork when the primary purpose of such artwork is to establish mitigating factors in his death penalty trial.

In fact, the obvious lack of legal basis for the government's restrictions on artwork has garnered its own share of public attention. In the United States, the *New York Times* Editorial Board commented that "There has been no claim of a security breach or risk to Americans. The military, it would seem, is simply unsettled by the attention that the John Jay exhibition has drawn from news organizations."³⁶ In the United Kingdom, *The Independent* noted in an article entitled "The Powerful Artwork by Guantanamo Prisoners that America Doesn't Want the World

³² 468 U.S. 517 (1984)[*"Hudson"*].

³³ *Id.* at 517, 533, citing *Parratt v. Taylor*, 451 U.S. 527 (1981).

³⁴ *Stewart v. McGinnis*, 5 F.3d 1031, 1035-36 (7th Cir.1993)[*"Stewart"*].

³⁵ *Id.*

³⁶ Att. V, *New York Times*, "Art Freed From Guantanamo," 3 Dec. 2017.

to See,” that in the paper’s quest for comment on the rationale for the new artwork restrictions, “The Pentagon referred all inquiries to Joint Task Force Guantanamo (JTF-GTMO), which runs the prison site. Nobody from JTF-GTMO responded to inquiries. The State Department referred inquiries to the Department of Defence. The CIA did not respond to inquiries.”³⁷

In the absence of security considerations or any legitimate regulation regarding detainee artwork, counsel for Mr. al Baluchi must have the ability to use mitigating information and materials in public discourse. Prior to 14 June 2017, the determination regarding what was appropriate to disseminate from Mr. al Baluchi’s unclassified public statements or materials (to include artwork) was the responsibility of security-cleared defense counsel, who received clearances in large part precisely for this duty. This determination should remain in defense hands.

c. Mr. al Baluchi owns his artwork and retains copyright to all artwork created at Guantanamo Bay indefinitely.

Among the vague justifications given by the Department of Defense in restricting detainee art that embarrasses the government, is that, “items produced by detainees at Guantánamo Bay remain the property of the U.S. government.”³⁸ This statement has no basis, as there is absolutely no avenue for the United States government to have acquired legal ownership of detainee artwork.

³⁷ The Independent, “The Powerful Artwork by Guantanamo Prisoners that America Doesn’t Want the World to See,” 21 November 2017, *available at* <https://www.independent.co.uk/news/world/americas/guantanamo-artwork-prisoners-censored-america-not-want-see-paintings-a8068376.html>.

³⁸ Smithsonian Magazine, “Exhibit of Art by Guantanamo Prisoners Prompts Pentagon Review,” 1 December 2017, *available at* <https://www.smithsonianmag.com/smart-news/exhibit-art-guantanamo-prisoners-prompts-pentagon-review-180967360/>.

i. The Copyright Clause guarantees Mr. al Baluchi ownership of his artwork

Under both Section 106 of the 1976 U.S. Copyright Act and the Berne Convention For the Protection of Literary and Artistic Works,³⁹ Mr. al Baluchi owns the copyright to his artwork, including “the exclusive rights, *inter alia*, to reproduce, distribute and publicly display his work.”⁴⁰ These exclusive rights on dissemination may only be limited by a state’s “legislation or regulation,” neither of which the United States has promulgated with regards to Guantanamo detainee artwork.⁴¹ As Prof. Jane Ginsburg, a recognized expert in copyright law and artistic property, explains, “The requirement of a statutory basis obliges member states to respect due process; art. 17 does not authorize censorship measures by fiat.”⁴²

This provision is applicable even in prisons; in *Lee v. Carlson*, the District of Utah recalled that, “It is well established that ‘convicted prisoners do not forfeit all constitutional protections by reason of their conviction and confinement in prison.’”⁴³ The *Carlson* court found that prison officials violated constitutional protections when “for reasons unrelated to

³⁹ *Berne Convention for the Protection of Literary and Artistic Works*, (opened for signature Sept. 9, 1886, 828 *U.N.T.S.* 221, S. Treaty Doc. No. 99-27, 99th Cong. (1986) (revised at Paris, July 24, 1979) [“Berne”]. The United States has been a party to the Berne Convention since 1989, pursuant to specific implementation by the Berne Convention Implementation Act of 1988.

⁴⁰ Att. E, Declaration of Jane Ginsburg at 6; 17 U.S.C. sec. 106.

⁴¹ *Berne Convention for the Protection of Literary and Artistic Works*, art. 17 (of September 9, 1886, completed at Paris on May 4, 1896, revised at Berlin on November 13, 1908, completed at Berne on March 20, 1914, revised at Rome on June 2, 1928, revised at Brussels on June 26, 1948, and revised at Stockholm on July 14, 1967), Geneva: United International Bureaux for the Protection of Intellectual Property.

⁴² Att. E at p. 6.

⁴³ *Lee v. Carlson*, No. 2:03-CV-01098, 2007 WL 984150 (D. Utah Mar. 27, 2007)[“*Carlson*”], citing *Bell v. Wolfish*, 441 U.S. 520, 545 (1979).

legitimate penological interests,” they confiscated a prisoner’s writings.⁴⁴ The prison was ordered to return the work to the prisoner. While *Carlson* primarily discussed First Amendment rights, the Copyright Clause of the Constitution is one such protection that remains unforfeited by prisoners. In *McKenna v. Lee*, the Eastern District of North Carolina acknowledged that regardless of the plaintiff’s status as a prisoner, “Copyright ownership of a work is presumed to vest in its author.”⁴⁵

Instead of legitimate legislation or regulation, the DoD has instead chosen to make arbitrary “policy decisions”⁴⁶ in reliance on detainees’ status as non-citizens imprisoned on Cuban territory. As stated by Prof. Ginsburg, “Section 104 of the 1976 U.S. Copyright Act provides”:⁴⁷

(a) Unpublished Works.—The works specified by sections 102 and 103, while unpublished, are subject to protection under this title **without regard to the nationality or domicile of the author.**

Under Section 101 of the U.S. Copyright Act, Mr. al Baluchi’s work is unpublished; as Prof. Ginsburg notes, “public exhibition does not itself publish a work.”⁴⁸ Mr. al Baluchi’s artwork, primarily watercolor or pencil drawings, also falls within the subject matter definitions of Section 102(a)(5) of the 1976 Act, covering “pictorial, graphic, or sculptural works.”⁴⁹ Therefore, regardless of Mr. al Baluchi’s status as a non-citizen detainee at Guantanamo Bay

⁴⁴ *Id.* at 4.

⁴⁵ *McKenna v. Lee*, 318 F.Supp.2d 296 (E.D.N.C.2002).

⁴⁶ Att. S, Feb. 10 Miami Herald article, quoting Rear Adm. Cashman.

⁴⁷ Att. E at p. 5.

⁴⁸ *Id.*

⁴⁹ *Id.*

(territory controlled by the United States⁵⁰), the 1976 Act's provisions "fully apply to Mr. al Baluchi's work."⁵¹

According to Prof. Ginsburg, Section 204(a) of the 1976 Act allows for the transfer of copyright ownership, but such transfer "must be in writing and signed by the grantor."⁵² Not only has Mr. al Baluchi never signed away the copyright ownership for any of his artworks to the Department of Defense, he is highly unlikely to ever consider doing so. In the absence of such transfer, Mr. al Baluchi retains "all the rights under U.S. copyright law."⁵³

ii. U.S. copyright law governs U.S. actions at Guantanamo

Several courts in the Sixth and Third Circuits have addressed the issue of extraterritorial application of U.S. copyright law: the "vexing question of whether a claim for infringement ... can be brought under the Copyright Act . . . when the assertedly infringing conduct consists solely of the authorization within the territorial boundaries of the United States of acts that occur entirely abroad."⁵⁴ Here, Rear Adm. Cashman made clear that he merely "receive[d] orders; policymakers decide policy."⁵⁵ That policy to restrict dissemination of detainee artwork was made by the Department of Defense, undoubtedly within the territorial boundaries of the United States, while the actual restricting conduct has taken place "abroad." In *Curb v. MCA Records*,

⁵⁰ Harold Hongju Koh, "Memorandum Opinion on the Geographic Scope of the Convention Against Torture and Its Application in Situations of Armed Conflict," (January 21, 2013), available at https://www.nytimes.com/interactive/2014/03/07/world/state-departmentkoh.html?_r=0. See also, AE2000O(AAA), Defense Reply to Government Response to Mr. al Baluchi's Motion to Reconsider AE200II Order In Light of New Restrictions on Right to Communicate About Torture.

⁵¹ Att. E at p. 5.

⁵² *Id.*

⁵³ *Id.*

⁵⁴ *Subafilms, Ltd. v. MGM-Pathe Communications Co.*, 24 F.3d 1088 (9th Cir. 1994)

⁵⁵ Att. S, Feb. 10 Miami Herald article.

*Inc.*⁵⁶, the Middle District of Tennessee found that “domestic violation of the authorization right is an infringement, sanctionable under the Copyright Act, whenever the authorizee has committed an act that would violate the copyright owner’s §106 rights.”⁵⁷ In its extensive analysis, the Court went so far as to note – in agreement with other courts - that “the location of the authorized act is irrelevant, so long as it is the sort of activity that infringes upon a copyright owner’s exclusive 106 rights.”⁵⁸

iii. Bureau of Prisons policy demonstrates Mr. al Baluchi’s ownership of his artwork

The Department of Defense’s unconstitutional policy decision to restrict Mr. al Baluchi’s Section 106 rights to distribute and publicly display his work is far beyond the practice of the federal Bureau of Prisons (“BoP”). The 2008 Program Statement on Inmate Recreation Programs does provide that,⁵⁹

[(3) The Warden may restrict for reasons of security, fire safety, and housekeeping, the use or possession of art and hobbycraft items or materials.

Ms. O’Donnell explains that “BOP Program Statement 5580.08 provides specific limitations on the types and amounts of personal property (clothing, books, legal materials, etc.)

⁵⁶ 898 F. Supp. 586 (M.D. Tenn. 1995).

⁵⁷ *Id.* at 595.

⁵⁸ *Id.* at 595-596, citing *ITSI T.V. Productions v. California Authority of Racing Fairs*, 785 F. Supp. 854, 859-860 (E.D. Cal. 1992); *Danjaq, S.A. v. MGM/UA Communications Co.*, 773 F. Supp. 194 (C.D. Cal. 1991). *See also*, Jennifer Driscoll, “It’s a Small World After All: Conflict of Laws and Copyright Infringement on the Information Superhighway,” *U. Penn. J. Int’l L.*, Vol. 20, Iss. 4 (2014).

⁵⁹ Att. Q, Bureau of Prisons Program Statement (2008) at 12.

prisoners may keep in their cells. My experience is that the policies and procedures relate to traditional security or safety considerations.”⁶⁰

However, the Program Statement specifically does not assert any ownership rights, including copyright, over prisoner art. For situations in which “security, fire safety, and housekeeping” require the removal of artwork from an inmate’s cell,

(5) The Warden shall require the inmate to mail completed hobbycraft articles out of the institution at the inmate's expense, or to give them to an authorized visitor within 30 days of completion, or to dispose of them through approved sales. However, articles offered for sale must be sold within 90 days of completion, or must be given to an authorized visitor or mailed out of the institution at the inmate's expense.]

This provision clearly provides for the release of prisoner art beyond the prison, to “authorized visitors” such as attorneys or family members, without BoP invocation of ownership or copyright after the artwork leaves the prison. This has been Ms. O’Donnell’s long experience with the application of the BoP provision:

As a result of the property limits, I have over the years assisted my clients in disposing of their completed art and hobbycraft projects. One client, in particular, has sent me hundreds and hundreds of artworks for safekeeping. He packs up the artwork, provides the postage and the prison recreation staff then mails the art to me. Other prisoners have sent me completed hobbycrafts, such as jewelry, papier mache flowers, and small knitted animals, both as gifts and because the prison has required them to dispose of their projects.⁶¹

⁶⁰ Att. M, O’Donnell Declaration at para. 8.

⁶¹ *Id* at para. 9.

Since Mr. al Baluchi and the other detainee artists at Guantanamo have never been allowed family visits, the BoP provision applied here would mean continuing the longstanding practice of allowing artwork to be released to security-cleared counsel for disposition as they determine appropriate.

Prisoner Express is a learning program that provides courses to 4500 prisoners across 674 prisons in 48 states, including in maximum security prisons and on death row.⁶² The art director of Prisoner Express, Ms. Treacy Ziegler, explains that she has personally taught art workshops in five prisons in three states, and has been involved with artwork of prisoners from all prisons participating in the Prisoner Express program. Nevertheless, she states that “it has not been my experience in any of these prisons that the prison exerts ownership of the prisoner’s artwork.”⁶³

Ms. O’Donnell agrees that in her experience, “the BOP has never asserted ownership over prisoner artwork. My client who is the prolific artist, has collaborated over the years with artists in Lithuania, England and Australia. He has exhibited his art in several public shows in Europe and the United States. He, as a result of the art exhibitions, has even sold some of his works to members of the public with the proceeds donated to support community art projects. The BOP has never intervened or interfered with these exhibitions.”⁶⁴

Indeed, the exertion of such ownership by DoD, including confiscation and potential destruction of the artworks, also “infringes upon the rights of [detainees] to reclaim ownership of their artwork upon release,”⁶⁵ foreclosing any “post-deprivation remedies” required by the

⁶² Att. L, Declaration of Treacy Ziegler at paras. 10, 12.

⁶³ *Id.* at 13.

⁶⁴ Att. M, O’Donnell Declaration at para. 10.

⁶⁵ Att. P, Letter to Secretary James L. Mattis from 12 Free Speech Organizations, 16 Jan. 2018 (“NCAC Letter”).

Hudson and *Stewart* courts pursuant to lawful regulation of prisoner property - of which there is none here.⁶⁶

d. Mr. al Baluchi has a right to create and publicly release art as therapy for his torture

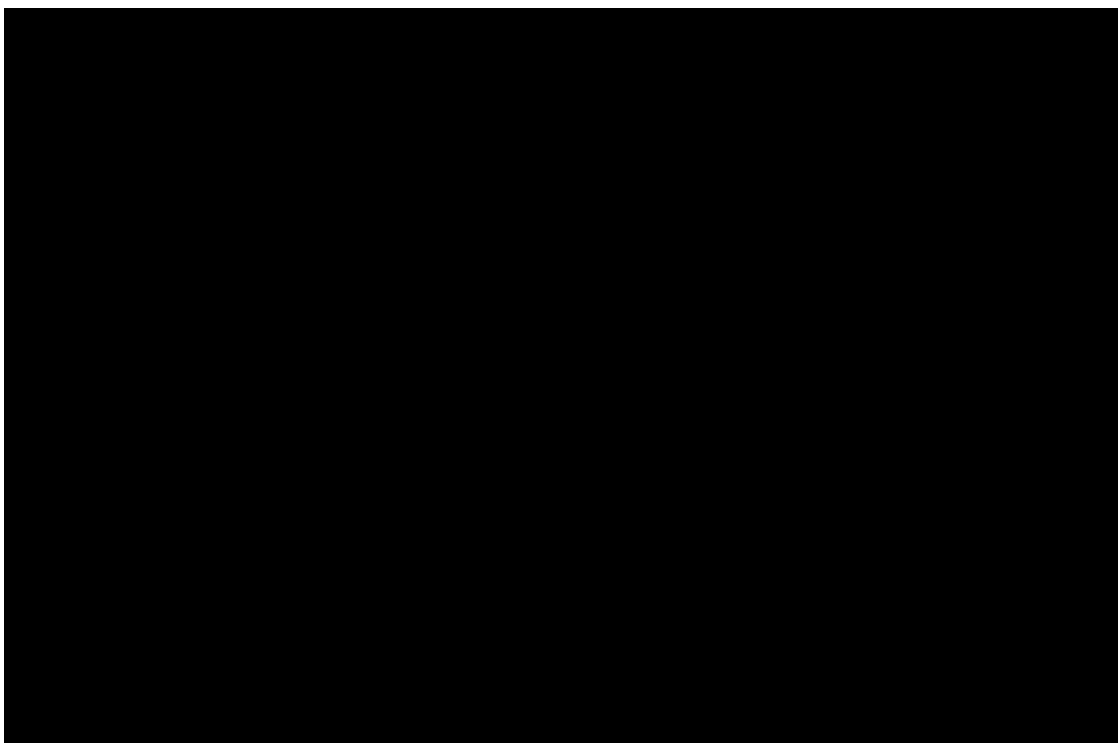
Since the *Ode to the Sea* exhibition, Mr. al Baluchi has reported having his art supplies confiscated from his cell on at least one occasion. As a “High Value Detainee”⁶⁷ imprisoned at Camp 7, Mr. al Baluchi is barred from the communal art classes that are occasionally offered to detainees at Camp 6. Without the ability to keep art supplies in his cell, therefore, Mr. al Baluchi is unable to continue to create artwork. Even if he were to be able to create artwork, the ability to share that artwork with members of his defense team outside from Guantanamo, family members, advocacy groups, medical professionals, and the public – as Bureau of Prisons inmates are able to do – is currently prevented by AE018U and DoD policy.

i. Mr. al Baluchi’s state-sponsored torture mandates proper medical and psychological rehabilitation

⁶⁶ In fact, as Prof. Ginsburg explains, “Mr. al Baluchi’s artworks qualify as ‘works of visual art,’ potentially protected by the Visual Artists Rights Act (VARA), against destruction. VARA defines a ‘work of visual art’ as, *inter alia*, ‘(1) a painting, drawing, print or sculpture, existing in a single copy.’ The author of a work of visual art has the right ‘to prevent any destruction of a work of recognized stature, and any intentional or grossly negligent destruction of that work is a violation of that right.’” Ginsburg Declaration at 7. As discussed throughout this motion, Mr. al Baluchi’s artwork has received more than sufficient acclaim and public attention to be considered a “work of recognized stature.” See *Cohen v. G&M Realty, LP*, Case No. 13-CV-05612(FB)(RLM) (February 12, 2018) (finding that although the “works were not of a kind traditionally found in museums, the court found that they were “works of recognized stature” because they had “attracted significant third-party attention or social media buzz.”).

⁶⁷ Mr. al Baluchi’s counsel have argued at length that “High Value Detainee” status is a euphemism for Camp 7 detainees who were tortured at secret prisons by the CIA and whose speech and communications are therefore far more restricted than Camp 6 detainees in order to prevent any further information about the CIA’s criminal torture program from becoming public. See, e.g., AE448(AAA), Defense Motion to Remove Designation as “High Value Detainee.”

The new restrictions have had enormous impact on Mr. al Baluchi's psychological state. As publicly acknowledged, Mr. al Baluchi was brutally tortured and held incommunicado for 3.5 years at the CIA black sites.⁶⁸ The extent and duration of Mr. al Baluchi's torture by the CIA left permanent and severe psychological [and] physical effects. Dr. Stephen Xenakis, who examined Mr. al Baluchi in 2015, came to the following conclusions:⁶⁹



Mr. al Baluchi's own account (marked "Unclassified//For Public Release") of his physical and psychological challenges stemming from torture are consistent with Dr. Xenakis'

⁶⁸ For a scrubbed summary of the specific torture techniques used on Mr. al Baluchi, *see* AE525(AAA) Motion to Compel Information Identifying the Locations of the Black Sites in Which the U.S. Imprisoned Mr. al Baluchi, att. F at MEA-2IJ-0000027.

⁶⁹ AE425E(AAA), Att. I.

findings.⁷⁰

The military trial hearings have been very difficult for me, both physically and emotionally. The first day, an extraction team of guards woke me at 3:30 or 4:00 a.m. They stated that they were there to take me to the hearing, whether I wanted to go or not. I knew that during a forced extraction, the guards will jump on your back. I went to the hearing, which did not start until 9:00 a.m. By the time I reached the hearing, I was mentally and emotionally exhausted. I couldn't think, and couldn't track what was happening at the hearing. The hearing lasted until late in the night. Afterwards, I was completely exhausted and could not even get out of bed for 24 hours. I had indigestion and couldn't eat. My body physically hurt. I was exhausted, but I couldn't sleep. All I could do was pray. I told the military doctor that I couldn't participate in future hearings because of my health, and all he said was to take more medications. I have been required to attend at least the first hearing of each session. I am physically and mentally exhausted during these hearings and couldn't concentrate. Afterwards, I am completely depleted.

Mr. al Baluchi went on to state that⁷¹

⁷⁰ Att. O, Declaration of Ammar al Baluchi at para. 30.

⁷¹ *Id* at para. 31. Note that this declaration was written in 2014, but declassified with heavy redactions in December 2017. Mr. al Baluchi is now 40 years old.

I feel like my body and mind are deteriorating, even though I am only 37 years old. I am well educated and speak several different languages, but I can no longer read or concentrate. It is difficult for me to write letters, and at times I can't even track a conversation. [REDACTED]

[REDACTED]
I am always exhausted, yet I can't sleep.

Finally, Mr. al Baluchi explains that

I continue to relive my past torture. I also am re-traumatized daily by events and circumstances in my current situation [at Guantanamo] and my physical and mental health deteriorate each day . . . my deteriorating health is a result of the torture. I am getting worse. I am mentally scarred and wounded from the torture. The torture and the threats [made to him by CIA officials] make it impossible for me to prepare my case.⁷²

Currently, Mr. al Baluchi is unable to sleep for more than a few hours at a time, and is chronically sleep-deprived. Most recently, he missed commission hearings due to debilitating and increasing back pain resulting from prolonged shackling at the black sites.⁷³

⁷² *Id.* at 38.

⁷³ AE200MM(AAA), att. E.

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Prolonged restraining

In Black site [] during [] there the U.S. Gov. had my both hands tied together by tight handcuffs for about 120 days straight when my torturers decided to move me to Black site [] they had to cut the handcuffs by bolt cutter because the handcuffs got so rusted that wouldn't open with keys. During that time half of my body (either left side or right) would go numb because I couldn't move my arms away from each other. until this day I am suffering from this symptom along with multiple neurological pain all over my body as handcuffs and restrains are still being used on me on daily bases at least once every 24 Hours as a reminder to my mind of what happened in the past and to my body to resignite

Earlier this year, the United Nations Working Group on Arbitrary Detention (an international group of legal experts), after close examination of Mr. al Baluchi's case, determined that "Mr. al Baluchi is suffering psychological and physical effects from the previous

torture and his health is in severe decline. Despite his ongoing suffering, he has not been provided with torture rehabilitation or any other redress . . . In these circumstances, the Working Group considers that it is very unlikely that Mr. al Baluchi can effectively assist with, and participate in, his own defence.”⁷⁴ Mr. al Baluchi’s deterioration make proven therapeutic remedies, including continued art therapy, increasingly urgent.

ii. Art creation is an effective form of treatment for trauma

The utter lack of formal torture rehabilitation at Guantanamo Bay has been noted by torture experts in the United States and around the world.⁷⁵ In the absence of holistic torture rehabilitation and given his deterioration, Mr. al Baluchi has been forced to find means of self-treatment for his trauma, including the creation of artwork.

It is long-established that “(t)here is no iron curtain drawn between the Constitution and the prisons of this country,”⁷⁶ and federal courts have interpreted such constitutional rights to include “the provision of reasonable medical care, as needed.”⁷⁷ As stated by the Fourth Circuit in *Bowring v. Godwin*, failure or refusal to provide treatment violates not only the Eighth Amendment, but also the Fourteenth Amendment due process clause, “since the failure or refusal

⁷⁴ United Nations, Opinion 89/2017 of the Working Group on Arbitrary Detention, 24 Jan. 2018, available at http://www.ohchr.org/Documents/Issues/Detention/Opinions/Session80/A_HRC_WGAD_2017_89.pdf.

⁷⁵ *Id.*; Office of the High Commissioner for Human Rights, “U.S. Must Stop Impunity For the Crime of Torture: U.N. Rights Expert,” 13 Dec. 2017, available at <http://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=22532&LangID=E>.

⁷⁶ *Wolff v. McDonnell*, 418 U.S. 539, 555-56 (1974). The provision of torture rehabilitation is also legally mandated by the Convention Against Torture, art. 13; see AE424(AAA).

⁷⁷ *Estelle v. Gamble*, 429 U.S. 97, 103 (1976)(“*Estelle*”); *Fitzke v. Shappell*, 468 F.2d 1072, 1076 (6 Cir. 1972)(“*Fitzke*”); *United States v. Fitzgerald*, 151 U.S. App. D.C. 206, 466 F.2d 377, 380 n. 6 (1972); *Ramsey v. Ciccone*, 310 F.Supp. 600, 605 (W.D.Mo.1970).

to treat “could well result in the deprivation of life itself.”⁷⁸ The *Bowring* court further explained that

We see no underlying distinction between the right to medical care for physical ills and its psychological or psychiatric counterpart. Modern science has rejected the notion that mental or emotional disturbances are the products of afflicted souls, hence beyond the purview of counseling, medication and therapy.⁷⁹

The creation of artwork is one such therapy that has been found to be extremely effective in both prison contexts and for trauma survivors like Mr. al Baluchi. Counsel for Mr. al Baluchi have spoken with numerous licensed art therapists, many of whom work with prison inmates in the United States. All of them, including the four submitting declarations attached hereto,⁸⁰ are unanimous that artwork does not have to be created in the sole context of therapy in order for it to have enormous therapeutic effects. For men at Guantanamo, imprisoned for decade(s) with substandard medical care, the creation of artwork transcends “recreation,” and qualifies as a form of medical treatment protected by the Eighth and Fourteenth Amendments. As put by Mansoor Adayfi, a former Guantanamo detainee, “[Art] is one of the ways people survive there.”⁸¹ Adayfi further recounted the 2012 confiscation of art supplies from Camp 6 detainees, recalling that Ahmed Rabbani begged the guards to “take the food, take the water, take the clothes; just

⁷⁸ *Bowring v. Godwin*, 580 F.2d 1047 (4th Cir. 1978)(“*Bowring*”), citing *Fitzke* at 1076, quoting from *McCullum v. Mayfield*, 130 F.Supp. 112,115 (N.D.Cal.1955).

⁷⁹ *Bowring* at 1051. *See also*, *Newman v. Alabama*, 503 F.2d 1320 (5 Cir. 1974)(finding that the Alabama penal system’s lack of psychiatric care contributed to Eighth and Fourteenth Amendment violations).

⁸⁰ *See* Att. N, Declaration of Frederica Brooks; Att. J, Declaration of Johanna Buwalda; Att. K, Declaration of Tony Gammidge; and Att. H, Declaration of Sarah Ross.

⁸¹ BBC Radio, “The Art of Now,” 29 Mar. 2018, *available at* <http://www.bbc.co.uk/programmes/b09wvvg4>.

give me my colors and paper, I need to paint!”⁸²

Indeed, the Department of Defense has recognized the psychological benefits of art creation. The 2012 Walsh Report⁸³ states that

C. Practice/Implementation. The JDG has provided programs for intellectual stimulation to detainees that include: access to library materials, movie program, access to newspapers (redacted for security purposes), board games, handheld games, puzzles, playing cards, art classes, reading and literacy classes (native language and second language), television and radio news, sports and entertainment programs (native languages), and family phone calls. Note, detainees in Camp 7 are not authorized telephone calls; all other detainees are.

Provision of such programs was found to be “in compliance with Common Article 3 of the Geneva Conventions,” and Admiral Walsh “strongly recommended” that the Joint Detention Group “continue to provide the current level of programs.”⁸⁴ This affirms the 10 February statement of Rear Adm. Cashman that art creation at Guantanamo was “fundamentally a humanitarian program,” before the illegal restrictions were imposed.⁸⁵ In fact, Adm. Walsh further recommended in 2012 that the program content be expanded to “provide to wider detainee access.”⁸⁶ Regrettably, Mr. al Baluchi and the prisoners of Camp 7 suffering from the effects of CIA torture have never been granted access even to the limited communal art classes evaluated by Adm. Walsh. The inability of Mr. al Baluchi to participate in those classes makes *exponentially more important* his ability to create and release artwork on his own. As Mr. [REDACTED] recipient of several medals from his service in Kuwait and Iraq, notes, “I do not believe the destruction of a detainee’s artwork, writings, or other intellectual work is a humane

⁸² *Id.* at 18:50.

⁸³ Department of Defense, “Review of Department Compliance with President’s Executive Order on Detainee Conditions of Confinement,” (2009) at 34.

⁸⁴ *Id.* at 35.

⁸⁵ Att. S, Feb. 10 Miami Herald article.

⁸⁶ *Id.*

practice.”⁸⁷

The BoP Program Statement on Inmate Recreation Programs also acknowledges the “wellness” benefits of “art and hobbycraft.”⁸⁸ The Program Statement highlights inmates “needs” to participate in such programs, rather than characterizing them as recreational.⁸⁹

b. Leisure activities are designed to ensure that an inmate with the need has the opportunity to complete one or more activities (see 28 CFR 544.81) .]

Ms. O’Donnell, whose artist-clients are on federal death row and subject to the BoP’s policy, writes that “My prolific artist client has written ‘I live all day long in a 7-foot wide by 10-foot long prison cell . . . still, while my physical world is limited, my mental world has no borders or walls . . . Every time I begin a new piece, the colors and layout are dictated by what I am experiencing at the time.’”⁹⁰ Ms. O’Donnell goes on to say that “I believe without his art, this client would have deteriorated psychologically long ago since he” – like Mr. al Baluchi – “has lived in these stark conditions of confinement for more than a decade.”⁹¹ Counsel for Mr. al Baluchi have ample reason to believe that his physical and mental deterioration, triggered by state-sponsored torture and illegal pre-trial detention, will increase in pace without the ability to use artwork as self-therapy.

The Prison Arts Resource Project (“PARP”), funded by the National Endowment for the Arts, has compiled “studies [of U.S. prison art programs] which provide evidence of the benefits

⁸⁷ Att. G, [REDACTED] Declaration.

⁸⁸ Att. Q, Federal Bureau of Prisons, Program Statement on Inmate Recreation Programs at 4, 6.

⁸⁹ *Id.*

⁹⁰ Att. M, O’Donnell Declaration at para. 11.

⁹¹ *Id.*

of arts programs in correctional settings for adult and juvenile offenders.”⁹² PARP cites, for example, a four-week art therapy program conducted in a “medium-to-maximum correctional facility,” for which the results were summarized as follows⁹³:

Summary of Impact: Improvements in attitude, mood, compliance with staff and rules and socialization skills were noted as well as a decrease in depressive symptoms. No improvement was indicated in problem-solving skills.

Art and expression courses have been particularly effective for trauma survivors, such as Mr. al Baluchi, who seek to create representations of their trauma. In a 2009 study conducted at a male maximum-security prison⁹⁴,

Summary of Impact: This study extends previous research on the health benefits associated with writing about traumatic events to a psychiatric population of maximum-security prison inmates (p. 159). Results of the study found that:

- Trauma-writing participants visited the infirmary less often after writing compared with the two control groups.

Johanna Buwalda, an art therapist with the Center for Veterans and Their Families⁹⁵ who has worked extensively with veterans suffering PTSD and other illnesses (and is an expert on war-related trauma) confirms that⁹⁶

⁹² Att. R, Prison Arts Resource Project, An Annotated Bibliography (May 2014), at 4 (“PARP Studies”).

⁹³ *Id.*, citing Gussak, D. (2004), “Art therapy with prison inmates: A pilot study,” *The Arts in Psychotherapy*, 31(4), 245-259.

⁹⁴ Att. R, PARP Studies at 31, citing Richards, J. M., Beal, W. E., Seagal, J. D., & Pennebaker, J. (2000). Effects of Disclosure of Traumatic Events on Illness Behavior Among Psychiatric Prison Inmates. *Journal of Abnormal Psychology*, 109(1), 159-60.

⁹⁵ Att. J, Buwalda Declaration at para. 3.

⁹⁶ *Id.* at paras. 6-8.

6. In my professional experience and according to professional literature, art can have a therapeutic effect even when this art is generated outside of art therapy.
7. Engaging in art making can reduce stress, anxiety, and depressive symptoms.
8. Art making can improve self-esteem, emotional resilience, spiritual wellbeing, physical health, and can effect post traumatic growth.

Similarly, art psychotherapist Tony Gammidge, who provides art therapy through Art Refuge UK, has worked with “people who have confronted and processed some extreme and traumatic experiences, including...physical abuse.”⁹⁷ Mr. Gammidge states:⁹⁸

The art making process is fundamentally a humanising activity which enables connection, empathy, responsibility and communication. Working with art with people who through stigma and prejudice often feel dehumanised is often a profound and moving experience.

Mr. Gammidge expands upon the psychological effects of art therapy, including how such therapy can also help prevent violence and *increase* security in a prison context. Importantly, Mr. Gammidge identifies how the prevention and destruction of detainee artwork may constitute further dehumanization beyond withholding medical care, translating into a violation of the prohibition on cruel, inhuman, and degrading treatment⁹⁹:

⁹⁷ Att. K, Declaration of Tony Gammidge at para. 6.

⁹⁸ *Id.* at para. 7.

⁹⁹ *Id.* at para. 8.

As well as self-knowledge and self-expression the art making process is also a means in which to feel pride and confidence. Shame (not to be confused with guilt) is often a huge problem for people in prison, with mental health problems and people who are displaced. According to American forensic psychiatrist James Gilligan, shame is almost always what underlies violence (Gilligan, Preventing Violence, 2001) whether that means lone violent offenders, gangs or people in terrorist organisations. People who feel disrespected, dehumanised and are abused, incarcerated and victims of violence and torture will feel (amongst other things) huge levels of shame and this can then translate in them to be violent themselves. So, shame is both caused by violence and, also a cause of it. The arts can offer an antidote to this pernicious cycle and hard to treat condition as it can be a recognition of a person's competence, creativity and humanity. As one participant said during work she did with me; *"it is personal to me, especially images of self-harm, it was really good to be able to do it in a controlled way, in a creative way, turning something destructive and horrible into something creative and rather beautiful."* So, destroying someone's artwork could be seen as yet another attack on their humanity (as indeed torture is) and therefore yet another shaming experience.

The concept of shame resulting from dehumanization is echoed by Ms. Brooks' declaration, pursuant to her experience with Freedom From Torture: "Not allowing [connections with others] or having this denied can be problematic and damaging to an individual's ability to connect with others, which ultimately has a detrimental impact on their well-being. The opportunity for an individual to make those connections, including through creative expressions, is an important part of recovery."¹⁰⁰

Artist Sarah Ross, who has worked for years with, among others, survivors of police torture in Chicago, says unambiguously that "[m]aking art in prisons is fundamental."¹⁰¹ Ms. Ross explains that "Art and education are a practice of so many incarcerated people -- a practice that reminds people to live, when the walls of a cage constitute daily life."¹⁰² For Mr. al Baluchi,

¹⁰⁰ Att. N, Declaration of Frederica Brooks, at para. 6.

¹⁰¹ Att. H, Declaration of Sarah Ross, at para. 7.

¹⁰² *Id.*

tortured in a “dungeon”¹⁰³ during his time in CIA custody, this is a critical reminder. Ms. Ross also notes that “My work with artists serving long sentences has revealed the desperate need for people who are locked away for life to speak.”¹⁰⁴

Mr. ██████ an Iraq War veteran and practicing artist, has had the unique experience of working with both traumatized veterans and traumatized former Guantanamo detainees on art projects. In 2009, Mr. ██████ co-founded the Tea Project with Amber Ginsburg, a fellow artist and accomplished lecturer. The Tea Project is an “ongoing series of exhibitions and performances” that explores “issues relating to occupation, extralegal detention, torture, extraordinary rendition, and the ‘Global War on Terrorism.’”¹⁰⁵ Mr. ██████ was partially inspired by the experience of his friend ██████, a former Guantanamo Bay guard who had been “moved by the creative expressions of Guantanamo detainees.”¹⁰⁶ ██████ described in a 2008 article how “The detainees were only allowed to have Styrofoam cups, and they would write and draw all over them . . . They would cover the things with flowers.”¹⁰⁷ Mr. ██████ explains how¹⁰⁸

¹⁰³ Executive Summary of the Report of the Senate Select Committee on Intelligence, Dec. 9, 2014, at 4, *available at* http://www.feinstein.senate.gov/public/index.cfm/files/serve?File_id=7c85429a-ec38-4bb5-968f-289799bf6d0e&SK=D500C4EBC500E1D256BA519211895909 [“SSCI Redacted Executive Summary”].

¹⁰⁴ Att. H, Ross Declaration, at para. 7.

¹⁰⁵ Att. G, ██████ Declaration at para. 13.

¹⁰⁶ *Id.*

¹⁰⁷ *Id.*; Lily Pierce, “What It Feels Like...to Be a Prison Guard at Guantánamo Bay,” *Esquire Magazine*, July 30, 2008, <https://www.esquire.com/lifestyle/a4821/guantanamo-guard-0808/>.

¹⁰⁸ Att. G, ██████ Declaration at 15.

Working with the veteran community I have seen how this cycle of dehumanization is often connected to Moral Injury and exacerbates Post Traumatic Stress Disorder (PTSD). I am personally service connected through the Department of Veterans Affairs for PTSD and know that connecting with the Iraqi community, a community that I once contributed to dehumanizing, has been essential to my healing process. I believe that addressing the moral shame associated with the psychological, cultural, and spiritual aspects of trauma depends on some kind of reconciliation with one's guilt, enemies, and/or memories.

Mr. [REDACTED] further describes how¹⁰⁹

Through my own art practice and my work within the veteran community I have seen how art and other creative practices can help individuals dealing with trauma. Art is a way to externalize abstract and often contradictory experiences, emotions and memories that simple words often cannot explain. It is a way to create language out of the black hole of trauma that can then be shared with others. This ability to share complex personal experiences and investigate one's individual relationship to complex systems such as war and detention is essential to creating meaning and understanding. Artwork made by survivors of war, detention, and other forms of structural violence does not only help the survivor create meaning out of trauma but when shared with society it can help different publics develop an understanding of the survivors experience and of our justified and unjustified systems of structural violence.

It is glaringly obvious that the DoD would like nothing more than to avoid the wider public gaining an understanding of the "unjustified system of structural violence" in operation at Guantanamo Bay, but that is not a legitimate rationale for preventing Mr. al Baluchi from exercising his right to publicly display his artwork, both in mitigation and for therapeutic value.

iii. The public display of prisoner artwork has additional therapeutic effects

The positive public reaction to *Vertigo* and other works by Mr. al Baluchi in *Ode to the Sea* have had an intensely therapeutic effect on Mr. al Baluchi. This is because, as Ms. Buwalda

¹⁰⁹ *Id.* at 7.

states¹¹⁰, “public display of the art made by survivors of trauma can also be therapeutic in that the display can give a survivor who otherwise feels invisible and forgotten ‘a voice.’ The reactions of the viewers can provide the survivor with recognition of their suffering” -- suffering acknowledged by the United States government -- “which can effect healing beyond the art making process itself.”¹¹¹

Mr. Gammidge agrees, explaining that in his prison art programs¹¹²,

For the participants, it can also be hugely beneficial for them to have an audience for their films and artworks. During the making of the work it helps for them to think about what they want to say in their artwork, what story they want to tell, how they want to represent themselves. The audience in seeing and hopefully appreciating their work provides the participants with a huge sense of pride in what they have achieved through recognition of something they have done well (rather than wrong). This can lead to a shift in their identity, perhaps from offender, refugee or patient to ‘artist’.

In fact, in stark contrast to the DoD’s reaction over *Ode to the Sea*, the Bureau of Prisons specifically provides for the public display of prisoner art as part of the “Arts and Hobbycraft” wellness program, allowing inmates to mail “out of the institution” paintings that conform to institution guidelines and postal regulations, including for public display.¹¹³

The importance of public display as humanizing therapy, separate from art creation, is illustrated by Mr. ██████ through the lens of his service in Iraq and the government’s systematic dehumanization of detainees. “The work from Guantanamo detainees . . . reminds me of my own struggle. My deployment in 2003 was full of dehumanization. In the middle of my deployment,

¹¹⁰ Att. J, Buwalda Declaration at 10. *See also*, Att. N, Brooks Declaration at para. 9: “[E]xhibiting artwork is an important part of rehabilitation, because of the opportunity it gives for the artist to form healthy connections with those who view their work.”

¹¹¹ *Id.*

¹¹² Att. K, Gammidge Declaration at 10.

¹¹³ Att. Q, BoP Program Statement.

feeling like I was surrounded by destruction, I turned to art to maintain a sense of hope and cling to an idea that there was a ‘beautiful life’ out there.”¹¹⁴ Mr. █████ added that, “Although our situations were very different, it seems that . . . many of the other men detained in Guantanamo, and I all turned to art to hold on to our sense of humanity. I have heard this sentiment repeated by students incarcerated in Stateville Prison, a maximum security prison in Illinois where I teach a college level art class every other year with the Prison and Neighborhood Arts Project.”¹¹⁵ Ms. Ross, who has managed exhibitions of prisoner art from Stateville and other prisons, expands even further, describing how the artists she works with “regularly talk about the need to be heard outside the walls of the prison to their families and communities. They are more than the crime they committed, they are also parents, children, lovers, and community members. Being locked away does not take away those identities, rather it just reshapes them.”¹¹⁶ Mr. al Baluchi has never been convicted of a crime, despite 14 years in U.S. custody, and Ms. Ross’ observation is particularly poignant considering that 3.5 years of that custody was incommunicado without his family knowing whether he was dead or alive. She concludes that “[A]rt from these individuals is one way their presence, voice, and vision is registered and shaped.”¹¹⁷ Ms. O’Donnell, whose death row clients have exhibited their artwork around the world, affirms that “I know that my clients are positively impacted by their ability to both create and share their art. Not only does working on the project help them pass the time in an otherwise dreary solitary confinement, but receiving positive feedback about their artistic

¹¹⁴ Att. G, █████ Declaration, para. 17.

¹¹⁵ *Id.*

¹¹⁶ Att. H, Ross Declaration, para. 7.

¹¹⁷ *Id.*

endeavors lifts their spirits as well.”¹¹⁸ According to Mr. [REDACTED] “It is these kinds of humanizing gestures that the Tea Project” -- and *Ode to the Sea*, and any future exhibitions of Guantanamo detainee artwork -- “shares with a wider public audience because, despite real or perceived wrongs, when one dehumanizes their enemy they in turn dehumanize themselves.”¹¹⁹

e. There is legitimate and substantial public interest in Mr. al Baluchi’s artwork

Mr. al Baluchi’s constitutional and human rights are not the only ones violated by the new prohibitions on dissemination of detainee art contained in AE018U and the DoD’s new unwritten “policy.” The public’s First Amendment right of access to information about Guantanamo Bay detainees is under serious threat. In cases where the government actually invokes national security to justify secrecy, courts regularly look behind those claims where First Amendment rights are at stake.¹²⁰ In *Dhiab v. Obama*, regarding the public’s right of access to videotapes of Guantanamo Bay detainee force-feedings,¹²¹ Judge Kessler of the D.C. District Court recalled the Supreme Court’s standard that “The First Amendment’s express guarantees of free speech, freedom of the press, and the right to petition the government carry with them an implicit right of public access to particular government information.”¹²² The Supreme Court has also found that “[T]he First Amendment goes beyond protection of the press and the self-expression of individuals to prohibit government from limiting the stock of information from

¹¹⁸ Att. M, O’Donnell Declaration at para. 11.

¹¹⁹ Att. G, [REDACTED] Declaration at para. 14.

¹²⁰ See, e.g., *McGehee v. Casey*, 718 F.2d 1137, 1148-50 (D.C. Cir. 1983) (D.C. Circuit articulated a standard to apply when the need to protect classified information competes with First Amendment rights); *Stillman v. CIA*, 319 F.3d 546, 548-49 (D.C. Cir. 2003) (courts have duty to review classification claim used to censor former CIA employee); *Berntsen v. CIA*, 618 F. Supp. 2d 27, 29-30 (D.D.C. 2009).

¹²¹ *Dhiab v. Obama*, 2014 U.S. Dist. LEXIS 14068 1, 4 (D.D.C. Oct. 3, 2014).

¹²² *Id.* at 7 (citing *Richmond Newspapers Inc. v. Virginia*, 448 U.S. 555, 575-576 (1980)).

which members of the public may draw.”¹²³ Again, Mr. al Baluchi notes that here, no national security rationale for restricting artwork has actually been advanced by the government. Regardless, these restrictions certainly seek to “limit the stock of information” available to the public about detention at Guantanamo Bay, as noted by the New York Times editorial board: The *Ode to the Sea* exhibition ensures that “the viewing American public reasonably gets a peek behind the curtain that has long enveloped Guantánamo. [Thompson] added, ‘Why cut off the information?’”¹²⁴

The restrictions also amount to “blanket censorship of materials that pose no threat to national security and possess clear value to the American public,” according to a coalition of 12 First Amendment advocacy organizations, led by the National Coalition Against Censorship.¹²⁵ In their January 2018 letter to Secretary Mattis, the coalition stated that it appeared that the restrictions were “a flagrant attempt to stifle public discussion that could arise from an encounter with the artistic and human side of Guantanamo detainees . . . the [prohibition] suppresses documents of clear political and historical importance to the American public. NCAC and the undersigned organizations vigorously assert the American public’s right to access these artworks. We condemn this attempt to obstruct the public discourse essential to a democratic and open society, and strongly urge you to reverse the new policies on Guantanamo detainee artwork.”¹²⁶

Mr. al Baluchi’s artwork and that of his fellow detainees at Guantanamo, has triggered a renewed public interest in the history of the prison at Guantanamo Bay, the detainees’ conditions

¹²³ *Richmond*, 448 U.S. at 576 (citing *First National Bank of Boston v. Bellotti*, 435 U.S. 765 (1978)).

¹²⁴ Att. V, NYT Editorial.

¹²⁵ Att. P, NCAC Letter.

¹²⁶ Att. P, NCAC Letter.

of confinement and medical conditions, and the military commission proceedings.¹²⁷ The more-than-200 articles that have been written about *Ode to the Sea* are ample evidence of this renewed discourse, as are the 1000+ visitors to the physical exhibition and the 67,000 views of the exhibition website.¹²⁸ As stated by Mr. [REDACTED] Guantanamo artwork is important for all strata of society, including veterans, victim family members, and the wider public who may be

¹²⁷ See, e.g., Att. U, New Yorker, “The Disarming Paintings Made By Guantanamo Detainees,” 13 Dec. 2017; BBC News, “The Art of Now,” 29 March 2018, *available at* <http://www.bbc.com/news/topics/cj5pn5r6jn8t/guantanamo-bay>; PBS, “The Art of the Guantanamo Bay Detainees,” 20 November 2017, *available at* <https://www.pbs.org/newshour/show/the-art-of-the-guantanamo-bay-detainees>; NPR, “Current And Former Guantanamo Bay Detainees Create 'Ode To The Sea' Art Exhibit,” 20 November 2017, *available at* <https://www.npr.org/2017/11/20/565506357/current-and-former-guantanamo-bay-detainees-creat-e-ode-to-the-sea-art-exhibit>; Close Guantánamo, “The Persistent Abuse of Guantánamo Prisoners: Pentagon Claims It Owns Their Art and May Destroy It, But U.S. Has Long Claimed It Even Owns Their Memories of Torture,” 22 November 2017, *available at* <https://www.closeguantanamo.org/Articles/271-The-Persistent-Abuse-of-Guantanamo-Prisoners-Pentagon-Claims-It-Owns-Their-Art-and-May-Destroy-It-But-US-Has-Long-Claimed-It-Even-Owns-Their-Memories-of-Torture>; dS Nieuws, “Kunst uit Guantanamo valt slecht in het nieuwe Amerika [“Art from Guantanamo received badly in the new America”], 23 November 2017, *available at* http://m.standaard.be/cnt/dmf20171123_03203185; Slate, “Voici les œuvres d'art des détenus de Guantánamo, dont ils sont maintenant privés [“Here are the works of art of Guantánamo detainees, which they are now deprived of”]” 27 November 2017, *available at* <http://www.slate.fr/story/154229/guantanamo-art-seul-echappatoire>; Vice, “The Military Is Burning Art from Guantanamo That the World Should See,” 27 November 2017, *available at* https://www.vice.com/en_us/article/7x4y4x/the-military-is-burning-art-from-guantanamo-that-the-world-should-see; News ro, “O navă în miniatură, o Statuie a Libertății fără chip și alte lucrări de artă create de deținuți la Guantanamo, expuse în New York [“A miniature ship, a Statuette of Liberty without a Face, and other works of art created by Guantanamo detainees exhibited in New York”],” 14 December 2017, *available at* <https://www.news.ro/cultura-media/o-nava-in-miniatura-o-statuie-a-libertatii-fara-chip-si-alte-lucrari-de-arta-create-de-detinuti-la-guantanamo-expuse-in-new-york-1922401314002017121217474576>; WGBH News, “In Guantanamo Bay, Detainees Make Art,” 20 December 2017, *available at* <https://news.wgbh.org/2017/12/20/news/guantanamo-bay-detainees-make-art>; Deutsche Welle (DW), “Pictures from imprisonment: New York gallery shows art from Guantánamo,” 29 December 2017, *available at* <http://amp.dw.com/de/bilder-aus-der-haft-new-yorker-galerie-zeigt-kunst-aus-guant%C3%A1nmo/a-41974796>.

¹²⁸ Att. D, Thompson Declaration at paras. 7-8.

unaware that Guantanamo still exists.

In a time in which a large portion of American society is not connected in anyway to our foreign policy and ongoing wars it is extremely important that the spectrum of creative expressions related to the lived experience of American foreign policy is shared with the public in order to allow for the marketplace of ideas to be judged by all of society. *If artists detained at Guantanamo Bay Detention Camp want their artwork to be seen by the public I believe that my fellow veterans and I should have a right to see that artwork.*¹²⁹

Ms. Ross has copious firsthand experience with the impact of prisoner art on the public, observing that “[f]or audiences outside of the prison, the writing and artwork offers a small window into the lives of those locked away. The art gives texture to an otherwise flat narrative of people who have committed crimes, or allegedly committed crimes . . . These exhibitions serve as a platform for deeper dialogue about how we understand the lives and conditions of people locked up in the U.S. and questions of accountability, harm and community resources.”¹³⁰ If ever a topic required “deeper dialogue” by the American public, to include the legality of the prison and the massive public expenditure on maintaining an offshore court system – it is Guantanamo Bay.

Regarding such dialogue, Prof. Thompson recounts having conducted tours of *Ode to the Sea* and having spoken to and corresponded with professionals from around the world who “work on topics including political science, sociology, psychology and psychiatry, medicine (including neuroscience), criminal justice, art therapy, terrorism, torture, detention, and human

¹²⁹ Att. G, [REDACTED] Declaration at 8, emphasis added.

¹³⁰ Att. H, Ross Declaration at 8.

rights. These experts were especially interested in examining Mr. al Baluchi's artwork, as a means of understanding his past and his current situation. In particular, experts in neuroscience, brain injuries, torture, and art therapy told me that Mr. al Baluchi's artwork was a valuable source of information about himself and about these topics in general."

Ms. Ginsburg, who (with Mr. ██████ organized a January 2017 exhibition of Guantanamo detainee artwork at George Washington University, noted that "Each of us [audience members] was forced to ask if we could find the spirit to create beauty in uncertainty and in isolation from our support networks."¹³¹ Ms. Ginsburg's sentiment echoes Ms. Rodriguez's intensely moving reaction to seeing Mr. al Baluchi's *Vertigo* in *Ode to the Sea*.

Looking at this artwork broke my heart when thinking of what his mother and family have been going through all these years. Just as I have to live with the pain of losing my 31-year-old son, they have to live with the pain of knowing so little of their family member and getting reports on rare occasions about his condition from the International Red Cross. Putting myself in the shoes of Mr. Al-Baluchi's mother makes me wonder if it's worse to lose a son and know he's dead than to suffer moment to moment for a son snatched away and detained under severe conditions. Neither he nor his family know what his fate will be.¹³²

Ms. Rodriguez reiterated her hope that the exhibition would encourage the public "recognize the injustice of torture, indefinite detention and long-delayed judicial resolution of the charges against all those held at Guantanamo Bay."¹³³ Such was the effect described by

¹³¹ Att. I, A. Ginsburg Declaration at para. 14.

¹³² Att. B, Rodriguez Declaration at para. 9.

¹³³ *Id.*

acclaimed actress Caroline Lagerfelt, who visited *Ode to the Sea* in January.¹³⁴ Ms. Lagerfelt describes her “extraordinary and deeply moving experience,” stating that “I am not ashamed to say that [Moath al-Alwi’s meticulously crafted ship] brought tears to my eyes. Many paintings were of the sea, but almost all had some barrier in between the artists’ point of view and the sea itself . . . reflective, I feel, of the insurmountable barriers they face.”¹³⁵ Ms. Lagerfelt noted that it was “extraordinary to realize that although they were held so close to the sea, they were never allowed to see the ocean until just before the hurricane last year, when the tarps were removed for a short time.”¹³⁶ Ms. Lagerfelt was also moved by Mr. al Baluchi’s artwork:

One of the most powerful paintings is “Vertigo at Guantanamo” by Ammar Al-Baluchi, a multicolored swirl that he painted to reflect the brain injury he suffered as a result of the brutal torture he underwent. For these men, whose memories of torture and even nightmares were classified, this painting gives us a rare and stark insight into what they suffered.

Ms. Lagerfelt’s observations about Mr. al Baluchi’s representation of his torture are exactly the type of public humanization that he is entitled to pursue as part of his mitigation strategy and as a form of therapy – but also exactly what the public is entitled to as part of open discourse and historical record.¹³⁷ As eloquently stated by Ms. Ginsburg,

This court has the opportunity to grant the American public access to compelling works of art made by detainees in the long tradition of art that directly speaks to the experience of war, from art made by interned Japanese to Goya and Picasso.

¹³⁴ Att. F, Declaration of Caroline Lagerfelt at para. 10.

¹³⁵ *Id.* at 11-12.

¹³⁶ *Id.* at 13.

¹³⁷ Even negative public reaction - inevitable in some measure – has immense value to the public discourse, and still retains Mr. al Baluchi’s rights to pursue mitigation strategy and engage in therapeutic exhibition.

This history is important and the courts can choose to preserve and open these beautiful works to the American public. These works are important historical documents as well as art works for future reference to artists, scholars of military history, American history, legal history, anthropology and art history.¹³⁸

The question of Guantanamo Bay art creation and dissemination impacts far more than Mr. al Baluchi's life, torture treatment, and defense. It is an issue symbolic of the government's arbitrary denial of rights and humane treatment to the Muslim detainees held in a prison designed to avoid the rule of law. The American public has a right to information, including artwork produced, from Guantanamo Bay; and Mr. al Baluchi has a right to pursue all defenses that could save his life. The military commission should affirm both rights and invalidate the restrictions on public dissemination of Mr. al Baluchi's artwork.

6. **Request for Oral Argument:** Mr. al Baluchi requests oral argument.
7. **Request for Witnesses:** None.
8. **Conference with Opposing Counsel:** The government defers its position until it has an opportunity to review this motion.
9. **Attachments:**
 - A. Certificate of Service
 - B. Declaration of Ms. Phyllis Rodriguez, 9/11 Victim Family Members for Peaceful Tomorrows
 - C. Declaration of Ms. Valerie Lucznikowska, 9/11 Victim Family Members for Peaceful Tomorrows
 - D. Declaration of Prof. Erin Thompson, John Jay College of Criminal Justice
 - E. Declaration of Prof. Jane Ginsburg, Columbia Law School

¹³⁸ Att. I, A. Ginsburg Declaration at para. 8.

- F. Declaration of Ms. Caroline Lagerfelt, Screen Actors Guild/Actors Equity Association
- G. Declaration of Sergeant (Retd.) [REDACTED] Hyde Park Arts Center/Chicago Artists Partnerships in Education
- H. Declaration of Prof. Sarah Ross, School of the Art Institute of Chicago
- I. Declaration of Prof. Amber Ginsburg, University of Chicago
- J. Declaration of Ms. Johanna Buwalda, Rush University Medical Center
- K. Declaration of Mr. Tony Gammidge, Art Refuge UK
- L. Declaration of Ms. Treacy Ziegler, Prisoner Express
- M. Declaration of Ms. Margaret O'Donnell, Federal Death Penalty Resource Counsel Project
- N. Declaration of Ms. Frederica Brooks, Freedom From Torture UK
- O. Declaration of Ammar al Baluchi (Marked Unclassified//For Public Release)
- P. Letter to Secretary James L. Mattis from 12 Free Speech Organizations
(16 Jan. 2018)
- Q. Federal Bureau of Prisons, Program Statement on Inmate Recreation Programs
(2008)
- R. Prison Arts Resource Project, An Annotated Bibliography (2014)
- S. Miami Herald, "Detainee Art? What Detainee Art? Popular Stop Vanishes From Prison Media Visit" (10 February 2018)
- T. Dawn, "Footprints: Artworks from Guantanamo" (2 January 2018)

U. The New Yorker, “The Disarming Paintings Made By Guantanamo Detainees”
(13 December 2017)

V. New York Times, “Art Freed from Guantanamo” (2 December 2017, Editorial
Board)

Very respectfully,

//s//
JAMES G. CONNELL, III
Learned Counsel

//s//
STERLING R. THOMAS
Lt Col, USAF
Defense Counsel

//s//
ALKA PRADHAN
Defense Counsel

Counsel for Mr. al Baluchi

Attachment A

CERTIFICATE OF SERVICE

I certify that on the 13th day of April, 2018, I electronically filed the foregoing document with the Clerk of the Court and served the foregoing on all counsel of record by email.

//s//
JAMES G. CONNELL, III
Learned Counsel

Attachment B

DECLARATION OF PHYLLIS RODRIGUEZ

1. My name is Phyllis Rodriguez. I am over 18 years of age and competent to make a declaration.
2. I am the mother of Gregory Rodriguez, a victim of the 9/11 attacks on the World Trade Center in NY. He worked for Cantor Fitzgerald on the 103rd floor of the North Tower.
3. On three occasions between October 16, 2017 and January 26, 2018, I visited "Ode to the Sea: Art from Guantanamo Bay", in the President's Gallery of John Jay College of Criminal Justice.
4. In addition, I was invited to appear on a panel with Erin Thompson, curator of the exhibit; Shelby Sullivan-Bennis, an attorney with REPRIEVE; Ramzi Kassem, and Alka Pradhan, both long-time detainee counsel, on January 22, 2018.
5. The exhibit displayed 36 artworks made by eight detainees during their time in the Guantanamo Bay detention camps. One of these artworks was by Ammar Al-Baluchi, titled "Vertigo at Guantanamo".
6. My first response to Mr. Al-Baluchi's work was of deep sadness, particularly when learning that he had created it to describe his state of mind as a result of the torture he endured before being transferred to Guantanamo in September 2006 from an unknown site. He wanted his attorneys to understand him better.
7. I also felt empathy for him as a human being and not just an abstract being one of the alleged "masterminds" of the 9/11 attacks in the Military Tribunals at Guantanamo Bay.
8. I was affected deeply because it reminded me of that awful day in 2001 when my son and almost 3,000 people perished and more to this day from diseases caused by the after effects of the attacks. So many of us – victims families, victims, first responders and the nation - were traumatized then, that many of us still live with the effects of PTSD.
9. Looking at this artwork broke my heart when thinking of what his mother and family have been going through all these years. Just as I have to live with the pain of losing my 31-year-old son, they have to live with the pain

of knowing so little of their family member and getting reports on rare occasions about his condition from the International Red Cross. Putting myself in the shoes of Mr. Al-Baluchi's mother makes me wonder if it's worse to lose a son and know he's dead than to suffer moment to moment for a son snatched away and detained under severe conditions. Neither he nor his family know what his fate will be. What makes it even more disturbing is that there is a possibility that, if convicted, he could face execution.

10. On each visit, I spoke with other viewers about the exhibit. Of the 15-20 people I met, most felt empathy for Mr. Al-Baluchi, and anger that our nation is responsible for treating individuals in such a way as to permanently damage them physical and emotionally.
11. I hope that we as a nation will recognize the injustice of torture, indefinite detention and long-delayed judicial resolution of charges against all those held at Guantanamo Bay.
12. I hope that we as a nation will recognize the injustice of torture, indefinite detention and long-delayed judicial resolution of the charges against all those held at Guantanamo Bay.

I declare that the foregoing is true under penalty of perjury under the laws of the United States.

Dated this 8 day of March, 2018



Phyllis Rodriguez



Attachment C

DECLARATION OF VALERIE LUCZNIKOWSKA

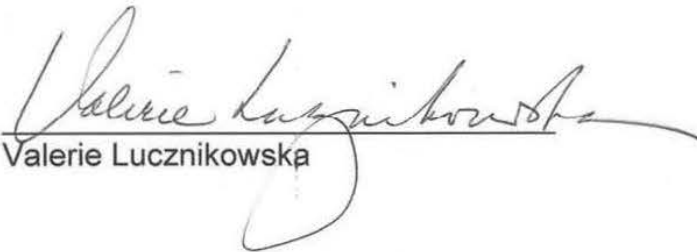
1. My name is Valerie Lucznikowska. I am over 18 years of age and competent to make a declaration.
2. I am the aunt of Adam P. Arias, a victim of the 9/11 attacks on the World Trade Center in New York. Adam worked for EuroBrokers in Tower #2.
3. On or about the 13th of December 2017, I visited, "Ode to the Sea: Art from Guantanamo Bay", in the President's Gallery of John Jay College of Criminal Justice.
4. The exhibit is a collection of about thirty pieces of art painted and/or constructed by prisoners in Guantanamo Bay, some of whom were released subsequently. The art is made from paints given to prisoners plus found objects, such as sand, cellophane package wrappers, toothpicks and plastic razor blade guards.
5. As an artist myself, I was overwhelmed by the seemingly undiminished creativity of people who have been confined to prison for extended periods. Human resiliency and the emotions we feel are shared by all of our species, and it is a testament to American values that we continue to encourage and preserve prisoner art. To see their personal expressions and views is a valuable insight to have.
6. Adam would have loved the ship models – he loved art and appreciated my knowledge of it – we talked of touring museums in London together not long before he died.
7. GTMO prisoners have been described repeatedly as the "worst of the worst", demons at best. But they are human like us. "Demons" is how some of them thought of us in the West. How we treat these people now is key to restoring our image with the world.
8. There is no healing for us without compassion and understanding of others. The horrible wounds suffered by myself, my family and other 9/11 families cannot be minimized, but revenge only begets more hatred and ultimately retaliation. It is time to come together in the cause of humanity.
9. At the gallery I met Beth Jacob, now a lawyer at the SPLC, and an attorney for one of the exhibitors. She told me that her client

had made the gondola for her, in appreciation for her work on his behalf. I admired the gondola as my favorite piece in the show. She told me about her client and how he came to make the art he did – it is enlightening to know that we share human values, such as appreciation for what we each do for each other.

11. I would like to see more art from Guantanamo, and hope that the detainees continue to produce art, have access to art supplies, and that they are able to maintain control of their art, to make gifts of it and display it. I hope this exhibit will travel and there will be more to come.

I declare that the foregoing is true under penalty of perjury under the laws of the United States.

Dated this 13 of March, 2018


Valerie Lucznikowska

Attachment D

DECLARATION OF PROFESSOR ERIN THOMPSON

1. My name is Erin Louisa Thompson. I am over 18 years of age and competent to make a declaration.
2. I hold an B.A. from Barnard College, a Ph.D. from the department of Art History and Archeology at Columbia University, and a J.D. from Columbia Law School. I have been a member of the New York Bar since 2011.
3. I am currently an assistant professor in the department of Art and Music at John Jay College of Criminal Justice, City University of New York.
4. I am the author of numerous articles on the relations between art and the law, particularly on the deliberate destruction of art as a technique of war to dispirit and dehumanize civilian populations.
5. I curated an art exhibit, titled "Ode to the Sea: Art from Guantánamo Bay," in the President's Gallery of John Jay College of Criminal Justice, New York. The exhibit ran from October 16, 2017 through January 26, 2018.
6. The exhibit displayed 36 artworks made by eight detainees during their time at the Guantánamo Bay detention camps. One of these artworks, titled "Vertigo at Guantanamo," was created by Ammar Al-Baluchi.
7. I estimate that 1,000 people visited the exhibition, in addition to the audiences for the two panel discussions held in association with the exhibition. However, the impact of the exhibition was much greater than just those who saw the art in person. As of the date of this declaration, the exhibit's website has been viewed 67,353 times. This website includes images of several of Mr. Al-Baluchi's artworks.¹
8. Additionally, the exhibit attracted widespread media coverage, resulting in more than 200 news, radio, and television reports in 12 languages. This included pieces in the *Guardian*, *Miami Herald*, *International Business Times*, *Süddeutsche Zeitung*, *The Independent*, *New York Post*, *Frankfurter Allgemeine Zeitung*, *Le Figaro*, *Financial Times*, *Washington Post*, *Los Angeles Times*, *Chicago Tribune*, *The Nation*, *Vice*, *Art Newspaper*, *Art Forum*, *Paris Review*, and the *Smithsonian Magazine*, along with six pieces in *The New York Times* alone. TV and radio pieces included reporting by PBS' "NewsHour," NPR's "All Things Considered," the BBC World Service, the Canadian Broadcasting Corporation, Fox News, NBC News, CBS News, and Al Jazeera.

¹ At <https://www.artfromguantanamo.com/ammar-albaluchi-1/>.

9. As a result of this media coverage, millions of readers and viewers from around the world have seen images of the artwork in the exhibit. Mr. Al-Baluchi's artwork was displayed in almost all of these reports.
10. My intention, in curating an exhibit of art made by Guantánamo detainees, was to contribute to John Jay College's commitment to providing opportunities to think about issues involving justice to its students, the academic community, and the general public. The exhibition was a great success in this respect.
11. I conducted tours of the exhibition, gave interviews, distributed images of the artworks, and otherwise corresponded with students, professors, and other researchers from around the world who work on topics including political science, sociology, psychology and psychiatry, medicine (including neuroscience), criminal justice, art therapy, terrorism, torture, detention, and human rights. These experts were especially interested in examining Mr. Al-Baluchi's artwork, as a means of understanding his past and his current situation. In particular, experts in neuroscience, brain injuries, torture, and art therapy told me that Mr. Al-Baluchi's artwork was a valuable source of information about himself and about these topics in general.
12. A wide variety of people, other than scholars, visited the exhibition. I had the opportunity to discuss Mr. Al-Baluchi's artwork with veterans, former Guantanamo guards, and many family members of victims of the September 11, 2001 terrorist attacks. They told me that looking at Mr. Al-Baluchi's artwork was a deeply moving experience that prompted them to think about their own and their loved one's lives, the best ways of obtaining justice for the victims of terrorist attacks and of preventing terrorism in the future, and even about what it means to be human.
13. I shared descriptions of viewers' and scholars' reactions to Mr. Al-Baluchi's work with his counsel, along with other materials, such as photographs documenting the installation of the artwork and the opening reception and the exhibition's two panel discussions. I am informed that Mr. Al-Baluchi's counsel shared these materials, when permitted, with Mr. Al-Baluchi. I am informed that Mr. Al-Baluchi found it encouraging to see so many people thinking about his life and case as a result of their contemplation of his artwork.
14. I am informed that, when Mr. Al-Baluchi's counsel asked if he was willing to have his art displayed in this exhibition, he replied that he wanted to participate in the hope that viewers would realize that he is a human being. I believe that, in Mr. Al-Baluchi's current circumstances, displaying his art is the only means he has of achieving this goal, which is important to all of us.

I declare that the foregoing is true under penalty of perjury under the laws of the United States.

Dated this 2nd day of February, 2018

Erin L. Thompson

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Attachment E

COLUMBIA UNIVERSITY
IN THE CITY OF NEW YORK

LAW SCHOOL

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Via email: alka.pradhan.civ@mail.mil

8 March 2018

Dear Ms. Pradhan,

I am the Morton L. Janklow Professor of Literary and Artistic Property Law at Columbia Law School, where I have taught U.S. copyright law and international copyright law since January 1987. My c.v. is attached. I have authored or co-authored many books and articles on U.S. and international copyright law, including:

COPYRIGHT: CASES AND MATERIALS, with Prof. R.A. Gorman and Prof. R.A. Reese
(Foundation Press 9th edition 2017)

COPYRIGHT LAW: CONCEPTS AND INSIGHTS, with Prof. Robert A. Gorman (Foundation
Press 2012)

INTERNATIONAL COPYRIGHT AND NEIGHBORING RIGHTS: THE BERNE CONVENTION AND
BEYOND, with Prof. Sam Ricketson (2 vols.) (2d ed. Oxford University Press, 2006), 3d
edition in preparation

INTERNATIONAL COPYRIGHT LAW - US AND EU PERSPECTIVES: TEXT AND CASES, with Prof.
Edouard Treppoz (Edward Elgar, 2015)

I am above the age of 18 and competent to make a declaration.

I understand the relevant facts to be as follows: Mr. al Baluchi is a Pakistani national. He created the artworks while incarcerated in Guantanamo Bay. His artwork was featured in "Ode to the Sea," an exhibition at John Jay College of Criminal Justice in New York City, <https://www.artfromguantanamo.com/>. The exhibit and Mr. Al Baluchi's work received substantial and widespread national and international media coverage. In the U.S., leading national news sources featured stories about the exhibit and Mr. al Baluchi's art. The stories appeared on broadcast television and radio, and in print, as well as on the internet.

CBS News, "Art from behind the walls of Guantanamo," 21 January 2018, available at <https://www.cbsnews.com/news/art-from-behind-the-walls-of-guantanamo/>

PBS, "The art of the Guantanamo Bay detainees," 20 November 2017, available at

<https://www.pbs.org/newshour/show/the-art-of-the-guantanamo-bay-detainees>

NPR, "Current And Former Guantanamo Bay Detainees Create 'Ode To The Sea' Art Exhibit," 20 November 2017, available at <https://www.npr.org/2017/11/20/565506357/current-and-former-guantanamo-bay-detainees-create-ode-to-the-sea-art-exhibit>

The New Yorker, "The Disarming Paintings Made By Guantanamo Detainees," 13 December 2017, available at <https://www.newyorker.com/culture/cultural-comment/the-disarming-paintings-made-by-guantanamo-detainees>

Public Radio International, "The art made by Guantánamo Bay detainees," 20 December 2017, available at <https://www.pri.org/stories/2017-12-20/art-made-guant-namo-bay-detainees>

WGBH News, "In Guantanamo Bay, Detainees Make Art," 20 December 2017, available at <https://news.wgbh.org/2017/12/20/news/guantanamo-bay-detainees-make-art>

<https://www.gettyimages.com/detail/news-photo/vertigo-at-guantanamo-by-pakistani-detainee-amm-al-news-photo/892014722#/vertigo-at-guantanamo-by-pakistani-detainee-amm-al-news-photo/892014722>

International coverage of the artworks appeared, *inter alia*:

In Argentina:

La Nacion, "Obras hechas en prisión de Guantánamo se exhiben en una expo en Nueva York," 14 December 2017, available at <https://www.lanacion.com.ar/2091422-obras-hechas-en-prision-de-guantanamo-se-exhiben-en-una-expo-en-nueva-york>

Translated via Google Chrome:

La Nacion, "Works done in Guantanamo prison are exhibited at an expo in New York," 14 December 2017, available at <https://www.lanacion.com.ar/2091422-obras-hechas-en-prision-de-guantanamo-se-exhiben-en-una-expo-en-nueva-york>

In Egypt:

Daily News Egypt, "New York gallery shows prisoner art from Guantanamo Bay," 1 January 2018, available at <https://dailynewsegypt.com/2018/01/01/new-york-gallery-shows-prisoner-art-from-guantanamo-bay/>

In Germany:

Deutschlandfunk Kultur, "New York zeigt Bilder von Terrorverdächtigen Kunst aus Guantanamo," 29 November 2017, available at http://www.deutschlandfunkkultur.de/new-york-zeigt-bilder-von-terrorverdaechtigen-kunst-aus.2165.de.html?dram:article_id=401853

Translated via Google Chrome:

Germany Radio Culture, "New York shows images of suspected terrorist art from Guantanamo," 29 November 2017, available at http://www.deutschlandfunkkultur.de/new-york-zeigt-bilder-von-terrorverdaechtigen-kunst-aus.2165.de.html?dram:article_id=401853

Westfälische Nachrichten, "Kunst aus Guantánamo in einer Schau in New York," 28 December 2017, available at <http://m.wn.de/Welt/Kultur/Kunst/3104700-Hinter-Gittern-Kunst-aus-Guantanamo-in-einer-Schau-in-New-York>

Translated via Google Chrome:

Westfalian News, "Art from Guantánamo in a show in New York," 28 December 2017, available at <http://m.wn.de/Welt/Kultur/Kunst/3104700-Hinter-Gittern-Kunst-aus-Guantanamo-in-einer-Schau-in-New-York>

Deutsche Welle (DW), "Pictures from imprisonment: New York gallery shows art from Guantánamo," 29 December 2017, available at <http://amp.dw.com/de/bilder-aus-der-haft-new-yorker-galerie-zeigt-kunst-aus-guant%C3%A1namo/a-41974796>

Deutsche Welle (DW), "New York gallery shows prisoner art from Guantanamo Bay," 1 January 2018, available at <http://www.dw.com/en/new-york-gallery-shows-prisoner-art-from-guantanamo-bay/a-41990510>

Monopol, "New Yorker Uni stellt Kunst von Guantánamo-Insassen aus," 8 January 2018, available at <https://www.monopol-magazin.de/kunst-aus-guantanamo-ein-stueck-persoenlichkeit-hinter-gittern>

Translated via Google Chrome:

Monopol Magazine, "New York University exhibits art by Guantánamo inmates," 8 January 2018, available at <https://www.monopol-magazin.de/kunst-aus-guantanamo-ein-stueck-persoenlichkeit-hinter-gittern>

In Guatemala:

Emisoras Unidas, "Las obras de arte hechas en la prisión de Guantánamo," January 2018, available at <https://emisorasunidas.com/las-obras-de-arte-hechas-en-la-prision-de-guantanamo/>

Translated via Google Chrome:

United Stations, "The works of art made in Guantánamo prison," January 2018, available at <https://emisorasunidas.com/las-obras-de-arte-hechas-en-la-prision-de-guantanamo/>

In India:

The Hindu, "A different Guantanamo: Detainee art on display in New York," 14 December 2017, available at <http://www.thehindu.com/news/international/a-different-guantanamo-detainee-art-on-display-in-new-york/article21665509.ece>

In Malaysia:

Kosmo! Online, "Tahanan Guantanamo luah perasaan lukisan," 11 January 2018, available at <http://www.kosmo.com.my/k2/rencana-utama/tahanan-guantanamo-8232-luah-perasaan-lukisan-1.588276>

Translated via Google Chrome:

Kosmo! Online, "Guantanamo detainees are feeling a painting," 11 January 2018, available at <http://www.kosmo.com.my/k2/rencana-utama/tahanan-guantanamo-8232-luah-perasaan-lukisan-1.588276>

In North Africa (Tunisia, Algeria, Morocco):

Huffington Post International, "Les oeuvres d'art de détenus de Guantanamo exposées à New York," 14 December 2017, available at http://www.huffpostmaghreb.com/2017/12/14/exposition-oeuvres-de-gua_n_18815552.html

Translated via Google Chrome:

Huffington Post International, "Works of art of Guantanamo detainees exhibited in New York," 14 December 2017, available at http://www.huffpostmaghreb.com/2017/12/14/exposition-oeuvres-de-gua_n_18815552.html

In Pakistan:

Dawn, "Footprints: ARTWORKS FROM GUANTANAMO," 2 January 2018, available at <https://www.dawn.com/news/1380170>

In the Philippines:

Yahoo! Philippines, "A different Guantanamo: Detainee art on display in NY," 14 December 2017, available at <https://ph.news.yahoo.com/different-guantanamo-detainee-art-display-ny-030614369.html>

In Romania:

News.ro, "O navă în miniatură, o Statuie a Libertății fără chip și alte lucrări de artă create de deținuți la Guantanamo, expuse în New York," 14 December 2017, available at <https://www.news.ro/cultura-media/o-nava-in-miniatura-o-statuie-a-libertatii-fara-chip-si-alte-lucrari-de-arta-create-de-detinuti-la-guantanamo-expuse-in-new-york-1922401314002017121217474576>

Translated via Google Chrome:

News.ro, "A miniature ship, a Statuette of Liberty without a Face, and other works of art created by Guantanamo detainees exposed in New York," 14 December 2017, available at <https://www.news.ro/cultura-media/o-nava-in-miniatura-o-statuie-a-libertatii-fara-chip-si-alte-lucrari-de-arta-create-de-detinuti-la-guantanamo-expuse-in-new-york-1922401314002017121217474576>

In the UK:

The Independent, "The powerful artwork by Guantanamo prisoners America doesn't want the world to see," 21 November 2017, available at <http://www.independent.co.uk/news/world/americas/guantanamo-artwork-prisoners-censored-america-not-want-see-paintings-a8068376.html?twitter>

Ownership of copyright

Mr. al Baluchi's work is protected under the U.S. copyright law. Section 104 of the 1976 U.S. Copyright Act provides (emphasis added):

104. Subject matter of copyright: National origin

(a) Unpublished Works.—The works specified by sections 102 and 103, while unpublished, are subject to protection under this title **without regard to the nationality or domicile of the author.**

(b) Published Works.—The works specified by sections 102 and 103, **when published**, are subject to protection under this title if—

(1) **on the date of first publication, one or more of the authors** is a national or domiciliary of the United States, or **is a national**, domiciliary, or sovereign authority **of a treaty party**, or is a stateless person, wherever that person may be domiciled

...

101. Definitions

A “treaty party” is a country or intergovernmental organization other than the United States that is a party to an international agreement.

An “international agreement” is—

...

(3) the Berne Convention

...

Pakistan has been a member of the Berne Convention since 1948, see http://www.wipo.int/treaties/en/remarks.jsp?cnty_id=1747C

Mr. al Baluchi’s artwork, if not sold in copies, is unpublished; public exhibition does not itself publish a work, see 17 U.S.C. sec 101 (definition of “publication”). The U.S. protects all unpublished works of authorship regardless of the author’s nationality or residence. Even were Mr. al Baluchi’s artwork considered to have been published, it would still be protected in the U.S. because, as a Pakistani citizen, Mr. al Baluchi is a national of a State that is a member of the Berne Convention. Mr. al Baluchi’s work comes within the subject matter of U.S. copyright under section 102(a)(5) of the 1976 Act, which covers “pictorial, graphic or sculptural works.” The 1976 Act’s provisions therefore fully apply to Mr. al Baluchi’s artwork.

Section 201(a) of the U.S. copyright law provides that copyright in an original work of authorship vests initially in its author. Section 204(a) of the 1976 Act requires that any transfer of copyright ownership be in writing and signed by the grantor. Unless, therefore, Mr. al Baluchi has executed a contract of transfer of copyright ownership, he owns all the rights under U.S. copyright law. Section 201(b) derogates from the principle of author-ownership in the case of a “work made for hire,” but Mr. al Baluchi’s artwork does not fit the criteria for works made for hire. Section 101 of the 1976 Act defines a “work made for hire” as either:

1) a work prepared by an employee within the scope of his or her employment; or

(2) a work specially ordered or commissioned for use as a contribution to a collective work, as a part of a motion picture or other audiovisual work, as a translation, as a supplementary work, as a compilation, as an instructional text, as a test, as answer material for a test, or as an atlas, if the parties expressly agree in a written instrument signed by them that the work

shall be considered a work made for hire.

Mr. al Baluchi is not an employee of the U.S. government or any other public authority. Works of art such as Mr. al Baluchi's are not included on the limitative list of "specially ordered or commissioned works," as the Supreme Court has emphasized in a case involving a commissioned sculpture, see *CCNV v. Reid*, 490 US 730 (1989). In addition, the statute provides that a commissioned work cannot be a "work made for hire" unless there is a writing signed by the creator and the commissioning party that states that the work will be "for hire." I have not been informed of any such agreement, which, in any event, would not suffice to make the artwork "for hire," because the work is excluded from the categories of works for which the parties can contract into work for hire status. As a result, under U.S. law, Mr. al Baluchi is and remains the copyright owner of his artwork.

Exercise of copyright

As the copyright owner, Mr. al Baluchi enjoys the exclusive rights, *inter alia*, to reproduce, distribute and publicly display his work, 17 U.S.C. sec. 106. But international copyright norms do not bar the U.S. from prohibiting the works' dissemination. According to article 17 of the Berne Convention (emphasis added):

The provisions of this Convention cannot in any way affect the right of the Government of each country of the Union to permit, to control, or to prohibit, *by legislation or regulation*, the *circulation, presentation, or exhibition* of any work or production in regard to which the competent authority may find it necessary to exercise that right.

Thus, international instruments to which the US is a party – the Berne Convention, and through it the 1994 Agreement on Trade-Related aspects of Intellectual Property (TRIPS Agreement), Annex 1C of the Marrakesh Agreement Establishing the World Trade Organization (see TRIPS art. 9(1)) – permit the U.S. to promulgate laws or implementing regulations that limit foreign authors' exercise of certain rights under copyright. The legislative history of art. 17 establishes that the phrase "by legislation or regulation" restricts permissible censorship measures to those having a legal basis in a statute or in regulations derived from the pertinent statute. See *Records of the 1967 Stockholm Conference*, Document S/226 at 911 (remarks of Professor Ulmer). The requirement of a statutory basis obliges member states to respect due process; art. 17 does not authorize imposition of censorship measures by fiat.

A second point regarding the scope of art. 17: the permissible measures address "circulation, presentation, or exhibition of any work." They do not allow member states to alter copyright ownership, nor to abolish copyright protection for the affected works. Moreover, a member state's right to prohibit a work's distribution or display does not imply a right to destroy the work. The U.S. government fully comprehends that censorship and copyright are two different matters under the Berne Convention and the TRIPS Agreement: the distinction between treaty-compliant censorship and treaty-impermissible deprivation of copyright protection provided one basis of the WTO dispute resolution proceeding that the U.S. brought against China's censorship laws that denied copyright protection to foreign authors. See WTO Panel WT/DS362/R4. The U.S. in that action stressed that a member state may prohibit the circulation of works unless the censorship authorities approve them, but the Member State cannot deprive the foreign author of copyright protection. Thus, even if the foreign author may not lawfully disseminate her works in a given territory, she retains the right, for example, to enforce the copyright against infringers in that

member State. That state may not, in the name of censorship, confiscate her copyright.

Protection of “works of visual art”

Finally, Mr. al Baluchi’s artworks qualify as “works of visual art,” potentially protected by the Visual Artists Rights Act (VARA), against destruction. VARA defines a “work of visual art” as, *inter alia*, “(1) a painting, drawing, print or sculpture, existing in a single copy.” The author of a work of visual art has the right:

(B) to prevent any destruction of a work of recognized stature, and any intentional or grossly negligent destruction of that work is a violation of that right.

17 U.S.C. sec. 106A(a)(3)(B). The US District Court for the Eastern District of New York recently awarded maximum statutory damages of \$150,000 per work infringed (totaling \$6,750,000), for the willful destruction of 45 “aerosol art” paintings which the artists had painted onto the walls of defendant’s buildings with defendant’s permission. See *Cohen v. G&M Realty, LP*, Case No. 13-CV-05612(FB)(RLM) (February 12, 2018). Although the works were not of a kind traditionally found in museums, the court found that they were “works of recognized stature.” Among the factors the court took into account in determining whether the works met the statutory standard, the court found whether the works had “attracted significant third-party attention or social media buzz” particularly probative. Slip op. at 34. (See also *id.* “third party attention, social media presence” justified finding of “recognized stature.”) The court also considered expert testimony but did not find it determinative. Slip op. at 29: “expert testimony is not the *sine qua non* for establishing that a work of visual art is of recognized stature.” The public attention Mr. al Baluchi’s artwork received at the John Jay College exhibition and its extensive national and international press and social media coverage, exemplified by the numerous citations listed above, may suffice to characterize some or all of his artwork as “works of recognized stature” protected against willful destruction.

I affirm that the foregoing is true under penalty of perjury pursuant to the laws of the United States.

Sincerely,



Jane Ginsburg

Attachment F

DECLARATION OF CAROLINE LAGERFELT

1. My name is Caroline Lagerfelt, I am over 18 years old and fully competent to make a declaration.
2. I have been a working professional actress for over 40 years. I am a member of three unions: the Actors Equity Association, the Screen Actors Guild, and the American Federation of Television and Radio Artists, (the last two unions have now joined forces). I have also been a union negotiator, and served as deputy on many productions.
3. My career includes ten Broadway plays, working with amongst others: Harold Pinter, Ingrid Bergman, Sir John Gielgud, F.Murray Abraham, Tom Stoppard, and dozens of off- Broadway and regional theatre productions.
4. I have made over 20 feature films, including such movies as "Minority Report," "Altered Minds" and "All the King's Men."
5. My television credits include running parts on Gossip Girl, Nash Bridges, 90210, and countless guest starring roles.
6. A life changing moment in my career happened 14 years ago when I was offered the opportunity to play the great British human rights lawyer Gareth Peirce in the New York production of "Guantanamo, Honor Bound to Defend Freedom." At that time, little was known about Guantanamo, and what was known was hard to believe: that the United States was shipping tortured Muslim men and children to an offshore detention camp where they could be held without charge indefinitely, stripped of their humanity and hope, and be brutally treated.
7. The play was widely praised and written about, and many iconic human rights fighters came to see it and join us on stage, including a stunning evening with Archbishop Desmond Tutu.
8. As an immigrant to America, although not naïve, (my father was a Swedish Ambassador and I grew up around international politics) it was incomprehensible to me that this Kafkaesque gulag existed under the aegis of the United States. A United States where the tortured would be put on trial, and the torturers allowed to go free.
9. Since then I have tried in my humble way to fight for the closure of this atrocity. I have been a member and supporter of Amnesty International and CCR for many years, have started to work with Human Rights First, and was given the great honor to speak in front of the White House at the tenth anniversary of the opening of Guantanamo.
10. In January 2018, I went to see the art exhibit "Ode to the Sea" at the John Jay

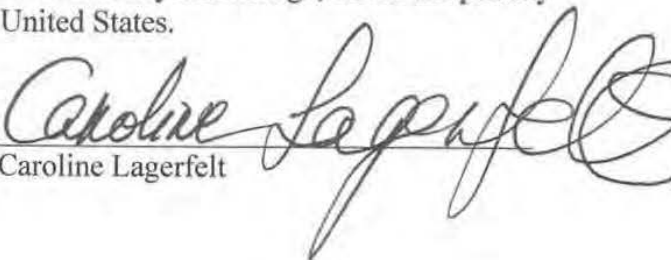
College of Criminal Justice, and was given a tour by the curator Erin Thompson. It was an extraordinary and deeply moving experience.

11. The first art piece I saw was the stunning, meticulously crafted ship by Moath al-Alwi, a "forever prisoner" and long term hunger-striker, by using found materials, bits of cardboard, parts of the plastic housing of razors, scraps of old t-shirts stiffened with glue for the sails. I am not ashamed to say that it brought tears to my eyes. To think that this man, shackled to the floor, working often eight hours a day created such a beautiful piece, speaks to the triumph of the human soul over the most appalling adversity.
12. Many of the paintings were of the sea...but almost all of those had some barrier in between the artists' point of view and the sea itself...reflective, I feel, of the insurmountable barriers that they face. Also extraordinary to realise that although they were held so close to the sea, they were never allowed to see the ocean until just before the hurricane last year, when I understand that the tarps were removed for a short time.
13. Muhammad Ansi's beautiful painting of two hands clutching onto the prison bars of a tiny window, and also holding four flowers that reach out beyond the window into freedom, to me, shows the tiny glimmer of hope, as frail as these spindly flowers, that some of the detainees have managed to hold on to.
14. One of the most powerful paintings is "Vertigo at Guantanamo" by Ammar Al-Baluchi, a multicolored swirl that he painted to reflect the brain injury he suffered as a result of the brutal torture he underwent. For these men, whose memories of torture and even nightmares were classified, this painting gives us a rare and stark insight into what they suffered.
15. The news that the DoD is preventing any further release of artwork, and considering incinerating or shredding it is devastating. It is also unworthy of the United States, and puts it on a par with the destruction of art by Nazi Germany or the Buddhas of Bamyan by the Taliban.
16. I would also suggest that it is yet another black eye for America. Destruction and censorship of art is a desperate act that is not only immoral and inhumane, but also one that will ultimately backfire.
17. As an artist myself, I deplore this cruel and unnecessary decision. To take away this one outlet of creativity and positive expression from these men, and to threaten to destroy their work is shocking and soul destroying. Despite the best attempts of the United States to dehumanize these detainees, their humanity has emerged through their paintings, as the flowers emerged from Muhammad Ansi's prison cell.
18. I feel that the art exhibit has let in a flood of light onto a dark chapter in America's

history, and enabled people who maybe haven't thought about what is being done in their name to face up to the unpalatable truth...and hopefully to take action.

19. The American public has the right to see the exhibition. Indeed, it is vital that they do so, as it is the only contact allowed between the detainees and the public. I believe the exhibition should travel across the United States – indeed, the world. Horace said “A picture is a poem without words.” These men have had their words, memories and nightmares silenced. Let their paintings bear silent and eloquent witness.

I declare that the foregoing is true to the best of my knowledge, under the penalty of perjury pursuant to the laws of the United States.


Caroline Lagerfelt

Attachment G

DECLARATION OF ARTIST & MILITARY VETERAN [REDACTED]

1. My name is [REDACTED]. I am over 18 years of age and competent to make a declaration.
2. I served with the 1244th Transportation Company Illinois Army National Guard for six years and was honorably discharged as a Sergeant (E5) in 2006. During my military service I did a fifteen-month deployment to Kuwait and Iraq and was awarded several medals including the Army Commendation, National Defense Service Medal, Medal, Global War on Terrorism Expeditionary Medal, Global War of Terror Service Medal, Armed Forces Service Medal w/ M Device, among others.
3. I hold a B.F.A. in Painting from University of Illinois, an M.F.A. in Art Theory and Practice from Northwestern University, and was awarded the Claire Rosen and Samuel Edes Foundation Prize for Emerging Artists in 2014.
4. I am a practicing artist and have presented my work nationally and internationally at such prestigious venues as the Museum of Modern Art in New York, Museum of Contemporary Art in Chicago, School of Visual Arts Museum in New York, Craft and Folk Art Museum in Los Angeles, Ohio University School of Art and Design, George Washington University, the San Francisco Art Commission, Haus Der Kulturen de Welt in Berlin, Germany, Ashkal Alwan in Beirut, Lebanon, the Maruki Gallery in Tokyo, Japan, among others.
5. I am currently a teaching artist at the Hyde Park Arts Center and with the Chicago Artists Partnerships in Education in Chicago, IL. I also work with the Prison & Neighborhood Arts Project (PNAP) and teach art every other year through PNAP at Stateville Prison in Crest Hill, IL.
6. For more than a decade I have been involved with the veteran art community. In 2006, I was invited to exhibit at the National Veterans Art Museum (formerly National Vietnam Veterans Art Museum) and am now a member of their Board of Directors and Chair of the Art Committee. In 2007, I helped co-found Warrior Writers which hosts writing workshops for veterans and service members. In 2014, I helped launch the emerging Veteran Art Movement which now hosts the podcast *Eighty One Echo* consisting of interviews with veteran artists.
7. Through my own art practice and my work within the veteran community I have seen how art and other creative practices can help individuals dealing with trauma. Art is a way to externalize abstract and often contradictory experiences, emotions and memories that simple words often cannot explain. It is a way to create language out of the black hole of trauma that can then be shared with others. This ability to share complex personal experiences and investigate one's individual relationship to complex systems such as war and detention is essential to creating meaning and understanding. Artwork made by survivors of war, detention, and other forms of structural violence does not only help the survivor create meaning out of trauma but when shared with society it can help

different publics develop an understanding of the survivors experience and of our justified and unjustified systems of structural violence.

8. Artwork transcends language barriers and helps a diversity of people understand our current reality of the ongoing Global War on Terror. In a time in which a large portion of American society is not connected in anyway to our foreign policy and ongoing wars it is extremely important that the spectrum of creative expressions related to the lived experience of American foreign policy is shared with the public in order to allow for the marketplace of ideas to be judged by all of society. If artists detained at Guantanamo Bay Detention Camp want their artwork to be seen by the public I believe that my fellow veterans and I should have a right to see that artwork.
9. The idea that artwork made by detainees at Guantanamo Bay Detention Camp or in any other situation would be destroyed contradicts the American ideals service members hope to defend when they enlist. Artwork made by friend and foe, by ally and enemy, is still artwork and the destruction of artwork violates our great American values and our own humanity. I see ISIS destroying artwork and am disgusted at the loss of cultural history and personal expression. I have studied the confiscation and/or destruction of artwork deemed degenerate by the Nazis. This included artwork by artists such as Otto Dix, Ernst Ludwig, Max Beckmann, Marc Chagall, Henri Matisse, Pablo Picasso, Vincent van Gogh, among others. The confiscation and/or destruction of artwork is what extremists and fascists do. It is not what Americans do and it is not what service members signed up to do. It violates American values, ideals, and laws that demand the protection of the freedom of speech. It is most important to apply American values and laws in the most difficult of situations. If our laws and values only apply when it is politically convenient, our overall legal system is in jeopardy.
10. During my military service it was made clear that the U.S. military followed the Geneva Convention. The third Geneva Convention provides a wide range of protection for Prisoners of War (POW) which to my understanding is the only internationally legally recognized categorization of the men detained at Guantanamo Bay Detention Camp. POWs must be treated humanely in all circumstances. I do not believe the destruction of a detainee's artwork, writings, or other intellectual work is a humane practice. Furthermore, when the Bush Administration created the classification of Enemy Combatant to refer to the men at Guantanamo Bay Detention Camp the administration created a legal loophole in order to violate the Geneva Convention. When we do not follow our own laws it does not only put our democratic system in jeopardy but endangers all those who signed up to defend American democracy. I believe the New York Times put it best in a 2002 article that reads,
Such flouting of the laws of war does more than threaten to violate the detainees' rights to suit the administration's preferences. It endangers American troops — and the armed forces of U.S. allies — who might someday find themselves captured in combat.(1)
11. Concern over violation of the Geneva Convention and the rights of prisoners is of utmost concern to service members and veterans, as they can imagine themselves in these situations with our own enemies.

12. In 2009, with a delegation of union organizers I traveled back to Iraq as a civilian to attend the First International Labor Conference in Erbil, Iraq. During this conference I heard stories from union workers from all over Iraq and about their struggle for worker rights and aspirations for an end to the U.S. occupation. It was during this conference that I had tea prepared in Iraqi tradition for the first time. I had been offer tea many times during my deployment but always refused do to the racism and fear perpetuated in the military. While deployed, I remember tea being called “Hadji water” and being told that the tea could be poisoned. I was humbled to be offered tea again despite my involvement in the U.S. occupation of Iraq.
13. After this transformative trip to Iraq, I began the *Tea Project*, an ongoing series of exhibitions and performances that uses tea to explore issues related to occupation, extralegal detention, torture, extraordinary rendition, and the Global War on Terrorism. Furthermore, this project incorporated, my friend and fellow veteran, [REDACTED] story of serving in Guantanamo Bay Detention Camp. An experience he said was one way of “... becoming a concentration camp guard without ever having really made many decisions.”(1) Despite his frustration with his guard duty at Guantanamo he was moved by the creative expressions of the detainees. In a July 30, 2008 Esquire Magazine article [REDACTED] notes,
- One thing I miss is the cups. The detainees were only allowed to have Styrofoam cups, and they would write and draw all over them. I'm not totally familiar with Muslim culture, but I did learn that they don't draw the human form, and I'm not positive if they draw any creatures, but they draw a lot of flowers. They would cover the things with flowers. Then we would have to take them. It was a ridiculous process. We would take the cups—as if they were writing some kind of secret message that they were somehow going to throw into the ocean, that would get back to somebody—and send them to our military intelligence. They would just look at these things and then throw them away. I used to love those little cups.(2)*
14. It is these humanizing gestures of making simple creative marks in a styrofoam cup or of offering tea despite differences that is central to the *Tea Project*. These gestures humanize our supposed enemies and in turn helped [REDACTED] and I maintain our own humanity. It is these kinds of humanizing gestures that the *Tea Project* shares with a wider public audience because, despite real or perceived wrongs, when one dehumanizes their enemy they in turn dehumanize themselves.
15. Working with the veteran community I have seen how this cycle of dehumanization is often connected to Moral Injury and exacerbates Post Traumatic Stress Disorder (PTSD). I am personally service connected through the Department of Veterans Affairs for PTSD and know that connecting with the Iraqi community, a community that I once contributed to dehumanizing, has been essential to my healing process. I believe that addressing the moral shame associated with the psychological, cultural, and spiritual aspects of trauma depends on some kind of reconciliation with one's guilt, enemies, and/or memories.

16. Since its inception in 2009 the *Tea Project* has partnered with many veterans, lawyers, and human rights activists. One important partnership has been with lawyers and legal advocates from the Center for Constitutional Rights, whom have provided legal defence for many of the men detained at Guantanamo Bay Detention Camp. Through this relationship, in January 2017 on the fifteenth anniversary of the opening of Guantanamo Bay Detention Camp, the *Tea Project* had the privilege of exhibiting alongside the artwork of former Guantanamo Detainees Ghaleb Al-Bihani and Djamel Ameziane. At the time of the exhibition opening Ghalab was still detained despite being cleared for transfer in 2014 and being detained without charge since 2002. During the exhibition Mr. Al-Bihani was finally transferred out of Guantanamo. The press release for the exhibition quotes Mr. Al-Bihani saying, "Painting makes me feel as if I am embracing the universe.... I also see things around me as if they were paintings, which gives me the sense of a beautiful life."⁽⁴⁾ This idea of "embracing the universe" and a "beautiful life" is full of hope and a far cry from the notions of detention, terrorism, war, or torture. I remember looking at his artwork full of bright colors and beautiful landscapes and feeling a sense of hope, despite. I believe his art was an expression of his humanity and it was important for me to see that work as a way to witness his humanity that had been denied. I was grateful to have the opportunity to exhibit with Mr. Al-Bihani and Mr. Ameziane.
17. This use of art to cling to hope is not unique to Mr. Al-Bihani. The work from Guantanamo detainees exhibited in *Ode to the Sea* at John Jay College of Criminal Justice in New York reflected much of this same sentiment. All of which reminds me of my own struggle. My deployment in 2003 was full of dehumanization. In the middle of my deployment, feeling like I was surrounded by destruction, I turned to art to maintain a sense of hope and cling to an idea that there was a "beautiful life" out there. I began to seek for beauty in the most mundane things from a wilted desert flower to a little bird flying in and out of barbed wire. Although our situations were very different, it seems that Mr. Al-Bihani, many of the other men detained in Guantanamo, and I all turned to art to hold on to our sense of humanity. I have heard this sentiment repeated by students incarcerated in Stateville Prison, a maximum security prison in Illinois where I teach a college level art class every other year with the Prison and Neighborhood Arts Project.
18. Other veterans have expressed to me how important it is for them to have had the opportunity to see the artwork of the men detained at Guantanamo. Personally, I went to see the *Ode to the Sea* at John Jay College of Criminal Justice with a fellow veteran. We both traveled to New York with the hope of having the opportunity to see this work of our supposed enemies. There is something important in the warrior ethos about understanding the humanity of your friends and foes alike. Too often the conversation about war, terrorism, detention, and torture plays out without any nuance or in depth understanding of the lives at stake in such rash claims of good and evil. The *Ode to the Sea* exhibition highlighted the artists' humanity through their appreciation of great wooden ships, the ocean, and sunsets. Scenes and objects of beauty that can be appreciated across difference.
19. One work from *Ode to the Sea* exhibition that stood out was Ammar Al-Baluchi's *Vertigo at Guantanamo*. Full of bright colors and swirling lines it left me off balance. It was

introspective and reflective, a work of internal exploration of trauma. It highlighted the chaotic feeling that I have personally had in the midst of the anxiety attack triggered by past trauma. The fact that humans react to structural violence in similar ways is important to uplift. It highlights our shared humanity.

20. Another *Tea Project* partnership has been with Larry Siems the editor of the book *Guantanamo Diary* by Mohamedou Ould Slahi who was detained at Guantanamo Bay Detention Camp without charge from 2002 until his release on October 17, 2016. During *Tea Project* events Mr. Siems has spoken about Mr. Slahi and read from *Guantanamo Diary*. A book in which Mr. Slahi recounts his rendition, detention, and torture at the hands of my fellow service members, yet he concludes his book with an author note that reads,
In a recent conversation with one of his lawyers, Mohamedou said that he holds no grudge against any of the people he mentions in the book [this includes individuals that tortured him], that he appeals to them to read it and correct it if they think it contains any errors, and that he dreams to one day sit with all of them around a cup of tea, after having learned so much from one another.(5)
21. I am humbled by this humanizing statement. Like so many of the other artworks that are now under threat of destruction at Guantanamo Bay Detention Camp, this statement embraces the humanity of everyone in a dehumanizing system and creates space for individuals to acknowledge and witness each other's humanity across difference.
22. I hope that we can all one day sit with one another, listen to one another, and learn from one another over a cup of tea.
23. I swear the foregoing is true to the best of my knowledge under the penalty of perjury pursuant to the laws of the United States.

Signed this 5th day of March, 2018



1. Kenneth Roth and International Herald Tribune, "Prisoners of war at Guantánamo: Bush policy endangers American and allied troops," *New York Times*, March 5, 2002, <http://www.nytimes.com/2002/03/05/opinion/prisoners-of-war-at-guantnamo-bush-policy-endangers-american-and.html>.
2. KENNETH ROTH and INTERNATIONAL HERALD TRIBUNE
3. Aaron Glantz, *Winter Soldier Iraq and Afghanistan Eyewitness Accounts of the Occupations* (Chicago: Haymarket Books, 2008), 82.
4. Lily Pierce, "What It Feels Like...to Be a Prison Guard at Guantánamo Bay," *Esquire Magazine*, July 30, 2008, <https://www.esquire.com/lifestyle/a4821/guantanamo-guard-0808/>.
5. Press Release: *The Tea Project with Ghaleb Al-Bihani & Djamel Ameziane*, <https://art.columbian.gwu.edu/tea-project>.
6. Mohamedou Ould Slahi, *Guantanamo Diary* (New York: Little, Brown and Company), 373.

Attachment H

DECLARATION OF PROFESSOR SARAH ROSS

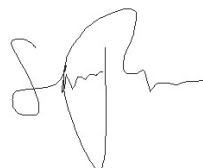
1. My name is Sarah Lynn Ross. I am over 18 years of age and competent to make a declaration.
2. I am an artist and educator. I received my Bachelor of Fine Arts from East Carolina University in 2000 and a Master of Fine Arts from University of California, Irvine in 2005.
3. I am a full-time faculty member at the School of the Art Institute of Chicago in the area of Art Education and a Soros Justice Fellow with Open Society Foundation.
4. For the last 12 years I have been working with incarcerated students and artists at Danville prison, a medium security facility and Stateville prison maximum-security facility in Illinois. In this capacity I have organized study groups at the prison, organized classes taught by myself and other artists and worked closely with prison administration to host the work outside the prison. In addition, I have researched the history of artists and art-making in prison around the country and specifically in the Chicago area.
5. I am the co-founder of an arts and humanities program, Prison + Neighborhood Arts Project, that works with incarcerated people and hosts exhibitions of work made in the prison in communities and cultural institutions in Chicago.
6. For more than 6 years I have been working with survivors of police torture under the command of Jon Burge in Chicago. A collaboration of artists, survivors of torture, lawyers, academics and advocates created art, exhibitions and eventually passed a reparations ordinance in the City of Chicago for survivors and their families. The Reparations package included teaching the torture cases in 8th and 10th grades in Chicago Public Schools and the creation of a center for survivors to get counseling for the traumas they survived.
7. Making art in prison is fundamental. For the several hundred years of the U.S. Penitentiary, prisoners have been making art. Documents of this start in the mid-eighteen hundreds. In other words, people serving time, and particularly people serving long prison terms often turn to education, art and other forms of disciplinary practice to 'do time.' These practices are critical for mentally surviving time, working through history and traumas and exploring self. At times they were practices that allowed the incarcerated artist to raise money to support their families or to pay their commissary or education while incarcerated. Art and education are a practice of so many incarcerated people—a practice that reminds people to live, when the walls of a cage constitute daily life. Importantly, art, writing and creative output are also a record of life. My work with artists serving long sentences has revealed the desperate need for people who are locked away for life to speak. The artists I work with regularly talk about the need to be heard outside the walls of the prison to their families and communities. They are more than the crime they committed, they are also parents, children, lovers and community members. Being locked away does not take away those identities, rather it just reshapes them. In this way,

art from these individuals is one way their presence, voice and vision is registered and shaped. Further, the security of the prison or outside communities is rarely negatively impacted by art or artist. Indeed, the contrary is true. Time and time again, studies have shown that opportunities for people to have creative and intellectual lives while incarcerated makes the facilities safer, with less incidents of depression, suicide and assaults. Further, when an incarcerated person has an outlet beyond the walls of confinement, there is more accountability, more to care for and connect with, more to live for.

8. I have curated and organized more than 10 exhibitions of work by incarcerated people. For audiences outside of the prison, the writing and artwork offers a small window into the lives of those locked away. The art gives texture to an otherwise flat narrative of people who have committed crimes, or allegedly committed crimes. Exhibitions that I have facilitated or curated outside the prison have involved working with a range of students (from middle school to college) to interpret, discuss and even co-curate the work. These exhibitions serve as a platform for deeper dialogue about how we understand the lives and conditions of people locked up in the U.S. and questions of accountability, harm and community resources. For instance when 8th graders from a local high school read the writing and saw the artwork of incarcerated men from Stateville prison, they talked about their own family members that are locked up and the fear of violence in their neighborhoods. When family members show up to exhibitions, they talk to people who sometimes have seemingly little connections to prisons. We believe this is a starting point for transformative relationships. We know that locking people away forever is not the way to solve or prevent harm. We also know that people locked up are so often both survivors of violence and perpetrators of violence. In this way, their art and writing are parts of the solutions to harm reduction and safety in our communities.

I declare that the foregoing is true under penalty of perjury under the laws of the United States.

Dated this 27th day of February 2018.



SARAH L. ROSS
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List of Curated Exhibitions:

- 2017 *It's Now*. Co-Organizer for a public project and collaboration with Prison + Neighborhood Arts Project, the National Alliance for the Empowerment of the Formerly Incarcerated, University of Illinois Museum and Exhibition Studies Program and Men Making A Difference. Mural project at a vacant building in North Lawndale, Chicago, IL.
- 2016 *Mitigating Evidence*. Co-curator And exhibition with Prison + Neighborhood Arts Project and Free Write Literary Arts; project put in conversation work developed by youth in Cook County detention center and adults in Stateville Prison. Chicago Art Department, Chicago, IL.
- Weight of Rage*. Curator for Prison + Neighborhood Arts Project. An exhibition and parallel events including performances from Just Yell Poetry; a workshop with 96 Acres; a double feature film screening of newly released "A Place to Stand" and a 1970 film "The Insiders"; and a creative writing workshops with students from Village Leadership academy. Hyde Park Art Center, Chicago, IL
- 2015 *Freedom Dreams*. Co-curator with Alice Kim for Prison + Neighborhood Arts Project. An exhibition featuring new works by ten Chicago artists commissioned to respond to writing developed at by students in classes at Stateville Prison. Pop Up Just Art, Social Justice Initiative, University of Illinois, Chicago, IL
- The Material that Went to Make Me*. Co-curator with Laurie A. Palmer, Tim Barnett and Vida Sacic for Prison + Neighborhood Arts Project. Exhibition and events including a screening of "Girl Trouble" with the school's student group of Formerly Incarcerated Standing Together (F.I.S.T.). Northeastern Illinois University Library, Chicago, IL
- 2014 *The Material that Went to Make Me*. Co-curator with Laurie A. Palmer for Prison + Neighborhood Arts Project. Exhibition and events including a roundtable discussion with Black Arts Movement artists who taught in prisons and a performative reading. South Side Community Art Center, Chicago, IL
- 2013 *Creative Resistance in a Prison Nation*. Co-curator with Kevin Kaempf. A monthly forum on creative responses to mass criminalization and incarceration. Sullivan Galleries, School of the Art Institute of Chicago and Jane Addams Hull-House, University of Illinois, Chicago, IL
- 2013 *Perspectives from a Life Held Captive*. Curator for Prison + Neighborhood Arts Project. Exhibition and events including a workshop, film screening of Tirza Even's "Natural Life", and panel discussions with Shobha Mahadev of Northwestern Law School, Mariame Kaba of Project Nia, Evan Lyon, University of Chicago Medical School, Charity Toliver of Black Thought, Black Action, Benny Lee of National Alliance for the Empowerment of the Formerly Incarcerated. Three Walls Gallery, Chicago, IL

Opening the Black Box. Co-organizer for Chicago Torture Justice Memorials Project. Exhibition of speculative memorials and events including a workshop, film screenings, poetry readings around the Survivors of Chicago Police Torture under police commander Jon Burge. Through art and organizing this collective helped win a historic Reparations Ordinance for Survivors of Burge's torture. Sullivan Galleries, School of the Art Institute of Chicago, Chicago, IL

Reparations on My Soul. Co-organizer for Chicago Torture Justice Memorials Project. Exhibition and events including a panel discussion on international reparations and performances that considered ideas of reparations for Survivors of Burge Torture. Through art and organizing this collective helped win a historic Reparations Ordinance for survivors of Burge's torture. Art In These Times, Chicago, IL

2009 *The World We do not Live in (Yet): visions from an Illinois State Prison.* Co-organized with University High School Students. Exhibition and panel discussion with high school students about school to prison pipeline. Independent Media Center, Urbana, IL

Attachment I

DECLARATION OF AMBER GINSBURG

1. My name is Amber Ginsburg. I am over 18 years of age and competent to make a declaration. I hold a Bachelor of Science from Illinois State University and a Masters of Fine Art from the School of the Art Institute of Chicago.
2. I am a practicing artist with an extensive exhibition record both nationally and internationally including Museum of Contemporary Art, Chicago; The Soap Factory, Minneapolis, MN; The Society for Contemporary Craft, Pittsburg, PA; World Ceramic Biennale, Korea; KunstTREFFpunkt, Darmstadt, Germany; Artsonje, Seoul, Korea; Spaces Gallery, Cleveland, OH; Gallery 102, George Washington University, DC; Scottish Sculpture Workshop, Lumsden, Scotland; 7th International Art Festival, Valencia, Spain; Art in the Open, Philadelphia, PA; Chicago Cultural Center, Chicago, IL; Raid Projects, Los Angeles, CA and the Bristol Biennial, England, to name a few.
3. I am currently a full time Lecturer at the University of Chicago in the Department of Visual Arts and have taught at the School of the Art Institute of Chicago in the Ceramics Department and the Art History and Critical Theory Department. Additionally, I taught at Columbia College in the School of Art and Design.
4. My work connects to Guantanamo through the Tea Project, an ongoing series of exhibitions, performances and conversations with my collaborator [REDACTED]. The project is centered around 780 porcelain cast Styrofoam teacups, one for each detainee held in extralegal detention in Guantanamo. Each cup bears an individual's name on its underside and is engraved with the national flower of their country of origin. The number of flowers on each cup reflect the number of men detained from that specific country.
5. These cups offer a glimpse of love and humanity, the expansiveness of the human will to create art, even in the isolation and deprivation of a cell in Guantanamo. These cups are based on the curious story of a Guantanamo guard, [REDACTED] who fell in love with the flowers carved by detainees into Styrofoam cups. Detainees are given one cup of tea with meals. After every meal, [REDACTED] had to collect all the Styrofoam cups. He remembers flowers, the cups covered in them. He fell in love with those little cups.

One thing I miss is the cups. The detainees were only allowed to have Styrofoam cups, and they would write and draw all over them. I'm not totally familiar with Muslim culture, but I did learn that they don't draw the human form, and I'm not positive if they draw any creatures, but they draw a lot of flowers. They would cover the things with flowers. Then we would have to take them. It was a ridiculous process. We would take the cups—as if they were writing some kind of secret message that they were somehow going to throw into the ocean, that would get back to somebody—and send them to our military intelligence. They

would just look at these things and then throw them away. I used to love those little cups.

6. This act of art making, remembered by [REDACTED] and repeated by released detainees, deeply inspires audiences. Some people have cried hearing the story of the carved Styrofoam cups. Others feel inspired to do more work in the world, glimpsing the strength of the will to create, even in a cell in Guantanamo.
7. Thousands of people have seen, held and have had sweet warm tea in these delicate porcelain cups, each with a name of a detainee. In times of war, courts have to decide between civil liberties and national security. As Geoffrey R. Stone, University of Chicago, Law School writes, the courts do not always fall on the right side of history.

Schenck, Korematsu, and Dennis have all come to be regarded as constitutional failures and as black marks on the Court's reputation.

8. This court has the opportunity to grant the American public access to compelling works of art made by detainees in the long tradition of art that directly speaks to the experience of war, from art made by interned Japanese to Goya and Picasso. This history is important and the courts can choose to preserve and open these beautiful works to the American public. These works are important historical documents as well as art works for future reference to artists, scholars of military history, American history, legal history, anthropology and art history, to name a few. Professor Geoffrey R. Stone, notes a dynamic that overly closes civil liberties during times of war.
9. A time-honored method of gaining and/or consolidating power is to incite public fear, demonize an internal "enemy," and then "protect" the public by prosecuting, interning, deporting, and spying upon those accused of "disloyalty." These three considerations are not exhaustive, but they adequately explain why the "logical" presumption of judicial deference to executive and military officials inevitably leads to decisions like Schenck, Korematsu, and Dennis.
10. These works by Guantanamo Detainees are not a threat to American civil liberties. Actually, they provide audiences with a moment of beauty in the otherwise complex legal dilemmas of Guantanamo.
11. The greatest artistic honor in my career was to show the Tea Project with Ghaleb Al-Bihani and Djamel Ameziane at George Washington University in Washington DC. In collaboration with the Center for Constitutional Rights, we were able to show more than 40 of Ghaleb Al-Bihani's beautiful drawings and paintings, so colorful and vivid they drew people in off of the street together with three of Djamel Ameziane delicate and sensitive drawings. In particular, the quotes by Ghaleb Al-Bihani that accompanied the work deeply moved the audience:

12. The drawings I produce are undoubtedly focused on beauty wherever it lies in that nature which was created for us by God, in shapes and colors which no human being will ever be able to create. I also chose to draw roses and flowers, for they carry love, friendship, loyalty, brotherhood, and devotion. I also chose to paint heritage monuments because they carry within them human values, heritage, and civilizations. However, I am more interested in producing paintings of that fascinating nature, for it reflects the life I want to live later, a life filled with beauty, coexistence, stability, and peace of mind. Painting makes me feel as if I am embracing the universe. ^v
13. When I am painting I can't think of anything else, and I am not exaggerating when I say that I don't even feel hungry nor thirsty, nor tired, and that is due to the pleasure I feel during that time. I'm never bored when I paint, and all my mind and my focus are in the choice of colors... especially when I am producing some special paintings with symbolic graphics which represent human emotions such as love, longing, waiting, hoping, feeling freedom, and everything that relates to expressive passion.^v
14. For myself, the for audience, for all those who saw these works, we were all positively challenged to think about how we could better our own work just by seeing these beautiful and frankly inspirational drawings and paintings. Each of us was forced to ask if we could find the spirit to create beauty in uncertainty and in isolation from our support networks. It had been Ghaleb Al-Bihani's wish to have his work on exhibition. Each person who saw these works was able to fulfil the wish of a detainee and be rewarded with seeing beautiful art.
15. Ghaleb Al-Bihani had been held for more than 14 years without charge. He was cleared for release by the advisory board. This exhibition of his work not only gave voice to a voiceless human being who been awaiting uncertain release for years, he was finally released during the exhibition.
16. I ask this court to release the works of Guantanamo detainees in keeping with the long historical traditions of art in times of conflict and war.
17. I declare that the foregoing is true under penalty of perjury under the laws of the United States of America.

Dated this 8 day of March, 2018

AMBER J GINSBURG
University of Chicago
Department of Visual Arts
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L y P erce, "What t Fee s L ke to Be a Pr son Guard at Guantánamo Bay," Esqu re Magaz ne, Ju y 30, 2008,
<https://www.esqure.com/festy e/a4821/guantanamo guard 0808/>

Geoffery R Stone, "2006 C v L bert es v Nat ona Secur ty n the Law s Open Areas",
Un vers ty of Ch cago Law Schoo Ch cago Unbound, 2006,
<https://chcagounbound.uchicago.edu/cg/v ewcontent cg ?art c e=8454&context= ourna art c es>

Geoffery R Stone, "2006 C v L bert es v Nat ona Secur ty n the Law s Open Areas",
Un vers ty of Ch cago Law Schoo Ch cago Unbound, 2006,
<https://chcagounbound.uchicago.edu/cg/v ewcontent cg ?art c e=8454&context= ourna art c es>

Press Release: The Tea Project with Ghaleb Al-Bihani & Djamel Ameziane,
http://browse.calendar.gwu.edu/EventList.aspx?fromdate=1/10/2017&todate=2/8/2017&display=&type=public&eventidn=13867&view=EventDetails&information_id=25755

^{iv} Ghaleb A B han , Pr nted w th perm ss on from The Center for Const tut ona R ghts

^v Ghaleb A B han , Pr nted w th perm ss on from The Center for Const tut ona R ghts

Attachment J

DECLARATION OF JOHANNA BUWALDA

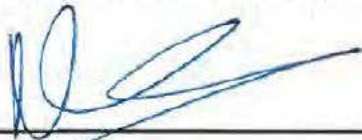
1. My name is Johanna Buwalda. I am over 18 years of age and competent to make a declaration.
2. I hold a B.A. from Hoge School Utrecht in the Netherlands from the department of Creative Arts Therapy, a M.Ed. from Loyola University/Erikson Institute for Early Childhood Development, and a M.A. from the Chicago School of Professional Psychology.
3. I am a licensed counselor in the states of Illinois and Wisconsin, and I am currently employed as the family therapist at Road Home Program: The Center for Veterans and Their Families at Rush University Medical Center in Chicago.
4. I have worked as a mental health provider since 1989 in the Netherlands, the Philippines, Sri Lanka, and the United States with displaced people, refugees, torture survivors, as well as military veterans and their families.
5. I am the author of several articles about the effects and treatment of war-related trauma, and have presented extensively on this topic.
6. In my professional experience and according to professional literature, art can have a therapeutic effect even when this art is generated outside of art therapy.
7. Engaging in art making can reduce stress, anxiety, and depressive symptoms.
8. Art making can improve self-esteem, emotional resilience, spiritual wellbeing, physical health, and can effect post traumatic growth.

9. Post traumatic growth can be defined as the "experience of individuals whose development, at least in some areas has surpassed what was present before the struggle with crises occurred. The individual has not only survived, but has experienced changes that are viewed as important, and that go beyond the status quo" (Tedeschi and Calhoun, 2004). People who experience post traumatic growth not only survived the trauma, but were also able to make positive changes in their lives as a result of the traumatic event.

10. Under carefully designed circumstances that prevent possible re-traumatization and/or exploitation of survivors of trauma, public display of the art made by survivors of trauma can also be therapeutic in that the display can give a survivor who otherwise feels invisible and forgotten "a voice." The reactions of the viewers can provide the survivor with recognition of their suffering which can effect healing beyond the art making process itself.

I declare that the foregoing is true to the best of my knowledge.

Dated this 13th day of February 2018



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Attachment K

DECLARATION OF TONY GAMMIDGE

1. I declare that I am Tony A.N. Gammidge. I am over 18 years of age and competent to make a declaration.
2. I have a 1st class honours degree in fine art from Winchester School of Art and an MA in Art Psychotherapy from Goldsmiths College in London.
3. I am an artist, filmmaker and a state registered art psychotherapist with over twenty years of experience working in the National Health Service in the UK in adult psychiatry as well as in secure units and prisons. I am also a member of the Art Refuge UK team, providing art therapy and art to displaced people and refugees in Northern France.
4. Until recently I was a senior lecturer at Brighton University teaching on the Inclusive Arts MA. The course teaches students to collaborate through the arts with marginalised and stigmatised people in a way that is ethical, safe and meaningful. It encourages an equal exchange of ideas, communication and skills. I am also a visiting lecturer at a number of art psychotherapy MAs in the UK including, Goldsmiths College, Roehampton College, Hertfordshire University and IATE in London.
5. I have exhibited and screened my work in the UK, Europe and the USA. I have spoken and presented work made in prisons and secure units in numerous international conferences in the UK and in Europe. I have had several chapters and articles printed, including in Forensic Arts Therapies (published by Free Association Books), in the British Medical Journal and in the international outsider art magazine Raw Vision.
6. My specialty is in working with animation, filmmaking and narrative in secure units, prisons, psychiatric settings and in refugee camps. I work with a lot of people who have suffered high degrees of trauma and it is my experience that the art making process both in an art therapy and in an 'arts in health' context can be an extremely effective and safe means in which to make sense of and process trauma. In working with the arts participants can access and express things that words might not be able to. I have worked with people who have confronted and processed some extreme and traumatic experiences, including childhood sexual and physical abuse, experiences of war and violence in a way that was safe, containing and enabling.
7. The art making process is fundamentally a humanising activity which enables connection, empathy, responsibility and communication. Working with art with people who through stigma and prejudice often feel dehumanised is often a profound and moving experience. Working with refugees in northern France where often they are sleeping outside in extremely cold conditions and victims of repeated violence and intimidation by police, locals and traffickers I am repeatedly surprised at the levels of interest and engagement in taking part in art making when there would seem to be other more pressing concerns. Participants report that the art making is just as important as it acknowledges their creativity, imagination and ultimately their humanity. This is something an Iranian refugee who we worked with in the Jungle camp in N. France wrote to us:

Generally, two big voluntary groups were in the Jungle and worked with art in the Jungle 'Art Refuge UK' and 'Good Chance Theatre'. First I thought they are crazy, we need food, warm clothes, safety, we need to go, absolutely we don't need the art in this situation and this atmosphere. What they do here in this society with full of violence? After a while I understood especially at that time we needed the art. Art subtilize the jungle society and let us to release any of our bad feelings. When I came back after an unsuccessful try (to get to the UK), after one day walking in the cold weather to the Art Refuge dome I felt yes me too I am citizen in the world and I have a safe place that can enjoy from the arts.

8. As well as self-knowledge and self-expression the art making process is also a means in which to feel pride and confidence. Shame (not to be confused with guilt) is often a huge problem for people in prison, with mental health problems and people who are displaced. According to American forensic psychiatrist James Gilligan, shame is almost always what underlies violence (Gilligan, Preventing Violence, 2001) whether that means lone violent offenders, gangs or people in terrorist organisations. People who feel disrespected, dehumanised and are abused, incarcerated and victims of violence and torture will feel (amongst other things) huge levels of shame and this can then translate in them to be violent themselves. So, shame is both caused by violence and, also a cause of it. The arts can offer an antidote to this pernicious cycle and hard to treat condition as it can be a recognition of a person's competence, creativity and humanity. As one participant said during work she did with me; *"it is personal to me, especially images of self-harm, it was really good to be able to do it in a controlled way, in a creative way, turning something destructive and horrible into something creative and rather beautiful."* So, destroying someone's artwork could be seen as yet another attack on their humanity (as indeed torture is) and therefore yet another shaming experience.

9. Many of the films I have made in collaboration with patients, prisoners and participants have won Koestler Arts awards and been exhibited in the Royal Festival Hall in London and in art galleries and in international forensic conferences. The audience have found the films to be extremely powerful, moving and they come away understanding a little bit more about life in prisons, secure units and refugee camps. They also get a fuller picture of the person beyond the diagnosis, offence, case notes or court reports. Clinical staff on the units where the films are made report that they have a far deeper understanding of their patients from watching their film. One film I made with a Somalian man in a secure unit revealed his history as a boy soldier, this is something none of the staff on the unit knew anything about, as the psychological lead on the unit testifies; *"I was very impressed by the power that was evoked in the film, there were a number of experiences that were being shared that myself as a psychological therapist and the rest of the team had never heard before and that the clients had never shared with the staff before."* It is often only through art that people can begin to testify to their experience and tell their story in their own way. The films are often used by staff on the units to train other staff and particularly prison officers. Also, the films are often used as a means in which to provide and include 'service user' voice and experience in a setting where that could otherwise be difficult (for instance in forensic conferences).

10. For the participants, it can also be hugely beneficial for them to have an audience for their films and artworks. During the making of the work it helps for them to think about what they want to say in their artwork, what story they want to tell, how they want to represent themselves. The audience in seeing and hopefully appreciating their work provides the participants with a huge sense of pride in what they have achieved through recognition of something they have done well (rather than wrong). This can lead to a shift in their identity, perhaps from offender, refugee or patient to 'artist'.

I swear the foregoing is true to the best of my knowledge under the penalty of perjury pursuant to the laws of the United States.

Signed this 15th day of March, 2018



Tony Gammidge

Attachment L

DECLARATION OF ARTIST AND TEACHER TREACY ZIEGLER

1. My name is Treacy Ziegler. I am over 18 years of age and am competent to make a declaration.
2. I hold a BS from Drexel University in Community Mental Health and a Master of Social Work from the University of Pennsylvania. I was trained as a family therapist at the Philadelphia Child Guidance Clinic where I worked for 5 years and then subsequently as a social worker in protective child services in Philadelphia.
3. I left social work to study art as a full-time student at the Pennsylvania Academy of Fine Arts for four years. At PAFA I received several awards for drawing and painting along with the Henry J. Scheidt traveling scholarship that enabled me to travel to Europe for three months learning more about art. Since art school, I have received two New York State Art Partnership awards, a Saltonstall award, and two Puffin Foundations awards.
4. For the past 25 years, I have been an exhibiting artist, exhibiting my art in galleries throughout the United States and Canada. I have had several solo museum exhibitions throughout the United States. My sole income is through the sale of my artwork.
5. I have presented many papers at university conferences on art in prison; have written several articles on prison art for journals, and contribute monthly essays for the Prison Arts Coalition, a nationally concerned website providing resource information for prisoners art programs.
6. Since 2011, I have been the art director (working on a volunteer basis) for the Prisoner Express, a program in the Center for Transformative Action. Prisoner Express is a distant learning program that provides courses and projects for 4500 prisoners throughout the United States. PE has a 4500 prisoner membership from 674 prisons located in 48 states. Any prisoner who wishes to join the Prisoner Express program is welcomed and there are no costs to the prisoner for participating in the programs. In addition to art, we offer courses in journal writing, chess, poetry, a community-reading group, psychology, comparative religions, and many other subjects. Prisoner Express is affiliated with Cornell University. This experience has given me a vast experience of art from prisoners across the United States.
7. I became involved with prisons in 2009, when I first wanted to exhibit my own artwork in prisons. After exhibiting my work primarily in commercial galleries, I wanted to find an audience without money and power describing the commercial gallery audience. Art has historically been used as a means of power and it is rare for people with little economic power to come into galleries. Several prisons throughout the United States were willing to

exhibit my work in their prison. There are two prisons that have a permanent collection of my art. I exhibited my art in eight prisons in four states.

8. After exhibiting my art in several prisons, I was then asked to conduct workshops in these prisons. I have taught in five prisons in three states. This has given me an in-person experience of how different state prison systems function in relation to art and volunteers.
9. My intention in teaching art in prison is less about teaching people how to make pictures. Instead, my intention is to teach people how to see. One of the things I learned in art school is that generally speaking, we are not expected to experience anything visually. We see "conceptually" by which I mean, we don't have to look at the chair as long as we understand it is a chair. Without seeing, the individuals depend upon preconceived ideas to understand and navigate the world. We are never asked to see the specifics of our experience. Furthermore, in seeing the world as a set of concepts (this is a chair, floor, house, mother, father), we fail to see that the world is made of visual relationships; light and shadow, near and far, between surface textures, tonal differences, and so on. And not seeing the world as relationships, we can't see the constant changing aspect of those relationships. However, try painting a landscape and the artist discovers the sun never stays still - or rather we don't - creating havoc on the painting. A psychologist told me that once she took a drawing class, she never saw the world in the same way as before. If a PhD psychologist found this phenomenon of the world drastically changing her way of experiencing things, imagine how people with little education respond to learning a completely foreign way of seeing the world through relationships. In a letter written from Raymond, who recently was released from prison after 25 years incarcerated since he was 17 years old, *your insight, experience and philosophy about art has been a point of reference for my growth.* Another prisoner says he had never been taught anything like this. Another prisoner says, *My mantra at night (because prisoners seem to have mantras) is- "it is not an apple, it is light and shadow."* Understanding this, art becomes not so much about self-expression, but rather, art becomes an act of listening. Cezanne often said, *"The landscape speaks to me."*
10. Listening as a means of creating art demands vulnerability on the part of the artist. Without preconceived ideas for drawing, an artist is confronted with doubt (creating can be a scary place). This doubt is very hard for most people (not only prisoners). It demands trust; not only trust in themselves, but also in me as the teacher. Because art cannot depend upon formulaic rules, it becomes one of the most challenging learning experiences. I have been amazed as to the extent my students allow themselves to be vulnerable in the process of creating art. I have worked mostly in men's maximum-security prisons with prisoners whom have had very little trust for other people. And

yet, they have been able to work trusting the process of drawing – a process that seems so confusing.

11. But art does not stay at the listening stage. Through developing an authority of their own vision, art enables the individual to reconfigure their relationship to the world, providing more options for response to the world. To the prisoner who tends to feel they have little option beyond the world they have lived, the seemingly simple opportunity to see an apple other than an apple is expansive. Furthermore, the listening demanded in drawing teaches the artist/prisoner to be responsive to things outside themselves, learning that the profound is not to be found inside the self, but as a self in a shared world. I hear this when I read a prisoner's letter excited about how he now sees "chiaroscuro" – the patterns of light and shadow that define a landscape – throughout the prison. Even presenting my artwork in prison enables a different kind of response from prisoners. Johnny, a prisoner/student, once told me, *"You know, I've been in prison since I was 17 years old. I'm 52 now. I was raised with these guys. Many of these guys don't care about nothing; they don't care about sports, music, art - but I've seen some of these guys looking at the art, and you know - it amazes me - but they get real emotional about it."* It is said that art is therapeutic – I say art that is not therapeutic, is not art. Art by its very nature is transformative.
12. In addition to teaching in-prison workshops, I also develop projects for prisoners through the mail in the Prisoner Express project. The advantage of this project is that I can involve prisoners who are in solitary confinement and on death row. I create projects that demand a certain amount of self-reflection; and again, self-reflection in relationship to the world.
13. I have taught art in five prisons in three states. I also have the experience of being involved with the artwork of 4500 prisoners in the Prisoner Express program. These prisoners represent 674 prisons and 48 states. It has not been my experience in any of these prisons that the prison exerts ownership of the prisoners' artwork. In some prisons, the prisoner is required to give a percentage of the art's sale to the prison; or the prison exercises censorship over the content of the art. When I asked the program director about the percentage that is taken from the art sale in Ohio, the director said that this percentage was given back to the prisoners in the way of buying more materials for the prisoners.
14. The prisoners purchase much of the materials from which the art is made. They often purchase the materials through vendors like Dick Blick and other prison-approved vendors. It is less frequent that the prison itself purchases the materials, although in states that have strong art programs, there is a budget for purchasing materials. In all states where I have taught prison art, I supplied the materials for the art classes.

15. I present the prisoners' artwork in a number of exhibitions throughout the year. There is an annual art exhibition at Cornell University in the graduate student social hall. This is always a strong exhibition for the students to experience both the range of skills and the emotional affect of the prisoners. These exhibitions are very positive for the audience in experiencing the prisoner differently than they imagine a prisoner to be - experiencing the human dimension of someone who has been convicted of a crime. It is very positive for the prisoners because it gives them a sense that what they have created is worth another person's time and attention. When I gave an award to one of the women prisoners in the through-the-mail project for being the first woman to complete a very difficult drawing curriculum, she wrote, "I have never been first in anything in my entire life, and I have never won anything... can you please give my award to my daughter. I have never been able to give her anything." Another prisoner wrote in response to seeing his art published in the PE biannual newsletter, "I'm on cloud nine, no one has ever cared about my artwork." Jerome, a lifer prisoner, who learned how to read and write in prison, works hard everyday on art for the different shows. When I sent him art that might inspire him further - art of the Philadelphia artist, James Brantley - Jerome writes back, "Dear Mrs. Treacy, May I say it was a wonderful day, receiving your Letter and art..."

16. What I learned first as a social worker and then as an artist, a conversation of transformation needs only center on art - I do not need to talk about anything but art in my classes or in my letters/newsletters to prisoners. Art challenges, nurtures, inspires; and then it changes.

I declare that the foregoing is true under penalty of perjury under the laws of the United States

Dated the 16th day of March, 2018



Treacy Ziegler
Director of art projects
Prisoner Express
Center For Transformative Action
127 Anabel Taylor Hall
Ithaca, NY, 14853

Attachment M

I, Margaret O'Donnell, pursuant to 28 U.S.C. § 1746, declare under penalty of perjury:

1. I am an attorney licensed in the States of Indiana and Kentucky. I started working as an attorney in 1985 and for the past thirty years, I have worked both as a public defender and in private practice.
2. The majority of my work continues to focus on the representation of indigent clients, particularly those charged with capital crimes or those who have been sentenced to death.
3. I have been appointed to represent in appellate proceedings three clients sentenced to death under the Federal Death Penalty Act, and have represented a trial level client, whose Federal Death Penalty trial resulted in a life sentence. Since 2003, I have been affiliated with the Federal Death Penalty Resource Counsel Project as well as Federal Capital Appellate Resource Counsel, projects which monitor all federal death penalty cases, recommend the appointment of counsel, and assist counsel appointed under the Criminal Justice Act (CJA) and who work in Federal Defender Offices.
4. Since 2000, I have visited approximately eighteen (18) prisoners who have been sentenced to death in the federal court system, three of whom I was appointed to represent. The remaining prisoners I have visited through my position as resource counsel. All of these prisoners are housed at the Special Confinement Unit at FCC Terre Haute, also known as "federal death row."
5. Through the representation of my clients and my work with other prisoners, I have become familiar, both on a policy and practical level, with the Bureau of Prisons' procedures concerning art and hobbycrafts for death row prisoners. 28 C.F.R. §544.35 and Program Statement P5370.11 provide the policy and regulatory guidelines. The stated goal of the policies is to encourage prisoners "to make constructive use of leisure time, and offers movies, games, sports, social activities, arts and hobbycrafts, wellness, and other group and individual activities."
6. The Program Statement defines art work as including "all paintings and sketches rendered in any of the usual media (oils, pastels, crayons, pencils, inks, and charcoal) and hobbycraft activities as "ceramics, leatherwork,


models, clay, mosaics, crochet, knitting, sculptures, woodworking, lapidary, and other forms consistent with institution guidelines.”

7. I have assisted clients over the years in obtaining both art and hobbycraft materials through the prison recreation department but more often through Special purchase commissary orders from BLICK art materials.
8. The BOP policy allows the prison to “restrict for reasons of security, fire safety, and housekeeping, the use or possession of art and hobbycraft items or materials.” BOP Program Statement 5580.08 provides specific limitations on the types and amounts of personal property (clothing, books, legal materials, etc.) prisoners may keep in their cells. My experience is that the policies and procedures relate to traditional security or safety considerations.
9. As a result of the property limits, I have over the years assisted my clients in disposing of their completed art and hobbycraft projects. One client, in particular, has sent me hundreds and hundreds of artworks for safekeeping. He packs up the artwork, provides the postage and the prison recreation staff then mails the art to me. Other prisoners have sent me completed hobbycrafts, such as jewelry, paper mache flowers, and small knitted animals, both as gifts and because the prison has required them to dispose of their projects.
10. BOP Program Statement P5370.11 specifically allows for the sale and/or public display of prisoner art and hobbycraft as approved by the institution. In my experience, the BOP has never asserted ownership over prisoner artwork. My client, who is the prolific artist, has collaborated over the years with artists in Lithuania, England and Australia. He has exhibited his art in several public shows in Europe and the United States. He, as a result of the art exhibitions, has even sold some of his works to members of the public with the proceeds donated to support community art projects. The BOP has never intervened or interfered with these exhibitions.
11. I know that my clients are positively impacted by their ability to both create and share their art. Not only does working on the project help them pass the time in an otherwise dreary solitary confinement, but receiving positive feedback about their artistic endeavors lifts their spirits as well. My prolific artist client has written: “I live all day long in a 7-foot wide by 10-foot long

prison cell. My window is frosted over so that, although I can tell when the sun rises and sets, I am unable to actually gaze upon these natural events. By and large, my only interaction with the outside world comes by way of a small television. Still, while my physical world is limited, my mental world has no borders or walls. . . . Every time I begin a new piece, the colors and layout are dictated by what I am experiencing at the time. I utilize both the positive and negative elements of my being, from my hopes and dreams to my pain and uncertainty. I place my mood on the tip of my pencil or brush and just let my mood flow freely, and allow it to transfer to the paper or canvas. . . . Mostly, my art work is simple truth, without comment, conclusions, or logic.”

12. I believe, without his art, this particular client would have deteriorated psychologically long ago since he has lived in these stark conditions of confinement for more than a decade. Instead, he has created a life for himself with his art. He was a musician before he was arrested. In the last few years, in addition to his art, he has taught several death row prisoners to play the guitar, and they, in turn, have taught other prisoners to play. Although his case is on direct appeal, whether he obtains a new trial or sentencing or proceeds to further post-conviction litigation, my client’s art and his music will be a significant part of his mitigation and story of redemption.

I declare under penalty of perjury that the foregoing is true and correct.
Executed this 26th day of March, 2018 in Frankfort, Kentucky.


Margaret O'Donnell

Attachment N

DECLARATION OF FEDERICA BROOKS

1. My name is Frederica Brooks. I am over 18 years of age and competent to make a declaration.
2. I have worked as a qualified Health and Care Professions Council Registered Art Therapist since 1998 and at Freedom from Torture, as an art therapist, since 2007.
3. Freedom from Torture is a human rights organisation, based in the United Kingdom of Great Britain and Northern Ireland dedicated to the treatment and rehabilitation of torture survivors. Since its establishment in 1985, more than 60,000 survivors of torture have been referred to our centres across the UK.
4. I make this statement in response to a request to provide a broad overview of the impact of art creation on survivors of torture and other traumatic experiences. In particular, I have been asked to comment on whether the creation and public sharing of artwork can be therapeutic for torture and other trauma survivors.
5. Many people benefit from expressive and arts therapies in the treatment of trauma and torture, as they do not rely solely on verbal language to convey meaning or describe the effects of trauma and torture on deep psychological, physiological and neurological levels. Creating can give back to an individual, a sense of authority that being subjected to trauma often takes away.
6. In my experience, many traumatised and abused people feel a deep sense of shame, which may make them not want to be seen either bodily or through work they have created. However, to quote Dr Bessel Van der Kolk our 'brains are built to help us function as members of a tribe. We are part of that tribe even when we are by ourselves,...'.¹ The need to connect with others includes through participating in activities like listening to music or making things where we might be anticipating others' reactions to us through what we make or do. 'Most of our energy is devoted to connecting to others' (van der Kolk 2014). Not allowing this function or having this denied can be

¹ Van der Kolk, B. A. (2014). *The body keeps the score: Brain, mind, and body in the healing of trauma*. New York: Viking. Chicago

problematic and damaging to an individual's ability to connect with others, which ultimately has a detrimental impact on their wellbeing. The opportunity for an individual to be able to make those connections, including through creative expression is an important part of recovery.

7. I have also been asked for my observations on the importance of such artwork on the public and public perception of the artist including any views on the public's right to view the artwork and know the circumstances in which it was created.
8. As an art therapist, I work within the code of ethics and principles of professional practice of the British Association of Art Therapists (BAAT), which has published papers on artwork and the Law and contractual limits. At the start of therapy, an important conversation between the client and therapist, should take place around who the art is for and why it is being made. These conversations should then inform who owns the work and how it will be used.
9. I cannot comment on individual cases but the guidelines which relate to art therapy in the UK, state that 'Ultimately the ownership of the artwork remains with the client, as does the manner of its use and disposal' (BAAT guidelines section 14.1). BAAT also have guidelines on the reproduction and exhibition of client's artwork. In my experience, for many clients, exhibiting artwork is an important part of rehabilitation, because of the opportunity that it gives for the artist to form healthy connections with those who view their work.
10. I swear the forgoing is true to the best of my knowledge under the penalty of perjury under the laws of the United States.

Signed 

Dated 29-03-2018

Frederica Brooks
Freedom from Torture
111 Isledon Road
London
N7 7JW
United Kingdom

Attachment O

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EXHIBIT 3

EXHIBIT 3

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Declaration of Ammar al-Baluchi

I, Ammar al-Baluchi, make this declaration. It is true and correct to the best of my knowledge.

1. This declaration describes only a small portion of the torture and abuse that I experienced at the hands of the United States from my abduction in April 2003 in Karachi, Pakistan to the present. It is extremely painful and difficult for me to communicate to others, either orally or in writing, what happened to me for a number of reasons. As a result, this declaration is not a comprehensive account of my torture. It also is not a chronological account of my rendition and torture.

Pre-Guantanamo Bay Rendition and Torture

2. To the best of my knowledge, I believe that between my abduction in 2003 and my transfer to Guantanamo Bay in 2006, I was detained and tortured at 



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[REDACTED]

[REDACTED]

4. Between 2003 and 2006, I was subjected to many different forms of abuse and torture.

[REDACTED]

[REDACTED]

[REDACTED]

- 5.

[REDACTED]

[REDACTED]

6. During the torture,

[REDACTED]

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[REDACTED]

7.

[REDACTED]

8.

While I was being tortured, [REDACTED]

[REDACTED]

Types of Torture

9.

The CIA, FBI, and other U.S. government agents and agencies used many different forms of torture on me, [REDACTED]

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10.



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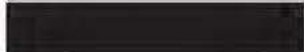
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12.



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[REDACTED]

[REDACTED]

19.

[REDACTED]

[REDACTED]

19a. When I arrived at Guantanamo, I believed my ordeal would end. To my shock and surprise, the conditions continued to traumatize me and exacerbate my physical and mental health. There was a new level of stress, abuse, brutality and cruelty. I remained in solitary confinement [REDACTED]

[REDACTED]

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Continuing Symptoms

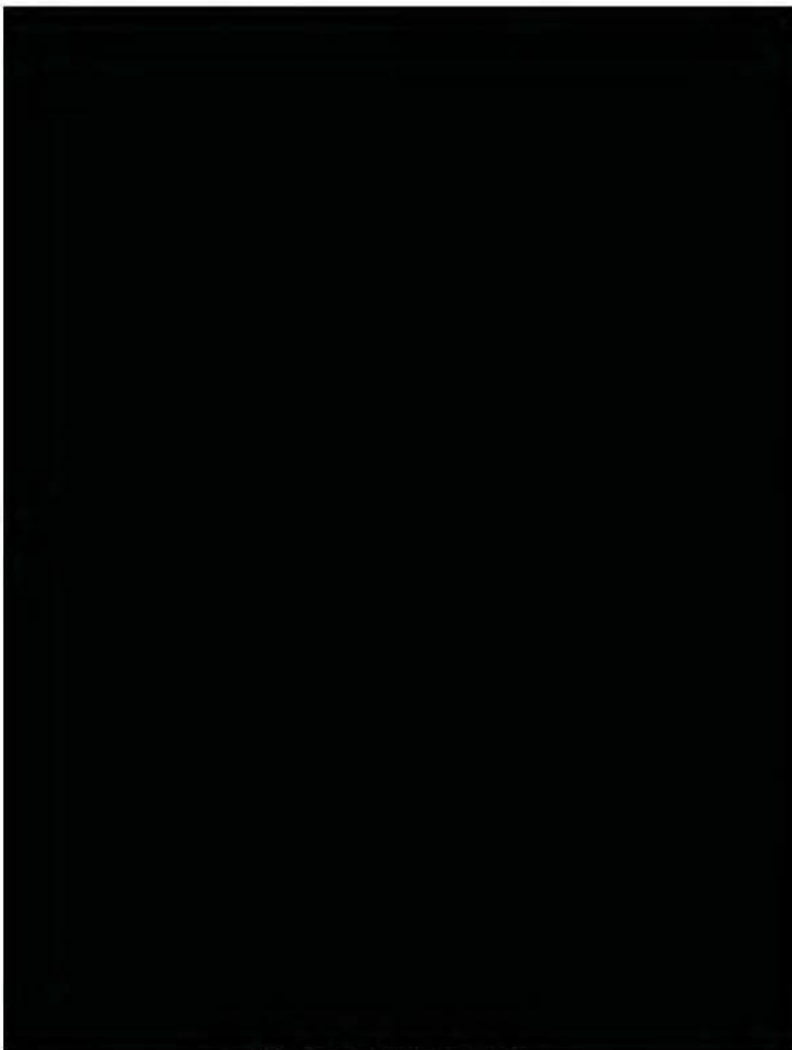
20. The CIA warned me that they would be sending people after me in the future; so when I meet someone new, including someone who claims to be my attorney, I am terrified that he or she is really with the CIA. I have a severe mistrust of everyone.
21. As a result of the torture, I have been forced to repress my emotions, pain and needs. If I complained of or asked for something during the time of the torture, the CIA or other U.S. government agents would use that information to torture me more. For example, if I said that "x" hurt, they would do "x" more. I have been conditioned to avoid and repress. I also have been conditioned to hide any sign of pain or emotion from my face.
22. During the past eleven years, the United States government has allowed me very little contact with my family, even after the recent death of my father. The CIA also has taken from me the ability to recall pleasant childhood memories. [REDACTED]
[REDACTED]
[REDACTED]
23. Even though the worst of the physical torture has stopped, [REDACTED]
[REDACTED]

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28. [REDACTED]
[REDACTED]
[REDACTED]

29. [REDACTED]

30. The military trial hearings have been very difficult for me, both physically and emotionally. The first day, an extraction team of guards woke me at 3:30 or 4:00 a.m. They stated that they were there to take me to the hearing, whether I wanted to go or not. I knew that during a forced extraction, the guards will jump on your back. I went to the hearing, which did not start until 9:00 a.m. By the time I reached the hearing, I was mentally and emotionally exhausted. I couldn't think, and couldn't track what was happening at the hearing. The hearing lasted until late in the night. Afterwards, I was completely exhausted and could not even get out of bed for 24 hours. I had indigestion and couldn't eat. My body physically hurt. I was exhausted, but I couldn't sleep. All I could do was pray. I told the military doctor that I couldn't participate in future hearings because of my health,

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and all he said was to take more medications. I have been required to attend at least the first hearing of each session. I am physically and mentally exhausted during these hearings and couldn't concentrate. Afterwards, I am completely depleted.

31. I feel like my body and mind are deteriorating, even though I am only 37 years old. I am well educated and speak several different languages, but I can no longer read or concentrate. It is difficult for me to write letters, and at times I can't even track a conversation. [REDACTED]

[REDACTED]
[REDACTED] I am always exhausted, yet I can't sleep.

Lack of Meaningful Medical Treatment at Guantanamo Bay

32. The military doctors/psychiatrists at Guantanamo Bay do not want to know about my abuse and torture by the CIA. Even if they do acknowledge the abuse and torture, they cannot treat me. I have been at Guantanamo Bay for almost eight years, and not one military doctor has ever talked with me about my abuse and torture and its effect on my current health. When I start to talk about what the CIA did to me, the doctor becomes uncomfortable, stops me and refuses to listen. How

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can a doctor properly treat someone without knowing that person's history? How can I have any confidence in the military doctors when they won't acknowledge my history and past experiences, and won't or can't listen to what I have to say?

33. The military doctors are rotated out of Guantanamo Bay about every six months or so. They provide no continuity of care. It seems like just when I am beginning to know a doctor, he is shipped out. To make matters worse, when new medical personnel arrive, I have been told that they have no access to my medical records.

34. I have had no comprehensive medical or neuropsychological assessment since I have been at Guantanamo Bay.

35. The military doctors report to the military commander and have no independence. There is no such thing as doctor-patient confidentiality here. If one of the doctors says something "wrong" to me, he is shipped out. For example, one psychiatrist finally listened to and believed what I was saying. Shortly thereafter, he was given orders that his "lease was up the next day." I understood that the doctor told the commander he needed one week to transition his patients to a new doctor. I later heard that this doctor met his replacement on the tarmac on his flight out, eliminating the possibility of any meaningful transition or exchange of information.

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36. Most of the military psychiatrists are young doctors, who don't dare diagnose me.

 No other

military doctor has properly diagnosed me. Because they are unwilling to acknowledge my history and the cause of my physical and mental problems, as well as the proper diagnosis, they can't effectively treat me. As a result, I continue to relive my past torture. I also am re-traumatized daily by events and circumstances in my current situation and my physical and mental health deteriorate each day.

37. I was pressured and coerced during my time at the black sites and subsequently to implicate others regardless of the truth. This was involuntary. I was tortured. The government agents used false information coerced from me to prepare so-called "experts" to testify against others. During my detention, and torture, I was threatened with future retaliation and retribution, physical and mental.
38. I was tortured at the black sites by government agents. I still suffer the physical and mental effects of torture. The effects of torture continue to this day. I live in fear of the threats made. My deteriorating health is a result of the torture. I am

~~TOP SECRET//CODEWORD~~

~~SECRET//NOFORN~~

~~SECRET//NOFORN~~

~~TOP SECRET//CODEWORD~~

getting worse. I am mentally scarred and wounded from the torture. The torture and the threats make it impossible for me to effectively prepare any case.

I declare under penalty of perjury of the laws of the United States that the foregoing is true and correct.

Executed on this 5th day of August, 2014.

/s/ Ammar al-Baluchi GTMO, Cuba
Ammar al-Baluchi

~~TOP SECRET//CODEWORD~~

~~SECRET//NOFORN~~

Attachment P

National
Coalition
Against
Censorship

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The Honorable James N. Mattis
Secretary of Defense
Department of Defense
1000 Defense Pentagon
Washington, DC 20301-1000

January 16, 2018

Dear Mr. Secretary,

The National Coalition Against Censorship (NCAC) and the undersigned organizations are extremely troubled by new policies that block the release of artworks created by detainees held at Guantanamo Bay. The abrupt change to standard operating procedure, made in November 2017, prevents detainee artworks from leaving the base. The new policy amounts to blanket censorship of materials that pose no threat to national security and possess clear value to the American public. We are additionally alarmed by statements by government officials asserting that these materials may be destroyed or held indefinitely by the government, which infringes upon the rights of individuals to reclaim ownership of their artwork upon release.

This policy change appears to have been provoked by an art exhibition, "Ode to the Sea", held at John Jay College of Criminal Justice in New York. The artworks in the exhibition—predominantly watercolors of seascapes—were created by current and former detainees. As all art that leaves Guantanamo is subject to intense scrutiny and security clearance by military officials, these pieces contain no threats to national security. It appears, therefore, that the policy change is a flagrant attempt to stifle public discussion that could arise from an encounter with the artistic and human side of Guantanamo detainees. Absent security concerns, this policy also violates the human rights of the detainees under international norms. Further, the directive suppresses documents of clear political and historical importance to the American public.

NCAC and the undersigned organizations vigorously assert the American public's right to access these artworks. We condemn this attempt to obstruct the public discourse essential to a democratic and open society, and strongly urge you to reverse the new policies on Guantanamo detainee artwork.

Sincerely,



Chris Finan
Executive Director
National Coalition Against Censorship

P.T.O.

Christopher Finan
Executive Director

NCAC PARTICIPATING ORGANIZATIONS

Actors' Equity Association
American Association of
School Administrators
American Association of
University Professors
American Association of
University Women
American Booksellers for Free
Expression
American Civil Liberties Union
American Ethical Union
American Federation of Teachers
American Jewish Committee
American Library Association
American Literary Translators
Association
American Orthopsychiatric Association
American Society of Journalists &
Authors
Americans United for Separation of
Church & State
Association of American Publishers
Authors Guild
Catholics for Choice
Children's Literature Association
College Art Association
Comic Book Legal Defense Fund
The Creative Coalition
Directors Guild of America
The Dramatists Guild of America
Dramatists Legal Defense Fund
Educational Book & Media Association
First Amendment Lawyers Association
Free Speech Coalition
International Literacy Association
Lambda Legal
Modern Language Association
National Center for Science Education
National Communication Association
National Council for the Social Studies
National Council of the Churches
National Council of Jewish Women
National Council of Teachers of English
National Education Association
National Youth Rights Association
The Newspaper Guild/CWA
PEN American Center
People For the American Way
Planned Parenthood Federation
of America
Project Censored
SAG-AFTRA
Sexuality Information & Education
Council of the U.S.
Society of Children's Book Writers
& Illustrators
Student Press Law Center
Union for Reform Judaism
Union of Democratic Intellectuals
Unitarian Universalist Association
United Church of Christ
Office of Communication
United Methodist Church,
United Methodist Communications
Women's American ORT
Woodhull Sexual Freedom Alliance
Writers Guild of America, East
Writers Guild of America, West

National Coalition Against Censorship

Association of University Presses

College Art Association

Defending Rights & Dissent

Electronic Frontier Foundation

Free Speech Coalition

Harvard Islamic Society's Anti-Islamophobia Network

Media Freedom Foundation

PEN America

Project Censored

Vera List Center for Art and Politics

The Woodhull Freedom Foundation

Cc:

President Donald J. Trump The White House 1600 Pennsylvania Avenue, NW Washington, D.C. 20500	Patrick M. Shanahan Deputy Secretary of Defense Department of Defense 1010 Defense Pentagon Washington, DC 20301-1010
Edward Cashman Rear Admiral, U.S. Navy Commander Department of Defense Headquarters, Joint Task Force Guantanamo [REDACTED]	Dennis M. Bradley Sergeant Major, U.S. Marine Corps Department of Defense Headquarters, Joint Task Force Guantanamo [REDACTED]

Attachment Q



U.S. Department of Justice
Federal Bureau of Prisons

Program Statement

OPI: FPI/EDU
NUMBER: P5370.11
DATE: 6/25/2008
SUBJECT: Recreation Programs,
Inmate

1. **[PURPOSE AND SCOPE §544.30. The Bureau of Prisons encourages inmates to make constructive use of leisure time, and offers movies, games, sports, social activities, arts and hobbycrafts, wellness, and other group and individual activities.]**

2. **SUMMARY OF CHANGES.** This revised Program Statement combines the Program Statements on Physical Fitness and Health Education and Inmate Recreation Programs.

- ◆ Program objectives were added.
- ◆ Two Review of Functions' recommendations were included:
 - modified recreation staff's responsibilities in regard to "at risk" inmates and
 - changed the recreation report requirement from a monthly to a quarterly report.
- ◆ The provisions of Public Law 105 277, Section 611, limiting the use of funds for certain types of recreation equipment and activities, are included.
- ◆ Language on the use of trust fund for recreation programs has been removed and put in the Trust Fund Manual.
- ◆ Limitations on commissary purchases are included.

[Bracketed Bold - Rules]

Regular Type Implementing Information

PS 5265.11	Correspondence (7/9/99)
PS 5270.07	Inmate Discipline and Special Housing Units (12/29/87)
PS 5300.17	Education, Training, and Leisure Time Program Standards (9/4/96)
PS 5381.04	Inmate Organizations (3/19/96)
PS 5580.06	Personal Property, Inmate (7/19/99)
PS 5800.10	Mail Management Manual (8/19/98)
PS 6000.05	Health Services Manual (9/15/96)

c. Rules cited in this Program Statement are contained in 28 CFR 540.30 34 and 544.80 83.

5. **STANDARDS REFERENCED**

a. American Correctional Association 2nd Edition Standards for the Administration of Correctional Agencies: 2 CO 5C 01

b. American Correctional Association 3rd Edition Standards for Adult Correctional Institutions: 3 4423 through 3 4428 and 3 4363

c. American Correctional Association 3rd Edition Standards for Adult Local Detention Facilities: 3 ALDF 5C 01 through 02 and 3 ALDF 4E 33

d. American Correctional Association Standards for Adult Correctional Boot Camp Programs: 3 ABC 5C 01 through 06

6. **[DEFINITIONS §544.31**

a. Leisure activities are a wide range of activities in which inmates may participate when not performing assigned duties. Leisure activities include participation in organized and informal games, sports, physical fitness, table games, hobbycrafts, music programs, intramural activities, social and cultural organizations, movies, and stage shows. Religious activities, psychological services, and education classes are not included within this definition, except when they are used specifically to encourage knowledge, skills and attitudes related to leisure activity involvement.

b. Organized activities are those activities accounted for by registration or roster of individual participants, and occur at a scheduled time and place.

c. Art work includes all paintings and sketches rendered in any of the usual media (oils, pastels, crayons, pencils, inks, and charcoal).

d. Hobbycraft activities include ceramics, leatherwork, models, clay, mosaics, crochet, knitting, sculptures, woodworking, lapidary, and other forms consistent with institution guidelines.

e. Inmate wellness program activities include screening, assessments, goal setting, fitness/nutrition prescriptions and counseling.]

f. An **at-risk inmate** is one who has been referred to the Recreation Department by Health Services, Psychology Services, or Unit Management on the basis that the inmate is reluctant to participate in recreational activities because he or she:

- ◆ is overweight;
- ◆ has a negative attitude toward physical fitness or exercise programs;
- ◆ is mentally, physically or emotionally disabled; and/or
- ◆ has other physical or psychological problems.

7. PROGRAM COORDINATION AND SUPERVISION

a. Recreation Programs must be supervised by a qualified person meeting the qualifications set in the Standards Handbook for General Schedule Positions.

b. Inmates may be used as recreation program assistants under the supervision of qualified staff members.

8. **RECREATION/LEISURE TIME ADMINISTRATIVE RESPONSIBILITIES.** The Recreation Supervisor must:

a. Develop and post a monthly activity schedule in recreation departments and housing units. The Recreation Supervisor is to retain these activity schedules for three years.

b. Complete a quarterly narrative report when one or more of the following applies:

- ◆ a brief summary of any innovative programs,
- ◆ an explanation of any deviations from the monthly activity schedule, and
- ◆ any areas of concern.

When required, the narrative report will be completed by the 10th of the month following the previous quarter and copies sent to:

- ◆ Supervisor of Education, (if the Recreation Supervisor reports to the Supervisor of Education)
- ◆ Associate Warden over recreation programs,
- ◆ Warden,
- ◆ Regional Education Administrator, and
- ◆ Education Administrator, Central Office.

The Recreation Supervisor is to retain these reports for three years.

c. Develop and provide a presentation for the Admission and Orientation program that encourages participation in physical and/or leisure activities, and explains consequences such as suspensions from programs that can result from inmate behavior that violates established rules.

d. Coordinate housing unit activities with Unit Managers.

e. Ensure that wellness and leisure activities are entered into the SENTRY Education Data System (EDS) accurately. Fiscal Year totals and other relevant information are to be included in the annual education report. Wellness and leisure activities may be entered into the EDS only if:

- ◆ The program or course has a curriculum,
- ◆ Attendance records are maintained,
- ◆ The program or course has completion criteria, and
- ◆ The program is instructional in nature; and ordinarily, "live" practice time does not exceed 10 percent of the total instructional course hours, and is limited to the minimum time required for the observation of the student by the instructor in order to assure skill mastery.

f. Participate in monthly staff meetings with education staff, unless Recreation is a separate department. If Recreation is a separate department, the Recreation Supervisor will conduct a monthly staff meeting and forward copies of the minutes to the:

- ◆ Warden,
- ◆ Associate Warden,
- ◆ Regional Education Administrator, and
- ◆ Education Administrator, Central Office.

g. Develop a written plan for meeting the needs of "at risk inmates," to ensure that all those who are referred to recreation are interviewed, counseled, and recommended to participate in the appropriate structured or unstructured leisure, wellness, or recreation activities.

h. Develop guidelines for using protective equipment and clothing for inmates, as well as procedures to disseminate and enforce those guidelines.

i. Assign staff members to inspect recreation equipment and jogging areas weekly and hobbycraft equipment daily. Refer to the Occupational Safety and Environmental Health Manual for safety requirements concerning recreation.

The Supervisor of Recreation will develop a form (or forms) to document the inspection of recreation equipment, jogging areas, and hobbycraft equipment (grinders, saws, lathes, etc.). Such forms will include:

- a list of equipment,
- date inspected,
- findings, and
- any corrective action taken.

j. Some consideration should be given when planning activities and equipment purchase to ensure that, whenever possible, sufficient equipment is on hand to meet the inmate population's needs.

9. [GOALS §544.32. The Warden is to ensure, to the extent possible, that leisure activities are provided to meet social, physical, psychological and overall wellness needs of inmates.]

Recreation leisure programs provide a means for developing social and interpersonal skills.

- ◆ Uncooperative or other inappropriate behavior is not conducive to the development of these social skills.
- ◆ In order to meet these goals, recreation staff will ensure that written rules of conduct exist for leisure programs, including hobbycraft.
- ◆ These rules are to provide guidance on dealing with unsportsman like and other inappropriate conduct for rule violations, including suspension from programs. These written program rules must be posted in prominent locations.

- ◆ Staff will make every effort to assure that inmates are aware of program rules before beginning the program. Additionally, the Admission and Orientation lecture by staff will include an explanation of the consequence of program rule violations, including actions such as suspension from a program. When applicable, suspensions will be made in progressive increments for repeated violations.

a. **Leisure activities are designed to attract inmate participation regardless of ethnic, racial, age, or sex difference, or handicap considerations, and to enhance the potential for post-release involvement.**

b. **Leisure activities are designed to ensure that an inmate with the need has the opportunity to complete one or more activities (see 28 CFR 544.81).]**

28 CFR 544.81 refers to the Program Statement on Education, Training and Leisure Time.

10. **RECREATION PROGRAM LIMITATIONS.** Funds may be expended from the Trust Fund as necessary to conduct recreation programs consistent with the Trust Fund/Warehouse/Laundry Manual.

a. Recreation items allowed as personal properties are listed in the Program Statement on Inmate Personal Property.

b. No funds, from **any funding source**, will be used for instruction (live or through broadcasts) or training equipment for boxing, wrestling, judo, karate, or any other martial art. (See Attachment A)

c. No body building or weightlifting equipment of any sort may be purchased. In house minor repairs may be made to weightlifting benches, mats, and weightlifting belts (not cables) to ensure safety and prevent injuries. (See Attachment A)

d. No in cell television viewing for inmates may be provided, whether funded with S&E funds, Trust Fund profits, or donations from community sources, **except** for inmates:

- (1) segregated from the general prison population for their own safety (e.g., WITSEC)
- (2) confined to cells or rooms at medical centers for serious, chronic medical conditions, or
- (3) housed in cells on a regular and continuous basis (e.g., USP Marion, ADX Florence, etc.)

- (4) participating in an already existing inmate incentive award program that uses in cell viewing as the award; however, no funds of any type will be expended for the repair or upkeep of the televisions. Once inoperative, the program will cease. (See Attachment A)

e. Televisions for the inmate population may not exceed 30 inches.

f. Multi purpose courts which are simple, functional, and cost effective are permitted.

11. **MOVIES §544.33. If there is a program to show movies, the Supervisor of Education shall ensure that x-rated movies are not shown.]**

The Recreation Supervisor will exercise good judgment and follow statutory restrictions when selecting video movies rentals. No movies rated R, X, or NC 17 may be shown to inmates.

- ◆ Institutions may show R and NC 17 movies that have been edited for general public viewing.
- ◆ Spanish movies that are not rated may be shown if they do not include profanity, graphic violence, or nudity.
- ◆ Not all edited movies may be appropriate for the correctional setting; each institution must use caution in selecting movies. (See Attachment A)

Recreation staff's use of videotapes in public performances without a licensing agreement is prohibited, and the Recreation Supervisor must enforce all videotape copyright and licensing requirements strictly.

12. **INMATE RUNNING EVENTS §544.33. Running events will ordinarily not exceed 10 kilometers or 6.2 miles. Appropriate medical staff and fluid supplies (e.g., water) should be available for all inmate running events.]**

13. **PHYSICAL FITNESS AND HEALTH EDUCATION.** Institutions are encouraged to offer as many program components as staff and resources allow, but must offer:

- ◆ Component #1 Structured Exercise, and
- ◆ Component #2 Health Awareness Resource Area.

a. **Component #1: Structured Exercise.** These are activities that offer opportunities to participate in regular, moderate levels of exercise monitored by recreation staff through exercise activity logs. Activity logs will include:

- ◆ the type of activity,
- ◆ the amount of time spent on the activity, and
- ◆ staff verification.

Institutions may offer The Presidential Sports Award Program, Cooper System of Aerobic Points, or any other structured exercise program that is monitored and based on regular, moderate levels of exercise.

These activities may include organized team and individual sports or physical fitness group activities that require registration of individual participants and occur at a scheduled time and place.

A system of non cash incentives (such as certificates, recognition (non Polaroid) photographs, or consumable items) may be established to encourage an inmate to pursue a program of regular exercise.

b. **Component #2: "Health Awareness" Resource Area.** This is a designated area in the recreation center or leisure library that contains pamphlets, brochures, magazines, health awareness videos, books, or other resource material promoting physical fitness and health education.

c. **Component #3: Health Education Classes.** These are structured classes, lead by Recreation staff, contractors, volunteers, or qualified inmates with staff oversight, on such topics as:

- ◆ Introduction to Fitness
- ◆ Fundamentals of Proper Nutrition
- ◆ Smoking Cessation
- ◆ Weight Management
- ◆ Stress Management
- ◆ Human Anatomy
- ◆ Exercise Physiology
- ◆ Prevention of Back Pain
- ◆ Aerobic Exercise

To be officially recorded, each class must include:

- ◆ required attendance,

- ◆ a written curriculum (at least a course syllabus and lesson plans; these might be provided by the vendor) and,
- ◆ class completion criteria.

Such classes may be entered into the EDS under the wellness group code.

d. **Component #4: Volunteers & Community Resources.** This component involves ongoing program support at no cost to the Bureau through such community organizations or individuals as individuals from colleges, universities, fitness clubs, hospitals, or other agencies or organizations that contribute to overall program effectiveness.

e. **Component #5: Health Appraisals, Fitness Assessments and Exercise Program Plans.** This involves a formal approach to health appraisals, fitness assessments, and exercise program plans including:

- ◆ a review of health history;
- ◆ a fitness assessment; and
- ◆ a schedule of safe personal exercise.

A staff member who has received specialized training through a recognized certification program, or similar training through undergraduate or graduate studies must supervise this program.

An inmate's participation may be part of a treatment protocol and is ordinarily based on a referral from Health Services, Psychology Services, or the Unit Team.

Physical fitness assessments generally consist of:

- ◆ cardiovascular endurance (1.5 mile run or 12 minute run/walk);
- ◆ percentage of body fat (skin fold measurements);
- ◆ flexibility (sit and reach test); and
- ◆ dynamic strength (one minute sit up/push up tests).

Exercise program plans are ordinarily based on the results of health appraisals and fitness assessments. Careful consideration should be given to any restrictions or recommended training levels specified by Health Services.

f. **Component #6: Special Events.** These are special physical fitness and health education activities, such as:

- ◆ health fairs;
- ◆ health education book fairs;
- ◆ participation in nationally recognized health events;
- ◆ Walk a Thons; or
- ◆ Aerob a Thons.

14. [**ART AND HOBBYCRAFT §544.34**]. The art and hobbycraft program enables inmates to make constructive use of their leisure hours, use their skills and creative abilities constructively, and gain a sense of accomplishment. Use of hobbycraft facilities is a privilege that the Warden or staff delegated that authority may grant or deny.

[a. **Obtaining Materials**. An inmate engaged in art or hobbycraft activities may obtain materials through:

- (1) The institution art program (if one exists);
- (2) The commissary sales unit;

Special purchase commissary orders, if the sales unit is unable to stock a sufficient amount of the needed materials; or

- (4) Other sources approved by the Warden.

b. **Identification of Products**. Each inmate shall identify completed art or hobbycraft products by showing the inmate's name and register number on the reverse side of the item.

c. **Disposition**. Completed or abandoned art or hobbycraft articles must be disposed of in one of the following ways:

- (1) Upon approval of the Warden, by giving the item to an authorized visitor. The quantity of items will be determined by the Warden.

- (2) By mailing the item to a verified relative or approved visitor at the inmate's expense.

- (3) By selling, through an institution art and hobbycraft sales program, if one exists, after the institution price committee has determined the sale price.]

If an institution has a sales program, procedures for it must be included in the Institution Supplement on Recreation Programs.

[(4) Other methods established by the Warden.]

To reduce fire hazards and to conserve space, art and hobbycraft items that are not disposed of in any of the listed ways is contraband.

[d. Restrictions. Art and hobbycraft programs are intended for the personal enjoyment of an inmate and as an opportunity to learn a new leisure skill. They are not for the mass production of art and hobbycraft items by artists or to provide a means of supplementing an inmate's income.]

The Recreation Supervisor is responsible for developing a record keeping system to control ongoing and completed projects.

[(1) The Warden may restrict, for reasons of security and housekeeping, the size and quantity of all products made in the art and hobbycraft program. Paintings mailed out of the institution must conform to both institution guidelines and postal regulations. If an inmate's art work or hobbycraft is on public display, the Warden may restrict the content of the work in accordance with community standards of decency.]

The Warden is to consult with Regional Counsel prior to restricting the public display of inmate art work or hobbycraft, to ensure that appropriate legal standards are met.

[(2) The Warden may set limits, in compliance with commissary guidelines, on the amount of money an inmate may spend on art or hobbycraft items or materials.]

The limit may not exceed \$300 per quarter through commissary, special purchase order, or a combination of the two.

[(3) The Warden may restrict for reasons of security, fire safety, and housekeeping, the use or possession of art and hobbycraft items or materials.]

(4) Appropriate hobbycraft activities shall be encouraged in the inmate living areas. However, the Warden may limit hobbycraft projects in the cell/living areas to those which can be contained/stored in provided personal property containers. Exceptions may be made for such items as a painting where the size would prohibit placement in a locker. Hobbycraft items must be removed from the living area when completed unless they are approved as personal property.

(5) **The Warden shall require the inmate to mail completed hobbycraft articles out of the institution at the inmate's expense, or to give them to an authorized visitor within 30 days of completion, or to dispose of them through approved sales. However, articles offered for sale must be sold within 90 days of completion, or must be given to an authorized visitor or mailed out of the institution at the inmate's expense.]**

Inmates may sell hobbycraft articles or finished goods, and visitors or Bureau employees may buy such articles, only as prescribed below.

(a) **Articles for Sale.** The inmate must submit finished articles to be offered for sale to the recreation staff responsible for the hobby shop and attach a price tag reflecting his or her valuation of the item.

Recreation staff must assign a serial number to the item and enter the item and serial number on the register of Hobby Shop Articles for Sale (BP 196), prepared in duplicate. The Supervisor of Recreation is to retain records for at least three years.

(b) **Price Committee.** The Warden designates members to the institution Price Committee, ordinarily recreation staff responsible for the hobby shop, a member of the education department, and one other employee.

Prior to making an article available for sale, the Price Committee approves the register of Hobby Shop Articles for Sale.

(1) **Authority.** The Price Committee may return to the inmate any item considered to be poorly constructed or not in good taste. The committee may consider articles in sets as one piece, with only one serial number assigned.

(2) **Sales Approval.** Articles may not be sold for more than the amount the Price Committee approves. Should the committee's price differ from the one the inmate provides, the inmate's approval will be obtained on the Hobby Shop Articles for Sale form prior to display. If the inmate disagrees with the Committee's price, and refuses to sign the form indicating approval, the item must be withdrawn from sale.

(3) **Sales Display.** After the Price Committee's approval, the article (plus the original of the Hobby Shop Articles for Sale form) will be delivered to the staff member in

charge of the display case. Recreation staff will retain a copy of the form.

Each article on display will indicate the name and serial number of the item and the price designated by the Price Committee, but the inmate's name or register number may not appear on the item. An inmate may withdraw an article displayed for sale at any time.

The recreation staff member and the employee in charge of the display case will do a monthly inventory of articles in the display case. Articles not sold within 90 days will be returned to the inmate for further disposition in accordance with subsection 14.c. above.

(4) **Posting.** Funds received for articles sold will be recorded on a Temporary Receipt Inmate Funds (BP 197). The funds, along with the yellow copy of the Temporary Receipt, will be delivered to the mail room for inclusion in the daily collections.

[(6) Where space and equipment are limited and demand is high, the Warden may set limits on the amount of time an inmate may use a hobbycraft facility, e.g., the Warden may limit an inmate's use of any workshop or classroom to six months to make room for new students. Hobbycraft participants may be rotated to allow for maximum utilization of the resources.]

(7) Disciplinary action may be taken against inmates found with unauthorized hobbycraft materials in their possession. This action may include the removal of the inmate from the hobbycraft program.]

(8) Material Safety Data Sheets (MSDS) will be maintained for all products. It is the Recreation Supervisor's responsibility to ensure that the MSDSs are completed and available for all staff and inmates and that relevant safety talks are provided to all persons involved with the hazardous leisure time materials, consistent with the Occupational Safety and Environmental Health Manual.

All hazardous materials will be stored and disposed of in accord with OSHA regulations, and inventoried regularly with an effective bin card system.

15. **MUSIC ACTIVITIES.** Recreation staff will provide music instruments; however, no electric or electronic musical instrument may be purchased. Existing electric or electronic musical instruments that break may not be repaired. This equipment may be given to Religious Services if it is needed to provide music for religious services. If not, this equipment should be disposed of through normal excess property procedure. (see Attachment A)

An inmate may not purchase or have sent in any personal musical instruments, except for a harmonica.

16. **INSTITUTION SUPPLEMENT.** Local procedures will be established for operating the hobbycraft program in a separate Institution Supplement, or as a component of a consolidated Institution Supplement on Inmate Recreation Programs. It will include guidelines and procedures for:

- ◆ enrollment,
- ◆ types of programs and training offered,
- ◆ membership, organization, and procedures for the hobbycraft Price Committee,
- ◆ the disposition of finished inmate products, and
- ◆ any requirements for protective equipment and clothing for inmates involved in recreation and leisure time programs.

/s/
Kathleen Hawk Sawyer
Director

**Questions and Concerns
Regarding the Implementation of the Legislation Effecting
Recreation and Other Recreation Issues**

Viewing of R, X, or NC-17 Rated Movies

1. Is it acceptable to "block out" R, X, or NC 17 rated movies on premium movie channels, e.g., HBO, Showtime or Cinemax? How is this done?

Yes, it is acceptable to "block out" the movies if the institution can ensure that these prohibited movies will not be shown accidentally. Depending on the sophistication of their equipment, some cable companies have the capability to block out movies. Smaller cable companies may not have this capability. A memo should be provided to the company requesting these specific rated movies not be shown to the inmate population.

2. May R and NC 17 rated movies edited for profanity, sex, violence be shown, e.g., edited movies similar to those shown on airlines?

Yes, institutions may show edited movies. Many video public performance license providers have available popular video titles in special "edited" versions created especially for airline or television showings. The edited versions have had profanity, graphic violence and nudity edited out. Not all edited movies may be appropriate for the correctional setting, each institution must use caution in selecting edited movies. Discretion to how many edited movies may be shown will be left up to the institution, as the cost may vary from title to title and company to company depending on the type of agreement.

3. May an institution have both a premium cable television movie channel and a video license and rental agreement for public performance?

No. The Trust Fund Manual allows for trust funds to be used to purchase a single premium cable television movie channel or a video license and video rentals but not both.

4. Will trust funds be available for edited movie rentals?

If edited movie rentals are used (see question 2), trust funds would be the funding source.

5. May trust fund monies be used to purchase a public performance license and movie/video rentals?

Yes, public performance licenses and movie/video rentals may be purchased with trust fund monies, (recreation operating monies or profit sharing monies) and only trust fund monies.

6. May we use two vendors for video agreements, but use only one at a time, i.e., use one vendor for six months and another vendor for the other six months to increase the number of movies to select from?

Yes, an institution may contract with one vendor for six months and a different vendor during the next months, e.g., a contract with Swank from October to March and another available company from April to September. An institution should not have more than one contract at the same time.

7. Prime time public television often shows R rated movies. How do we handle this type of situation?

Movies shown on regular network stations are acceptable for inmate viewing.

8. Many Spanish movies are not rated. Should we show them?

Spanish movies that are not rated may be shown if they do not include profanity, graphic violence and nudity. Swank Motion Pictures, Inc. has rated and edited movies available in a Spanish version. Unrated movies must be screened by a staff member to ensure that they are in compliance with legislation effecting recreation.

9. May we show unrated movies? Many older films are not rated.

Although these older films do not have ratings, the movie industry had stricter and more conservative standards. Common sense should be used, but most movies of this type are acceptable.

10. What constitutes basic cable service? Cable services are available at different pricing packages. Is it acceptable to pay for ESPN, MTV, etc. which require funds in addition to basic cable? If yes, should trust fund monies be used?

Trust funds should be used to purchase basic cable and for any additional cable services such as ESPN, MTV, Black Entertainment Television (BET), etc. Because trust fund

profits may vary from year to year, institution staff must be careful not to create the expectation to the inmate population that extra cable services will always be provided. Only institutions that have not purchased a video license may purchase a premium movie channel. The institution will still be limited to one premium movie channel. (if the institution does not purchase a video license and rentals.)

11. Some institutions get Univision (Spanish channel) as part of their basic cable. Other institutions have to pay extra in order to receive this service. Is it acceptable to pay for this service?

Yes; However, only trust fund monies should be used to purchase the Univision Channel.

12. If trust fund monies, rather than appropriated funds, are currently funding a public performance license, are R rated movies permitted?

No R, X, NC-17 rated movies will not be shown regardless of funding source.

13. May we use trust funds and only trust funds for pay for view sporting events?

Yes. Trust funds may be used for pay-for-view sporting events.

14. Is there an acceptable amount per year for pay for view sporting events?

Excessively high expenditures could be an embarrassment to the Bureau and result in the use of trust funds in ways that are not representative of the interests of the inmate population.

For these reasons, decisions on the use of Trust fund for pay-per-view events should be made prudently. Common sense and market prices should determine the amount to be used for pay-for-view sporting events.

15. Our institution has a video library that the inmates use in the leisure center on individual video monitors and some of

the movies in the library are R rated. Will these R rated movies have to be removed from the library?

Yes, they must be removed.

16. If we retain an appropriate public performance license, can R rated videos, be donated to the institution and viewed by the population?

No, R-rated movies cannot be donated to the institution for viewing by the inmate population.

17. How do we educate all departments in the institution about R rated movies, movie copyright issues, and legislation effecting recreation.

Supervisors of Recreation will notify department managers of procedures, laws and regulations for showing films within the institution. Thereafter, other department heads will notify the Supervisor of Recreation prior to showing any general entertainment film/videos by the departments to ensure compliance of copyright laws and legislation.

Instruction or Training for Boxing, Wrestling, Judo, Karate or Other Martial Arts or any Body Building or Weightlifting Equipment

1. What items are allowed in replacing weight lifting equipment and are there any cost restrictions?
- a. Chin up bar
No. (Upper body conditioning)
 - b. Lift bar (lat pull bar)
No. (Upper body conditioning)
 - c. Partner facilitated resistant (isometric exercises)
No. (Even though this does not involve equipment, it does enhance upper body strength.)
 - d. Big thick rubber bands or bull workers
No. (Upper body conditioning)
 - e. Push up bar

No. (Upper body conditioning)

f. Trail fitness stations or Par fit courses

Yes. (Stations must not include equipment for upper body conditioning.)

g. Roman chair

Yes. (Works stomach muscles)

h. Health rider, exercise rider or equivalent

Yes.

i. Stair climber

Yes.

j. Rowers

Yes.

k. Exercise bicycles

Yes.

l. Heavy bags/speed bags

No. (Boxing related activity)

m. Ergo equipment

No.

n. Exercise wheel or ab cruncher

Yes.

o. Medicine balls

Yes, abdominal and lower back exercise only.

2. How can we be supportive of "wellness" if all upper body development is prohibited?

We will try to be as supportive of as many health promotion and disease prevention activities as possible within the

constraints of this policy.

3. How can the development of exercise prescriptions under the Health Promotion and Disease Prevention Program Statement be met under Zimmer? (Policy conflict)

See the answer to question 2.

4. a. May cables be replaced on otherwise operational (and sometimes costly) weightlifting and related exercise equipment?

No.

- b. May we replace cables on weight machines for safety reasons?

No.

- c. May bushings to weight equipment be purchased and replaced?

No.

- d. May stock cable be used for repairs?

No.

5. May protective covers for weight training machines be installed if it is identified as a safety concern?

Yes.

6. a. May weight benches be tacked (spot welded)?

No, minor repairs to weight benches are allowable provided the nature of the repair has been approved by the Safety Manager.

- b. May weight benches be recovered?

Yes.

7. What is your definition of in house repairs for weight lifting equipment?

Repairs to weight lifting equipment, regardless of how minimal are not allowed. In-house minor repairs may be made

to weightlifting benches, mats and weightlifting belts provided that the expenses are minimal and the repairs are performed only so as to ensure that the use of existing equipment is conducted in a manner which is safe and prevents injury.

8. May replacement parts purchased prior to Fiscal Year 1996 be used to repair weightlifting equipment?

No. Replacement parts purchased prior to Fiscal Year 1996 would still require the use of staff salaries for replacement and installation of parts; therefore, parts should be returned for credit or refund.

9. If equipment cannot be repaired, what should the institution do with the otherwise usable equipment?

Recreation equipment that is operational or in need of minor repairs cannot be donated directly to nonprofit organizations. Institutions must follow property management procedures with property declared as excess.

10. a. May exercise equipment with basic electronic displays (e.g., those that display calories burned, distance, time) be purchased?

Yes.

- b. May exercise equipment with more sophisticated computer components be used if the sophisticated computer components are removed?

Yes.

- c. What other specific enhancements are allowed or disallowed?

Basic guidance was provided in the November 15, 1995, Guidelines for Implementation of the Zimmer Amendment memorandum from the Director. Institution staff should use good judgment in these matters.

11. Will traditionally held weight lifting competitions, such as the Northeast powerlifting competition, be allowed?

No.

12. May inmates buy weight belts?

Yes.

13. Will there be a consistent bureau wide removal of weight equipment?

No. Most institutions will slowly phase out weight equipment when it becomes inoperable.

14. If inmates are breaking free weights and equipment at a steady rate, does an institution have the local discretion to remove the equipment and provide a replacement?

Inoperable free weight and equipment should be removed and replaced with alternate equipment. Generally institutions should not remove equipment in good condition unless there are special circumstances, e.g., a disturbance or incident where the equipment was used as a weapon.

Are pool tables considered an appropriate replacement?

Yes, unless pool tables were removed after an incident where the pool cues were used as weapons.

15. a. Weight areas occupied a large number of inmates. To occupy equivalent numbers, may we return to the use of outside entertainment (competitions with community based teams, musical entertainment, etc.)?

Yes, if these activities will not pose a security issue or create public perception problems because of the costs or publicity involved.

- b. May we obligate funds to these efforts?

Yes, but funding should be used prudently.

16. How should we handle inmates who fabricate equipment to perform exercises?

If there is destruction of government property, an incident report should be written.

17. Often, basic cable (ESPN) and public television have programs which provide instruction in weight lifting and upper body development. Are such programs considered restricted? Should we limit inmate access to such programs?

It would be difficult to restrict such programs. To try to restrict such programs is going beyond the intent of this policy.

Electronic and Electric Instruments

1. Do all musical instruments (electrical and nonelectrical) need to be eliminated?

No. This policy only prohibits the use of funds to purchase, maintain or repair electric and electronic musical instruments. Acoustic guitars, drums, horns, etc. are acceptable to purchase and maintain in the institution.

2. May inmates use their own money to buy electric or electronic instruments as personal property?

No.

3. a. May recreation staff purchase or repair microphones and amplifiers?

Yes.

- b. May repairs be made to PA systems?

Yes.

4. Are electronic instruments limited to keyboards, electric guitars, etc., or do they include amplifiers, speakers, microphones, patch cords, tape players and record players?

Electronic and electric musical instruments are keyboards, electric guitars and any other electric instrument that produces music.

Speakers, microphones, tape players and record players are not considered electric musical instruments and they may be repaired and purchased.

5. May recreation staff purchase acoustic guitars, percussion instruments, etc.?

Yes.

6. a. May recreation staff purchase guitar strings for electric guitars?

No.

- b. May recreation staff use guitar strings that were already on hand prior to Fiscal Year 1996?

No.

7. When do we get rid of the electrical guitars? When the body breaks or when the strings breaks?

The guitar should be removed whenever the body or the guitar strings break.

8. What do we do with musical instruments that cannot be repaired (with appropriated funds)?

Since electronic musical instruments can not be repaired by recreation, the instruments may be donated to the religious services departments if the electronic musical instruments are used as part of the religious service.

Staff should follow property management procedures for disposal of excess property.

9. Is it acceptable to purchase woodwinds and supplies (reeds, etc.)?

Yes.

10. Are Karoke machines considered electrical musical instruments?

Institutions should use or purchase basic Karoke machines without expensive visual components.

11. When does the new program statement on Inmate Personal Property require inmates to mail home their musical instruments?

November 1, 1997, unless an institution implements Program Statement 5580.04 prior to November 1, 1997, and then at the date of implementation.

Other Issues

Are the following items/activities permitted?

1. All purpose courts?

Yes

2. Fly fish lure tying in hobby craft?

Yes

3. Ice skating?

Yes

4. Pool tables and horseshoes?

Yes

5. Karaoke singing machines?

Yes

6. Outside entertainment?

Yes, but cost and potential for unfavorable publicity, public reaction or security concerns should be a consideration.

Attachment R

PRISON ARTS RESOURCE PROJECT

An Annotated Bibliography

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**THE PRISON ARTS RESOURCE PROJECT: An Annotated
Bibliography**

WORKING PAPER

Submitted to the National Endowment for the Arts

May 2014

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Appendix: Program Evaluation Resources

Author Affiliations

ABSTRACT

The Prison Arts Resource Project (PARP) is an annotated bibliography of evidence-based studies evaluating the impact of arts programs in U.S. correctional settings. Each of the 48 entries includes information about the arts program as well as the study research goals, methods and a summary of findings. Adult offender and juvenile offender programs are identified. While not an exhaustive list, this collection of annotated impact studies represent publicly available evidence that can be accessed by individuals and organizations seeking to develop their own evaluation or research, or who are seeking evidence of impact for the purposes of program development and policy improvement.

Keywords: Prison Arts, policy, arts impact

INTRODUCTION

The Prison Arts Resource Project (PARP) is an annotated bibliography of studies which provide evidence of the benefits of arts programs in correctional settings for adult and juvenile offenders. This compilation seeks to provide, for the first time, a collection of prison arts impact studies in the United States. While not an exhaustive list, the impact studies that follow represent publicly available materials and so may be accessed by individuals and organizations seeking to develop their own impact studies, or provide evidence of impact for the purposes of program development and policy improvement.

Background

Evidence-based studies did not begin with arts programs themselves. The use of the arts in correctional settings in the U.S. has been ubiquitous since prisons were established in this country, but most of these early efforts were informal rather than organized.

In the 1840s, Charles Dickens, as a social critic of prisons, was invited to the United States to analyze new models of prisons being created on the East Coast. His *American Notes for General Circulation-1842* provided early insights into early arts-in-prisons. While Dickens generally was highly critical of the U.S. prison experiments, he discovered when he visited inmates in the "silent system," which provided no contact with other human beings, that what inmates did was create art:

The first man I saw was seated at his loom, at work. . . . He had ingeniously manufactured a sort of Dutch clock from some discarded odds and ends; and his vinegar bottle served for the pendulum. Seeing me interested in this contrivance, he looked up at it with a good deal of pride, and said that he hoped the hammer and a little piece of broken glass beside it 'would play music before long.' He had extracted some colors from the yarn with which he worked and painted a few poor figures on the wall. One of a female over the door, he called 'The Lady of the Lake.'" (Dickens, pps 117-118)

The breadth of prison arts experiences include both individual participation and also peer-organized arts experiences. When William Sydney Porter (aka O. Henry) was incarcerated in the Ohio Federal Penitentiary from 1898-1901, he organized a Sunday recluse club in which a group of men in the prison would share their creative writing and stories in an organized manner. At that same time, O. Henry

was also playing in the prison band. Prison musical bands, typically brass and patriotic in nature, appeared throughout prisons of that era. Another trend in prison programs was toward religious training and character building, and these early patriotic prison choirs emerged as a common type of prison arts program in the early part of the twentieth century. In the Southern U.S., with the emergence of agricultural production on prison farms like Parchment in Mississippi and Angola in Louisiana, both African-American and White prisoners used songs, "hollers," call-and-response and narrative to make work pass by less tediously. The prison system didn't organize the singing; whether it was hoeing fields, cutting wood or picking cotton, music was part of the prison culture. Lead Belly, incarcerated in both Texas and Louisiana, was renowned as the most productive of cotton pickers at Angola in the 1930s, and became a popular musician and radio star after his release. Alan Lomax recorded the songs which are now available through the [Association for Cultural Equity](#).

At the same time that O. Henry was serving his time for embezzlement in the Ohio Federal Prison, another movement, albeit not a correctional movement but a community arts movement, began with the settlement houses such as Hull House in Chicago and Henry Street Settlement in New York City. Many of these settlement houses provided cultural education for youth and adults as a method of assimilating new immigrant populations.

At the start of the twentieth century in the United States, the settlement houses provided an example of the possibilities for youth offender education and cultural development through the arts. The first community arts initiative created by the National Endowment for the Arts was the Poets-in-the-Schools, pioneered by Kenneth Koch. With the growth of gangs and serious substance abuse by youth, society's response was to create new detention facilities, both short-term, municipal and long-term "reformatories." Many of the studies that we find in the bibliography have seen much success with youth arts programs, some of them curricular and others community-based programs within institutions.

In the 1950s and 1960s, one element of "rehabilitation" of inmates was the institutionalization of prison libraries so that literature would build the character and intellect of inmates and "correct" them in a bibliotherapeutic manner. The establishment of prison libraries created individual opportunities for personal growth and literary skills which blossomed in the 1960s and 1970s with notable figures like Eldridge Cleaver, Malcolm Braly, Etheridge Knight, Ricardo Sanchez, Raul Salinas and Michael Hogan.

Starting in 1972, inmates were offered the opportunity to obtain education including baccalaureate and post-graduate education through Pell grants. If enough inmates were organized to create a class, community colleges and

universities would provide the classes for credit. It was at this time that the evidence-based studies on the positive or negative effects of arts and literature programs which are detailed in this bibliography emerged. Many of these were a direct result of the Comprehensive Employment Training Act (CETA), implemented by the Department of Labor in 1973, which provided funding to hire unemployed or underemployed workers in community service. Many local and state arts councils and organizations utilized this funding to employ artists in almost every community arts venue possible, including schools, museums, prisons, jails, detention centers, hospitals, and rural communities. One of the early studies in this bibliography is Project CULTURE, which was undertaken by the American Correctional Association (ACA) with funding through the Corrections Division, Office of Criminal Justice Programs. Project CULTURE was a national project which underwrote 21 successful prison arts programs selected with evaluations in place.

Pell grants for inmates were eliminated in 1994, virtually removing the reformatory degree-granting presence of community colleges and universities from the prison system. This, along with the growth in private prisons, which had no rationale for providing arts or educational programs, has resulted in the reduction of prison arts programs across the U.S. Juvenile correctional institutions are more likely to have arts programs as a stable component of treatment philosophy and juvenile correctional populations continue to expand.

Methodology

Our mandate in receiving this Research: Art Works grant from the National Endowment for the Arts was clear: to examine existing data, identifying and compiling a bibliography of studies of the impact of correctional arts programs.

Our methodology was to illuminate papers, reports, surveys and presentations, which were evidence-based documents. We scoured scholarly databases and the internet, relied on personal and institutional archives and directly contacted via phone or email established prison arts programs such as Rehabilitation Through The Arts and Changing Lives Through Literature to locate additional evaluations.

If the article, chapter or paper presented itself specifically as an evaluation or impact study, it was included in the bibliography. The range of outcomes presented is wide and varying and includes societal impact (cost/benefit analyses), individual impact (self-esteem, social skills, mental health) and, occasionally, impact on the institution or artists providing the program. Results were reported as they were presented by the individual authors; we did not attempt to interpret any findings. A number of the published studies that are included in the bibliography reference the same data sets. In these cases, we included each individually published study, trying to note nuances in the reported

results.

We should also note that the rubrics or methodologies are not consistent across the studies. Sample sizes, specific populations, and data-collection methods vary greatly. The annotations reflect the details available in the individual studies and evaluations.

The art forms represented in the impact studies follow standard arts disciplinary categories of music, dance, visual arts, creative writing and theater and as well as bibliotherapy. Richards, et. al. (2000), explored the role of writing on the health of inmates diagnosed with psychiatric illnesses and confined in the psychiatric wing of a correctional facility. Although the intervention was not labeled an "arts" intervention, it was described as a creative form of writing, and so was included in the bibliography. Art therapy is not considered an art program per se but it can be a group program which has many of the qualities of an arts programs. For that reason, we also integrated art therapy evaluations.

This bibliography does not present individual programs or state or national initiatives. An excellent survey of individual programs can be found in Krista Brune's *Creating Behind the Razor Wire* (2008). Studies evaluating juvenile offender programs included only adjudicated youth, or youth already involved with the court system. As with arts education, much has been written elsewhere about the effects of the many arts-based community prevention and intervention programs for youth who are at risk of delinquency but who have not yet encountered the justice system.

Finally, this bibliography incorporates evaluations of U.S. programs only. The Arts Alliance, a coalition of arts organizations working in the British criminal justice system, has compiled an excellent [Evidence Library](#) of research on the impact of arts programming in correctional facilities in the United Kingdom. Our methodology and final document are complementary to that database.

We have tried to keep entries as consistent as possible. In the majority of cases, evaluations involved ongoing prison arts programs, both long-term and short-term, and each entry starts off with program name, description and location. If the study was not part of a larger arts program, adaptations to the format have been made as needed. Program information is followed by details on methodology and results of the specific study. Keywords reflect both art forms and outcomes.

Entries are divided into two sections, juvenile and adult, which correspond to the two types of correctional institutions and arts programs.

References

- Dickens, Charles. (1913). Philadelphia and Its Solitary Prison. In *American Notes*. Canada: Harper and Brothers (Chapter 7). Retrieved from <http://xroads.virginia.edu/~hyper/DICKENS/dks7.html>
- Fisher-Giorlando, M. (2005). Prison Music. In Mary Bosworth (Ed.), *Encyclopedia of Prisons & Correctional Facilities* (744-747). Thousand Oaks, Calif: SAGE Publications.
- Goldbard, A. (1993). Postscripts to the past: Notes toward a history of community arts. *High Performance*, 64, 23-27.
- Hager, L. (2008). Community Arts. In Blandy, D. & Carpenter, G. (Eds), *Arts and Cultural Programming: A Leisure Perspective* (159-172). Champaign, IL: Human Kinetics.
- Hillman, G. (Winter 2009). Arts and Juvenile Justice. *Best Practices in Mental Health*, 5(1), 1-9.
- Hillman, G. (Spring/Summer 1994). Kerouac's Town, Dickens and Prison Art. *Texas Journal of Ideas, History and Culture*, 16(2), 22-27.

ANNOTATED BIBLIOGRAPHY

SECTION I: ADULT OFFENDER ARTS PROGRAM: EVIDENCE-BASED STUDIES & EVALUATIONS

1. Arizona State University College of Liberal Arts & Sciences (2013). Calculating Impact: doing the numbers. *Prison English News*, 1(1), 2.

Author Affiliation: Arizona State University

Artforms: Creative writing, drama, literature, poetry

Program: Arizona State University *Prison English Program*

Program (Study) Location: Penitentiary of New Mexico, Santa Fe, New Mexico

Program Description: Arizona State University (ASU) offers two university-level English courses at the New Mexico state penitentiary. One-hundred-fifty inmates are linked with ASU undergraduates who provide critiques of inmate creative writing.

Study Published: Summer 2013

Participant Type: Maximum-security adult male inmates

Data Type: Quantitative

Evaluation Focus: Cost savings

Summary of Impact: As a result of the *Prison English Program*, the New Mexico Corrections Department receives program savings of \$27,000-\$40,500 per semester.

KEYWORDS: adult, cost-savings, creative writing, drama, linguistics, literature, poetry, prison education, *Prison English Program*, university

2. Blinn, C. (1995) Teaching Cognitive Skills to Effect Behavioral Change Through a Writing Program. *Journal of Correctional Education*, 46(4), 146-154.

Author Affiliation: Emerson College

Artforms: Bibliotherapy, literature, writing

Program: *Writing for Our Lives*

Program Description: *Writing for Our Lives* used daily journal entries, weekly writing assignments and weekly classroom discussions to shift offenders' self-identity from pro-criminal to pro-social, and to enhance problem-solving skills and impulse control. Short stories were used as "a basis for discussion of point of view regarding empathy, how the characters' peer associations impact their lives, the life changes exhibited by the characters, and possible alternative solutions to problems encountered by the characters" (p. 147). The curriculum was designed to

complement the Correctional Recovery Academy (CRA) program of the Massachusetts Department of Correction.

Program (Study) Location: Northeastern Correctional Center, Concord, Massachusetts

Study Published: 1995

Participant Type: Adult male inmates

Sample Size: 54

Data Type: Qualitative: instructor observations, participants' written evaluations

Evaluation Focus: Research questions:

- Will offenders record prosocial behaviors on a daily basis? Will they demonstrate increased prosocial behaviors after self-monitoring?
- Will participating in *Writing for Our Lives* enable offenders to change their self-identities from procriminal to prosocial? Will participation raise their sense of self-efficacy as writers? Will participant's appreciation for the prosocial activity of writing increase?
- Will offenders master a model for concrete problem solving [THINK FIRST]? Will offenders demonstrate consequential thinking after learning the THINK FIRST method?
- Will offenders develop social perspective-taking skills through discussing the point(s) of view from which the assigned short stories are told? Will offenders make use of their knowledge of reading - or writing-related community activities after their release (p. 150)?

Summary of Impact:

- Offenders recorded prosocial behaviors on a daily basis and appeared to demonstrate increased prosocial behaviors with regard to this assignment (p. 150).
- Participation enabled offenders to begin (or continue) the process of changing their self-identities from procriminal to prosocial (p. 151).
- Significant increase in offenders' sense of self-efficacy as writers (p. 151).
- Many offenders appeared to have mastered a model for concrete problem-solving and the ability to think consequentially (p. 151).
- Participants exhibited some measure of social perspective-taking skills when discussing the point(s) of view from which the assigned short stories were told (p. 152).

KEYWORDS: adult, behavior, bibliotherapy, consequences, identity, literature, problem-solving, pro-criminal pro-social, writing, *Writing for Our Lives*

3. Brewster, L. (2010). The California arts-in-corrections music programme: A qualitative study. *International Journal of Community Music*, 3(1), 33-46.

Author Affiliation: University of San Francisco

Artforms: Guitar-building, music

Program: Arts-in-Corrections (AIC)

Program (Study) Location: Adult correctional facilities, California

Program Description: AIC was one of the first prisons arts program in the nation, operating from 1977-1981 under the auspices of the William James Association, and from 1981 to 2003 under the California Department of Corrections. Individual and group instruction was offered in the visual, performing, literary and media arts and fine craft disciplines in California correctional institutions. The California Department of Corrections resumed funding of the program in 2014.

Study Published: 2010

Participant Type: Former adult male inmates

Sample Size: 6

Data Type: Qualitative: In-depth interviews

Evaluation Focus: Impact of the AIC program on lives of inmates during and after incarceration.

Summary of Impact: Participants in AIC reported increased self discipline, self-esteem, self-respect, sense of purpose, and reconnection with family as a result of the program. Participants also reported reduced racial tension in the correctional facility. The evaluation follows up on ex-offenders 25 years after participation in the *Arts-in-Corrections* program, and the publication of Brewster's 1983 cost-benefit analysis of the California AIC program.

KEYWORDS: adult, *Arts-in-Corrections*, discipline, family, guitar-building, music, race, self-esteem, self-respect, sense of purpose

4. Brewster, L. (2014). *California Prison Arts: A Quantitative Evaluation*. Santa Cruz, CA: William James Association.

Retrieved from:

<http://williamjamesassociation.org/california-prison-arts-evaluation-2014/>

Author Affiliation: University of San Francisco

Artforms: poetry, theater, visual arts, writing

Programs/Sponsors: [The Actors' Gang](#), [Arts-in-Corrections \(AIC\)](#), [Jail Guitar Doors](#), [Marin Shakespeare](#), [Sacramento Metropolitan Arts Commission](#), [William James Association](#)

Program Description: AIC was one of the first prisons arts program in the nation, operating from 1977-1981 under the auspices of the William James Association, and from 1981 to 2003 under the California Department of Corrections. Individual and group instruction was offered in the visual, performing, literary and media arts and fine craft disciplines in California correctional institutions. The California Department of Corrections resumed funding of the program in 2014. This study incorporated evaluations of AIC as well as post-AIC prison arts programs in California.

Program (Study) Location: The evaluation was conducted at four California correctional facilities:

- California Rehabilitation Center, Norco (*The Actors' Gang*)
- New Folsom State Prison (Sacramento Metropolitan Arts Commission)

- San Quentin State Prison (*Marin Shakespeare*)
- Correctional Training Facility, Soledad (William James Association)

Study Published: 2014

Participant Type: Adult male inmates

Sample Size: 110

Data Type: Pre- and post-surveys: Life Effectiveness Questionnaire (LEQ) measuring time management, social competence, achievement motivation, intellectual flexibility, emotional control, active initiative and self-confidence

Evaluation Focus: Changes in inmates' attitudes and behavior

Summary of Impact:

- Pre- and post-test survey results of inmates with no previous arts education and practice showed positive and statistically significant correlation between participation in theater, writing and visual arts classes and improved time management, achievement motivation, intellectual flexibility, active initiative and self-confidence.
- A significant majority of former AIC inmates attribute the arts program with giving them greater confidence and self-discipline to pursue other academic and vocational opportunities. This was especially true for those who had participated in AIC for two or more years.
- Reduction in self-reported disciplinary reports while involved in the arts classes; 61% of those who participated in AIC for 5 or more years reported improved behavior.
- Most AIC inmates reported better relations with other inmates and with prison staff
- A significant majority of participants reported that the arts program helped them relieve stress, feel happier and gain valuable insights.
- 58% of arts-program participants said art brought them closer to family, enriched their conversations and nurtured a new identity as artist rather than convict.
- Positive though not statistically significant change in participants' feelings of social competence and emotional control; this improvement was statistically significant for those who participated two or more years in AIC.

KEYWORDS: academic, achievement motivation, active initiative, *The Actors' Gang*, adult, *Arts-in-Corrections*, attitudes, behavior, disciplinary reports, discipline, emotional control, family, happiness, identity, intellectual flexibility, *Jail Guitar Doors*, *Marin Shakespeare*, personal growth, poetry, self-confidence, self-discipline, social competence, social relations, stress, theater, time management, visual arts, vocational, writing

5. Brewster, L. (1983). *An Evaluation of the Arts-in-Corrections Program of the California Department of Corrections*. Santa Cruz, CA: William James Association.

Author Affiliation: San Jose State University

Artforms: Ceramics, fine crafts, guitar-making, literary arts, media arts, music, painting, performing arts, printmaking, sculpting, visual arts, writing

Program: *Arts-in-Corrections* (AIC)

Program Description: AIC was one of the first prisons arts program in the nation, operating from 1977-1981 under the auspices of the William James Association, and from 1981 to 2003 under the California Department of Corrections. Individual and group instruction was offered in the visual, performing, literary and media arts and fine craft disciplines in California correctional institutions. The California Department of Corrections resumed funding of the program in 2014.

Program (Study) Location: The author evaluated the following four AIC locations:

- California Medical Facility at Vacaville
- Deuel Vocational Institution, Tracy, California
- San Quentin State Prison
- Correctional Training Facility at Soledad

Study Published: 1983

Participant Type: Adult male inmates

Sample Size: AIC programs at four California Department of Corrections facilities

Data Type: Quantitative

Evaluation Focus: Costs and benefits of the California Arts-in-Corrections program from three perspectives: social, taxpayer and individual

Summary of Impact:

- \$228,522 in measurable social benefits (including \$105,406 in taxpayer benefits and \$123,116 in individual benefits) compared with a cost to the California Department of Corrections of \$162,790 (p. 41).
- 35.9% of the AIC participants at the California Medical Facility and 65.7% of those at the Correctional Training Facility had fewer disciplinary actions while participating in the program (p. 29).
- 75% of AIC participants at the California Medical Facility and 80.6% of those at the Correctional Training Facility had fewer disciplinary infractions when compared with nonparticipants (after excluding inmates who received no disciplinary citations while at the institution) (p. 29).
- The decrease in disciplinary actions reduced disciplinary administration time by 4,553 hours with a concomitant cost savings of \$77,406 (p. 29).

KEYWORDS: adult, *Arts-in-Corrections*, ceramics, disciplinary reports, discipline, fine crafts, guitar-making, incidents, literary arts, media arts, music, painting, performing arts, printmaking, relationships, sculpting, self-confidence, self-esteem, skills, taxpayers, violence, visual arts, writing

6. Brewster, L. (2010). *A Qualitative Study of the California Arts-in-Corrections Program*. Santa Cruz, CA: William James Association.

Author Affiliation: University of San Francisco

Artforms: Ceramics, fine crafts, guitar-making, literary arts, media arts, music, painting, performing arts, printmaking, sculpting, visual arts, writing

Program: *Arts-in-Corrections* (AIC)

Program Description: AIC was one of the first prisons arts program in the nation,

operating from 1977-1981 under the auspices of the William James Association, and from 1981 to 2003 under the California Department of Corrections. Individual and group instruction was offered in the visual, performing, literary and media arts and fine craft disciplines in California correctional institutions. The California Department of Corrections resumed funding of the program in 2014.

Program (Study) Location: Northern California

Study Published: 2010

Participant Type: Adult male and female former inmates

Sample Size: 18 (16 male and 2 female)

Data Type: Qualitative: In-depth interviews

Evaluation Focus: Impact of AIC on lives of inmates during and after incarceration

Summary of Impact: Inmates revealed that participation in the AIC program enhanced their self-esteem, work ethic, discipline and identity as artists. All interviewees successfully completed parole, and 31% (5 of 16) self-identify as artists, earning all or part of their living through art.

KEYWORDS: adult, *Arts-in-Corrections*, ceramics, fine crafts, guitar-making, identity, literary arts, media arts, music, painting, performing arts, printmaking, purpose, rehabilitation, sculpting, self-esteem, visual arts, work ethic, writing

7. California Department of Corrections. (n.d.). *Arts-in-Corrections Research Synopsis on Parole Outcomes for Participants Paroled December 1980-February 1987*. Santa Cruz, CA: William James Association Prison Arts Program. Retrieved from:http://www.williamjamesassociation.org/reports/CDC-AIC_recitivism_research_synopsis.pdf

Author Affiliation: California Department of Corrections

Artforms: Ceramics, fine crafts, guitar-making, literary arts, media arts, music, painting, performing arts, printmaking, sculpting, visual arts, writing

Program: *Arts-in-Corrections* (AIC)

Program Description: AIC was one of the first prisons arts program in the nation, operating from 1977-1981 under the auspices of the William James Association, and from 1981 to 2003 under the California Department of Corrections (CDC). Individual and group instruction was offered in the visual, performing, literary and media arts and fine craft disciplines in California correctional institutions. The California Department of Corrections resumed funding of the program in 2014.

Program (Study) Location: Adult correctional institutions, California

Study Published: 1987

Participant Type: Adult inmates who participated in at least one class per week for six months

Sample Size: 177

Data Type: Quantitative: Review of parole data

Evaluation Focus: Parole outcomes, recidivism

Summary of Impact: The research shows that as time since release increased, the difference between the percentage of favorable outcomes for *AIC* and all CDC parolees becomes greater.

- Six months after parole *AIC* participants showed an 88% rate of favorable outcomes (no parole difficulties, technical parolee infractions, misdemeanor convictions only) versus 72.5% for all releases. Specifically, six months after parole, *Arts-in-Corrections* participants show an 88% rate of favorable outcome as compared to the 72.25% rate for all CDC releases (p. 1).
- Over a one-year period, the *AIC* participant favorable outcome was 74.2% versus 49.6% for all parolees (p. 1).
- Two years after release, 69.2% of *AIC* parolees retained their favorable status (versus 42% for all releases) (p. 1).
- After six months, *AIC* favorable rate was 15.7 percentage points higher than rate for all CDC releases. Two years after release, the difference climbed to 27.2 percentage points (p. 1).

KEYWORDS: adult, *Arts-in-Corrections*, ceramics, fine crafts, guitar-making, literary arts, media arts, music, painting, parole, performing arts, printmaking, recidivism, sculpting, visual arts, writing

8. Cleveland, W. (1992). Geese Theater: America's National Prison Theater Company. in Cleveland, W. *Art in Other Places: Artists at Work in America's Community and Social Institutions*. Westport, CT: Praeger Publishers. p. 51-73.

Author Affiliation: Center for the Study of Art & Community

Artforms: Drama, dramatherapy, theater

Program: *Geese Theater*

Project (Study) Location: Mount Pleasant Correctional Facility, Iowa

Project Description: Drama workshops in correctional

Participant Type: Adult male inmates

Sample Size: unspecified

Study Published: 1992

Data Type: Quantitative

Evaluation Focus: The study evaluated relationship outcomes among inmates who participated in a month-long residency program called "Theater in a Month." The original study, on which this article is based, (*Outcomes for Inmate Participants in Drama Programs*. Mount Pleasant, Iowa: Mount Pleasant Correctional Facility, Iowa Department of Corrections, 1982), was not available.

Summary of Impact: 70% of men who participated for the entire program showed "significant positive change in their relationship with peers and authority figures over a three month period" (p. 61).

KEYWORDS: adult, authority figures, drama, drama therapy, peers, relationships, social,

theater

9. Cohen, M.L., (2009). Choral singing and prison inmates: influences of performing in a prison choir. *Journal of Correctional Education*. 60(1), 52-65.

Author Affiliation: University of Iowa

Artforms: Choir, music

Program: Therapeutic Community Inmate Singers (TCIS)

Program (Study) Location: Substance-abuse treatment center at a minimum-security correctional facility in U.S. Midwest

Program Description: "The therapeutic community program's goals focused on changing participants' addictive behavior through cognitive restructuring" (p. 55), and which included a community inmate choir. Weekly ninety-minute rehearsals culminated in a community-inmate performance.

Study Published: 2009

Participant Type:

- Experiment 1: Adult male inmates aged 23-60 performing in an inmate-only choir inside the correctional facility
- Experiment 2: Adult male inmates aged 23-60 performing in a joint inmate/volunteer choir outside the correctional facility

Sample Size:

- Experiment 1: 20 (10 in choir and 10 in control)
- Experiment 2: 48

Data Type: Experimental, Quantitative: Friedman Well Being Scale (FWBS)

Evaluation Focus: The study asked: Are there differences in well-being measurements between the TCIS and the control group before and after a choral performance at the prison facility? Control and experimental groups were measured pre and post participation in a choral singing group and a choral performance. The Friedman Well-Being Scale (FWBS) measured composite well-being and five subscales: (a) emotional stability, (b) sociability, (c) joviality, (d) self-esteem, and (e) happiness (p. 55).

Summary of Impact: No significant differences between experimental and control groups in composite well-being scores were found in either experiment. In addition, the author found:

- Experiment 1: Tendency toward negative responses during containment; positive choir-related responses at final two rehearsals; overall choral experience reflections related to a sense of well-being.
- Experiment 2: Significant differences between experimental and control groups with experimental group showing improvements on four subscales: emotional stability, sociability, happiness and joviality.

KEYWORDS: adult, choir, emotional stability, happiness, joviality, music, self-esteem,

singing, sociability, well-being

10. Cohen, M.L. (2012). 'Safe Havens': The Formation and Practice of Prison Choirs in the US. In Cheliotis, L. K. (Ed.) *The Arts of Imprisonment: Control, Resistance and Empowerment*. Surrey, UK: Ashgate.

Author Affiliation: University of Iowa

Artforms: choir, music, singing

Program: NA

Program Description: Community member and prison choir

Program (Study) Location: Kansas, Ohio, Minnesota

Participant Type: Adult male inmates, volunteer choir conductors, audience members

Sample Size: 7 volunteer prison-choir conductors, 35 audience members, unspecified number of male inmates.

Study Published: 2012

Data Type: Quantitative, Qualitative: Multiple case studies using open-ended questionnaires completed by seven prison choir conductors; observations of rehearsals and performances; informal interviews with inmates; data from an online survey completed by 35 audience members; field notes, and researcher reflections. Open coding, axial coding, and selective coding were used to analyze data.

Evaluation Focus: Perceived impact of five U.S. male prison choirs

Summary of Impact: In addition to developing choral singing skills such as body alignment, breath management, tonal placement and diction, the choral experiences provided a means for inmates to develop self esteem, promote positive social interactions, and increase sense of group responsibility.

KEYWORDS: adult, choir, group responsibility, music, self-esteem, singing, social interactions

11. Cohen, M.L. (2007). Explorations of inmate and volunteer choral experiences among a prison-based choir. *Australian Journal of Music Education*, 1, 61-72.

Author Affiliation: University of Iowa

Artforms: Choir, music, singing

Program: NA

Program Description: Community member and prison choir

Program (Study) Location: Minimum-security state prison, Midwest U.S.

Study Published: 2007

Participant Type: Adult male inmates aged 21-53, adult volunteers aged 35-82

Sample Size: 44 (20 inmates and 24 volunteers)

Data Type:

- Quantitative: Survey instrument consisting of: (a) demographic questions; (b) seven Likert-scale items on perception of intonation, sense of accomplishment, choir participation upon release, self-reflection; (c) four open-ended items about participants' most positive and negative experiences and their reasons for joining; and (d) any further comments
- Qualitative: Interviews with 29 participants (17 inmates and 12 volunteers), participant observations, field notes

Evaluation Focus: Participants' experiences in a joint inmate-community volunteer choir

Summary of Impact:

- Quantitative: Both inmates and volunteers indicated that their participation afforded: "(a) means to a peak experience with momentary disappearance of stresses and (b) a sense of accomplishment. Inmates perceived more improvement in intrapersonal skills than volunteers while volunteers reported more success in identifying out-of-tune singing than inmates" (p. 61).
- Qualitative: "Choral music education experiences, approached more comprehensively than simply promoting interaction between individual singers and a musical score, may carry potential for transformative personal and interpersonal change in prison choir contexts" (p. 61).

KEYWORDS: adult, choir, intrapersonal skills, music, sense of accomplishment, singing, stress

12. Cohen, M.L. (2012) Harmony within the walls: Perceptions of worthiness and competence in a community prison choir. *International Journal of Music Education*, 30(1), 46-55.

Author Affiliation: University of Iowa

Artforms: Choir, music, singing

Program: Community Member and Prison Choir

Program Description: Joint inmate-community volunteer choir at a medium-security prison. Choir program met for twelve consecutive weeks and concluded with two community-prison performances in the prison gymnasium.

Program (Study) Location: Medium-security state prison, Midwest U.S.

Study Published: 2012

Participant Type: Adult male inmates aged 20-70, community singers aged 20-64

Sample Size: 44 (22 inmates and 22 community members)

Data Type: Mixed Method. Quantitative (Attitudes Toward Prisons Scale); and Qualitative (Open-ended questionnaire)

Evaluation Focus: This study measured changes in community singers' attitudes toward inmates, and documented changes in inmate singers' perceptions of their social competence (p. 46). Changes in community singers' attitudes toward inmates, and changes in prison singers' perceptions of their social competence were measured using the Attitudes Towards Prisoners Scale (ATPS) in pre and post participation measurements.

Summary of Impact: The pre and post measurements of the community singers' attitudes towards inmates showed significant improvement. The data indicates that participation in the choir had a positive impact on the community members' attitude toward the inmates, changing previously held stereotypes. Open-ended responses from inmates revealed they felt respected, made friends, increased connections outside the prison, and improved family relationships. Among significant variations between participant responses: (a) inmates perceived more improvement in intrapersonal skills than volunteers and (b) volunteers reported more success in identifying out of tune singing than inmates.

KEYWORDS: adult, choir, music, relationships, respect, self-esteem, self-gratification, singing, social competence

13. Dunphy, K. (1999). A creative arts performance program for incarcerated women: The arts of transforming shame. *The Arts in Psychotherapy*, 26(1), 35-43.

Author Affiliation: Community arts dance specialist, Melbourne, Australia

Artforms: Movement, writing, and visual arts

Program: *Keeping the Faith - The Prison Project*

Program Description: *Keeping the Faith*, a program of the Pat Graney Company, is a multi-arts performance program consisting of sessions in dance, creative writing, singing and visual arts: "The Prison Project is an arts-based educational residency program designed to enable incarcerated women and girls to discover a sense of identity and to develop that identity within the context of community—through the vehicles of performance, video documentation and a published anthology of their writings. The Pat Graney Company has conducted this three-month program of movement, writing, and visual art in Washington State Corrections Centers for the past 15 years" (<http://www.patgraney.org/education.html>). Each workshop lasts three months (meeting twice a week) and culminates in a series of performances open to prison inmates, staff, families and selected visitors.

Program (Study) Location: Washington Corrections Center for Women, Gig Harbor, Washington

Participant Type: Adult female inmates aged 15 to 40.

Sample Size: NA

Study Published: 1999

Data Type: Qualitative/interpretive inquiry: Interviews conducted with program director, staff and participants; questionnaires administered to inmates and staff; participant observation; analysis of inmates' creative writing

Evaluation Focus: The study focused on examining the benefits of participation in the program for inmates, artist facilitators, and staff, particularly in self-esteem, positive and creative life skills, and in the meaning of dance involvement.

Summary of Impact: Inmate participants self-reported increased self-esteem as a result of mastery of new skills. Other benefits reported were bonding with others, shared meaningful experiences, and deepened friendships. Improved skills in conflict resolution,

bonding, trust, and intimacy were reported by inmates and corroborated by staff. Staff also reported an increase in group collaboration. The program provided positive links with the outside world, including, family and friends. Improvements benefited individuals, general prison population as well as the wider community.

KEYWORDS: adult, creative writing, dance, *Keeping the Faith*, music, self esteem, singing, visual arts

14. Gussak, D. (2004). Art therapy with prison inmates: A pilot study. *The Arts in Psychotherapy*, 31(4), 245-259.

Author Affiliation: Florida State University

Artforms: Art therapy, drawing, visual arts

Program: NA

Program Description: A four-week pilot program during which inmates met twice a week in group art therapy sessions.

Program (Study) Location: Medium to maximum security correctional institution, Florida

Study Published: 2004

Participant Type: Adult male inmates aged 21-63

Sample Size: 39

Data Type: Quantitative, case studies: Quasi-experimental, pre- and post-survey by mental-health counselors; standardized art therapy assessment using the Format Elements Art Therapy Scale (FEATS).

Evaluation Focus: Changes in inmate behavior and attitude including improvement in mood, socialization and problem-solving abilities; inmates' interactions and compliance with prison rules and expectations

Summary of Impact: Improvements in attitude, mood, compliance with staff and rules and socialization skills were noted as well as a decrease in depressive symptoms. No improvement was indicated in problem-solving skills.

KEYWORDS: adult, art therapy, attitude, behavior, compliance, depression, drawing, mood, problem-solving, socialization, visual arts

15. Gussak, D. (2009). Comparing the Effectiveness of art therapy in depression and locus of control of male and female inmates, *The Arts in Psychotherapy*. 36, 202-207.

Author Affiliation: The Florida State University

Artforms: Art therapy, drawing, visual arts

Program: NA

Program Description: Visual art therapy program

Program (Study) Location: Two medium- to maximum-security adult correctional facilities, Florida

Study Published: 2009

Participant Type: Male and female adult inmates, aged 20-51

Sample Size: 147 female, 72 male

Data Type: Qualitative, Quantitative: Control group pre and post-test design; psychological assessments using The Beck Inventory-Short form (BDI-II) and Adult Nowicki-Strickland Locus of Control Scale (ANS)

Evaluation Focus: The study evaluated changes in mood and locus of control among both male and female inmates who participated in the arts program. It also looked at differences in outcomes between male and female participants.

Summary of Impact: Both male and female participants showed improvements in mood and locus of control. The data indicated a trend towards greater improvement in mood and internal locus of control for female inmates as a result of the participation in the visual art therapy program (p. 202).

KEYWORDS: adult, art therapy, depression, drawing, locus of control, mood, visual arts

16. Gussak, D. (2007) The Effectiveness of Art Therapy in Reducing Depression in Prison Populations. *International Journal of Offender Therapy and Comparative Criminology*, 51(4), 444-60.

Author Affiliations: Florida State University

Artforms: Art therapy, drawing, visual arts

Program: NA

Program Description: A four-week pilot program during which inmates met twice a week in group art therapy sessions.

Program (Study) Location: Medium to maximum security adult male prison, Florida

Study Published: 2008

Participant Type: Adult male inmates, aged 21-63

Sample Size: Unspecified number of male adult inmates

Data Type: Quantitative, Qualitative: Control group pre-test/post-test assessments using Formal Elements Art Therapy Scale (FEATS), Beck Depression Inventory-Short Form (BDI-II) and Adult Nowicki Strickland Locus of Control Scale (ANS)

Evaluation Focus: The study evaluated changes in mood and locus of control among inmates.

Summary of Impact: This study combined data from two earlier studies by the same author: "Art therapy with prison inmates: A pilot study," 2004; and "The effects of art therapy with prison inmates: A follow-up study," 2006, where were published in *The Arts in Psychotherapy*. The author concludes that while FEATS was more effective as a measurement tool in the pilot study than in the follow-up study, "ultimately, the results reflected a significant decrease in depressive symptoms in those inmates who participated in the program" (p. 444).

KEYWORDS: adult, art therapy, depression, drawing, locus of control, mood, visual arts

17. Gussak, D. (2009) The effects of art therapy on male, female inmates: advancing the research base. *The Arts in Psychotherapy*, 36(1), p. 5-12.

Author Affiliations: Florida State University

Artforms: Art therapy, drawing, visual arts

Program: NA

Program Description: Visual art therapy program

Program (Study) Location: Two medium to maximum security adult correctional facilities, one female and one male, Florida

Study Published: 2008

Participant Type: Adult male and female inmates, aged 20-51

Sample Size: Unspecified number of adult male and female inmates

Data Type: Quantitative, Qualitative: Control group pre-test/post-test assessments using Formal Elements Art Therapy Scale (FEATS), Beck Depression Inventory-Short Form (BDI-II) and Adult Nowicki Strickland Locus of Control Scale (ANS)

Evaluation Focus: The study evaluated changes in mood and locus of control among both male and female inmates

Summary of Impact: Results from FEATS did not yield supportive data; results of BDI-II and ANS supported the hypothesis that art therapy was effective in reducing depression and improving locus of control in the adult male and female inmates.

KEYWORDS: adult, art therapy, depression, drawing, locus of control, mood, visual arts

18. Gussak, D. (2006). The effects of art therapy with prison inmates: A follow-up study. *The Arts in Psychotherapy*, 33, 188-198.

Author Affiliation: Florida State University

Artforms: Art therapy, drawing, visual arts

Program: NA

Program Description: Visual art therapy program

Program (Study) Location: Medium to maximum security correctional facility, Florida

Study Published: 2006

Participant Type: Adult male inmates aged 21-59

Sample Size: 16

Data Type: Qualitative, Case Study: Pre- and post-survey assessments by mental health counselors; standardized art therapy assessment using the Formal Elements Art Therapy Scale (FEATS), and psychological assessment using the Beck Depression Inventory-Short Form (BDI-II). Volunteers were randomly assigned to either the control group or the experimental group. The control group received no art therapy sessions. The experimental group attended group art therapy sessions

over an eight-week period.

Evaluation Focus: Changes in inmate behavior and attitude, including changes in mood, socialization and problem-solving abilities; inmates' interactions and compliance with prison rules and expectations.

Summary of Impact: Results from the different assessment instruments were mixed. There was a marked improvement in mood as measured by BDI-II, but not as measured by FEATS. No changes in socialization or problem-solving abilities were indicated.

KEYWORDS: adult, art therapy, attitude, behavior, compliance, depression, drawing, mood, problem-solving, socialization

**19. Halperin, R., Kessler, S. & Braunschweiger, D. (April 2012).
Rehabilitation Through the Arts: Impact on Participants'
Engagement in Educational Programs. *The Journal of
Correctional Education*, 63(1), 6-23.**

Author Affiliations: Department of Psychology, Purchase College, SUNY

Artforms: Drama, theater

Program: *Rehabilitation Through the Arts (RTA)*

Program Description: RTA was founded in 1996 at Sing Sing Correctional Facility in New York State and now operates programs in theater, dance, creative writing, voice and visual arts in five New York State correctional facilities. In addition to developing inmates' reading, writing, and leadership skills, RTA claims that participants benefit by being part of a social network (p.10). Since its inception, over 200 inmates have participated in RTA's Sing Sing program.

Program (Study) Location: Sing Sing Correctional Facility, Ossining, New York

Study Published: 2012

Participant Type: Adult male inmates

Sample Size: 116 RTA participants, 118 controls

Data Type: Quantitative: Comparison (RTA participants) and control group data: entry date, birth date, race, crime category, educational degree at entry, first and second math and reading scores, and educational degrees earned during imprisonment, and enrollment in various educational programs over time.

Evaluation Focus: The purpose of this study was to examine the impact of RTA on inmate participation in voluntary educational programs, and academic degree completion.. RTA participants were compared to a sample of incarcerated men matched on age, ethnicity, crime, date of entry into prison, time served, and earliest release date.

Summary of Impact: The study found that arts programs may motivate those with long sentences to pursue educational degrees. Specifically, based on the experimental and control group findings:

- 57.6% of those who participated in RTA program earned degrees beyond the GED while incarcerated, compared with 28.6% and 39.6% in control groups (p. 14).
- RTA participants spent about the same proportion of time engaged in GED programs

- as comparisons, but less time after joining *RTA* (due to degree attainment) (p. 15).
- *RTA* participants who were incarcerated with a high-school diploma spent proportionally more time engaged in college programs, but only after joining *RTA*, versus the comparison group (p. 15).

KEYWORDS: academic, adult, college, drama, education, GED, *Rehabilitation Through the Arts*, theater

20. Hart, S. (Ed.). (1983). *The arts in prison*. New York: Center for Advanced Study in Theater Arts, The City University.

Author Affiliation: Center for Advanced Study in Theatre Arts, Graduate School of the City University of New York

Artforms: Dance, drama, jewelry and miscellaneous arts and crafts, film, music, painting, sculpture, theater, video, writing

Program: *The Theater in Prisons Project (TTIPP)*

Program Description: From its inception in 1980, *TTIPP* worked to develop a comprehensive archive concerning arts programs and artist practitioners working with prison inmates and ex-inmates (p. 36). This study was designed to be the first of its kind to provide evidence of the impact of the arts in corrections.

Program (Study) Location: All U.S. states, except Colorado, Delaware, Florida, Georgia, Idaho, Iowa, Massachusetts, Ohio, West Virginia, and the Commonwealth Puerto Rico

Study Published: 1983

Participant Type: State and local correctional departments, individual correctional institutions

Sample Size: 88 institutions

Data Type: Survey

Evaluation Focus: Survey questions were designed to establish how much art and what type - specifically theater - was available through performances, workshops and residencies in institutions across the U.S. Questions related to the following areas of inquiry: (1) What programs are available, how did they develop, and how supported; (2) In what ways do the programs continue with the inmate-participant after he or she leaves the prison; and, (3) Are arts programs in correctional facilities perceived as beneficial. The report provides detailed data from survey results from each participating state and agency, including history of programs, funding, types of activities, and attitude towards the arts (p. 23-24).

Summary of Impact:

- Virtually all respondents viewed the arts programs positively, reporting that they reduced tension within the institution, enhanced interpersonal and vocational skills for inmate and ex-inmate participants and strengthened the participants' self-confidence and expanded their range of options in dealing with their world, both inside the institution and after release.
- Evidence of types of arts programs within correctional institutions included: dance, drama, jewelry and miscellaneous arts and crafts, film, music, painting, sculpture,

theater, video and writing.

- Fewer than 10 respondents knew whether inmates continued with arts programs after release.

KEYWORDS: adult, crafts, dance, film, interpersonal skills, jewelry, music, painting, sculpture, self-confidence, tension, theater, *The Theater in Prisons Project*, video, vocational skills, writing

21. Hassett, R. (n.d.). *Lynn-Lowell Statistics: 1992 through March 2002. Changing Lives Through Literature*. Retrieved from <http://ctl.umassd.edu/home-flash.cfm>

Author Affiliation: Assistant Chief Probation Officer, Lowell District Court, Massachusetts

Artforms: Bibliotherapy, literature

Program: *Changing Lives Through Literature (CLTL)*, Lynn-Lowell Women's Program

Program Description: The Lynn-Lowell program, established in 1992, was the first CLTL program for female offenders. Two programs are run per year. Groups meet every other week for 14 weeks (seven sessions) at Middlesex Community College in Lowell, Massachusetts. (<http://ctl.umassd.edu/home-flash.cfm>)

Program (Study) Location: Lowell and Lynn, Massachusetts

Participant Type: Adult female probationers aged 19-48 years

Sample Size: 108

Study Published: Unpublished study, data collected 1992 through March 2002

Data Type: Quantitative

Evaluation Focus: Recidivism, criminal activity

Summary of Impact:

- Reduced recidivism among CLTL participants: 40% of program graduates re-offended versus 48% of non-completers.
- Types of crimes differed between graduates and non-graduates:
 - 29.6% of new offenses committed by graduates were against people, versus 37.5% among non-graduates.
 - 25.9% of new crimes committed by graduates were property offenses, versus 43.75% among non-graduates.
 - 62.9% of graduates violated alcohol/drug laws versus 62% of non-graduates.
 - 44.4% of new crimes among graduates were misdemeanors vs 37.5% among non-graduates.

KEYWORDS: adult, bibliotherapy, *Changing Lives Through Literature*, criminal activity, literature, recidivism

22. Jarjoura, R. G., & Krumholz, S. T. (1998). *Combining Bibliotherapy and Positive Role Modeling as an Alternative to*

Incarceration. *Journal of Offender Rehabilitation*, 28 (1/2), 127-139.

Author Affiliations: Indiana University (Jarjoura); University of Massachusetts, Dartmouth (Krumholz)

Artforms: Bibliotherapy, literature

Program: *Changing Lives Through Literature (CLTL)*, University of Massachusetts at Dartmouth

Program Description: CLTL provides an alternative to incarceration for repeat, high-risk offenders and "seeks to build self-esteem by enhancing participants' communication skills, sharpening their analytical skills and providing them with a forum for discussing personal concerns without having to recount personal experiences

(<http://ctl.umassd.edu/programsresults1a.cfm>). Participants selected by the court receive intensive probation, pre-employment/job placement services and meet every other week on a university campus to discuss contemporary literature. The readings and the discussions mirror themes the participants may be dealing with in their own lives, such as violence, masculinity and individual identity. At the conclusion of the bibliotherapeutic portion of the program, local businessmen meet with participants to share their own life experiences and stories of success.

Program (Study) Location: Southeastern Massachusetts

Study Published: 1998

Participant Type: Male adult high-risk probationers

Sample Size: 72 (32 participants, 40 control)

Data Type: Quantitative, Qualitative: Analysis of criminal records

Evaluation Focus: Recidivism, individual growth, self-esteem

Summary of Impact:

- Recidivism rate of 18.75% in study group compared with 45% in control group.
- Participants self-reported that the program had a long-term positive impact on their lives.

KEYWORDS: adult, attitude, behavior, bibliotherapy, *Changing Lives Through Literature*, communication, individual growth, literature, reading, recidivism, reconviction, self-confidence, self-esteem, sense of accomplishment, tolerance

23. Kelly, W. R. (n.d.) *An Evaluation of the Changing Lives Through Literature Program*. Submitted To: Dr. Lawrence Jablecki, Director Brazoria County Community Supervision and Corrections Department. Retrieved from: <http://ctl.umassd.edu/programsresults1.cfm>

Author Affiliation: University of Texas

Artforms: Bibliotherapy, literature

Program: Brazoria County Community Supervision and Corrections Department

Changing Lives Through Literature (CLTL) Program,

Program Description: The CLTL program in Brazoria County, Texas was adapted from the original Massachusetts program and “uses literature as a vehicle for cognitive and behavioral change.” The Texas program lasts six weeks and consists of weekly, two-hour meetings during which participants engage in facilitated discussion of a reading assignment “focused on the development over time of cognitive skills such as critical thinking and problem solving, as well as self examination, insight, awareness, etc.” Meetings take place on the campus of a local community college. Reading assignments differ by gender; males typically read philosophy such as Plato and Socrates, and females read contemporary gender-targeted works such as Toni Morrison and Zora Neale Hurston (<http://cltl.umassd.edu/programsresults1d.cfm>).

Program (Study) Location: Brazoria County, Texas

Participant Type: Probationers, Probation Officers, and Judges

Sample Size: 49 Probationers, 8 Probation Officers, 2 Judges

Study Published: n.d.

Data Type: Qualitative: focus groups

Evaluation Focus: Perceptions of CLTL program by former inmates focusing on how CLTL changed or impacted their lives. For Probation Officers and Judges, the focus of the evaluation was on the overall perception of the CLTL program.

Summary of Impact:

- Respondents' rating of program and components of program on a 1 to 10 scale (1 = poor, and 10 = excellent):
 - Overall Program: 9.4.
 - Assigned Readings: 8.5.
 - Class Discussions: 9.4.
 - Program Format (location/length): 9.0.
 - Participants: 8.9.
 - Instructor: 9.7.
- Participants reported:
 - Increased interest and motivation to read and learn.
 - Increased tolerance and self-esteem.
 - A sense of accomplishment.
 - Better control over impulsive behaviors.
 - Increased awareness and understanding of the consequences of their behavior.

KEYWORDS: adult, behavior, bibliotherapy, *Changing Lives Through Literature*, consequences, impulsive behavior, learning, literature, reading, self-esteem, sense of accomplishment, tolerance

24. Melnick, M. (1984). Skills through drama: The use of professional techniques in the treatment and education of prison and ex-offender populations. *Journal of Group Psychotherapy, Psychodrama and Sociometry*, 37, 104-117.

Author Affiliation: New York City-based private consultant at time of study, presently at New York State Psychiatric Institute/Columbia University

Artforms: Drama, psychodrama, theater

Program: *Skills through Drama*

Program Description: The *Skills through Drama* program employed professional theater techniques to teach reading, writing, grammar and communication skills. Specifically, participants were instructed to:

- Create an improvisational set-up with a partner
- Act out the set-up
- Transcribe one's own scene
- Edit the scene
- Help another student transcribe or edit
- View another student's scene

Program (Study) Location: Adult Learning Center, Queens House of Detention

Location: Queens, New York

Study Published: 1984

Participant Type: Adult inmates and ex-offenders

Sample Size: 300+

Data Type: Quantitative

- Pre- and post-participation administration of California Achievement Test
- Enrollment rates between 1976 and 1976 Fiscal Years
- Recidivism rates of 1978-79 drama workshop participants seven months after workshop

Evaluation Focus: Participation and effectiveness of the *Skills through Drama* program related to basic educational skills and outcomes.

Summary of Impact:

- Number of students participating in GED program more than doubled (from 121 students in 1975 to 349 in 1976) while the total number of student hours spent in the program increased from 22,880 hours in 1975 to 47,376 hours in 1976.
- 69% of participants stayed with the workshop even after it terminated its affiliation with the Adult Learning Center.
- At the end of the seven months, 7.15% of participants had been convicted on a first charge; 14.30% fled to avoid trial; 7.15% returned to jail on a second post-workshop charge; 71.40% were regularly employed and not charged with a second offense. This is compared with a national average of 85% of those released from prison experiencing rearrest within a year, most of those within the first four months of release.

KEYWORDS: academic achievement, adult, attendance, communication, drama, employment, psychodrama, reading, recidivism, *Skills through Drama*, theater, writing

25. Moller, L. (2011). Project Slam: Rehabilitation through Theater at Sing Sing Correctional Facility. *The International Journal of the Arts in Society*, 5(5), 9-30.

Author Affiliation: John Jay College of Criminal Justice, New York, NY

Artforms: Drama, theater

Program: *Rehabilitation Through the Arts* (RTA).

Program Description: RTA conducts theater, dance, creative writing, voice and visual art programs in five New York State prisons. The theater component consists of two productions mounted each year, one original play written by an inmate and one established play. Plays are performed for the inmate population as full-scale productions complete with costumes, lighting, and set, with roughly 400 inmates in attendance at each performance (p.14).

Program (Study) Location: Sing Sing Correctional Facility, Ossining, New York

Study Published: 2011

Participant Type: Adult male inmates

Sample Size: 65 (36 participants, 29 control)

Data Type: Quantitative: Coping Responses Inventory, Adult Form Manual, and the State-Trait Anger Expression Inventory

Evaluation Focus: The study examined the impact of RTA on the attitudes and behavior of inmate participants

Summary of Impact: Findings suggested that

- The longer the inmate was in the RTA program, the fewer violations he committed.
- RTA participation was associated with a significant decrease in frequency and severity of infractions, as reflected in institutional records (p.23).
- RTA participants had security classifications lowered more often, and they participated in more programs through the duration of the study.
- The amount of time inmates were active in RTA was correlated with both negative and positive outcomes.
 - A longer period of participation predicted a higher level of social responsibility.
 - Those who participated intensively in RTA had higher positive-coping scores at both pre- and post-test points; however, the differences were not statistically significant.
 - Increases in positive-coping scores approached significance for inmates who participated less intensively in the program and for the control group

KEYWORDS: adult, anger, coping skills, disciplinary infractions, discipline, drama, *Rehabilitation Through the Arts*, rules violations, social responsibility, theater, violence

26. Richards, J. M., Beal, W. E., Seagal, J. D., & Pennebaker, J. (2000). Effects of Disclosure of Traumatic Events on Illness Behavior Among Psychiatric Prison Inmates. *Journal of Abnormal Psychology*, 109(1), 159-60.

Author Affiliations: Department of Psychology, Stanford University (Richards); Forest Institute of Professional Psychology (Beal); Department of Psychology, University of Texas at Austin (Seagal and Pennebaker)

Artforms: Creative writing

Program: Trauma Writing

Program Description: This study examined the effects of trauma writing on maximum-security, psychiatric prison inmates. Maximum-security psychiatric inmates, a group noted for high use of health services, were offered writing sessions over the course of three days.

Program (Study) Location: Psychiatric correctional venue, Midwest U.S.

Study Published: 2009

Participant Type: Adult male maximum-security psychiatric inmates, 47% sex offenders, 53% non-sex offenders, mean age 34.5 years

Sample Size: 98

Data Type: Quantitative; participants in the writing conditions completed a Symptom and Emotion Self-Report Survey after each day's writing.

Study Design: This study was designed to test the hypothesis that "psychiatric prison inmates who wrote about traumatic events for 3 consecutive days would show a decrease in infirmary visits from 6 weeks pre- to 6 weeks postwriting; and that participants who either wrote about trivial topics or did not write at all would not evince such health improvement" (p.157). Participants were assigned to one of three conditions. Those in the first group were asked to write about their deepest thoughts and feelings surrounding upsetting experiences (trauma writing condition). Those in the first control group (trivial writing control) were asked to write about an assigned trivial topics. Participants in the second control group (no-writing control) went about their daily routine without writing (no-writing control). Both writing groups wrote for 20 minutes a day for three consecutive days.

Evaluation Focus: Health effects of writing for psychiatric prison inmates.

Summary of Impact: This study extends previous research on the health benefits associated with writing about traumatic events to a psychiatric population of maximum-security prison inmates (p. 159). Results of the study found that:

- Trauma-writing participants visited the infirmary less often after writing compared with the two control groups.
- Those incarcerated for sex crimes were significantly more likely to show health improvement after trauma writing than non-sex offenders.
- A decrease in infirmary visits pre-to post-writing.

KEYWORDS: adult, creative writing, emotions, health, psychiatric, sex offenders, symptoms

**27. St. Pierre, W. (n.d.). *Changing Lives through Literature: New Bedford Evaluation*. Retrieved from:
<http://cltl.umassd.edu/programsresults1.cfm>**

Author Affiliation: Probation Officer, New Bedford District Court

Artforms: Bibliotherapy, Literature

Program: New Bedford, Massachusetts *Changing Lives Through Literature* (CLTL)

Program Description: The New Bedford CLTC program has completed six cycles of students since 2001. Seminars involve 8-10 weekly sessions each lasting two hours and involving 6-10 single-gender students, most of whom are court-involved. Some

programs are with halfway houses. Texts include *The House on Mango Street* by Sandra Cisneros and *The Rules of the Road* by Joan Bauer for girls and *Brian's Winter* by Gary Paulsen and *The Things They Carried* by Tim O'Brien for boys. Seminars usually end with a class project. See for example, <http://ctl.umassd.edu/programsother5d.cfm>.

Program (Study) Location: New Bedford, Massachusetts

Study Published: n.d.

Participant Type: Adult male probationers

Sample Size: 68

Data Type: Quantitative: Analysis of criminal activity

Evaluation Focus: Misdemeanors, felonies, criminal activity

Summary of Impact: The analysis of 10 consecutive *CLTL* seminars that took place from April 1991 through January 1995 found:

- Overall 68% decrease in criminal activity by probationers after completing the program
- Reduction in number of felonies ranged from 70.8% to 100% depending on the group.
- Reduction in the number of misdemeanors ranged from 24% to 100%.

KEYWORDS: adult, bibliotherapy, *Changing Lives Through Literature*, felonies, literature, misdemeanors

28. Schutt, R., K., Deng, X. and Stoehr, T. (2013) Using Bibliotherapy to Enhance Probation and Reduce Recidivism. *Journal of Offender Rehabilitation*, 52, 181-197.

Author Affiliations: Department of Sociology, University of Massachusetts Boston

Artforms: Bibliotherapy, literature

Program: *Changing Lives Through Literature* (CLTL)

Program Description: *CLTL* provides an alternative to incarceration for repeat, high-risk offenders and seeks to build self-esteem by "enhancing participants' communication skills, sharpening their analytical skills and providing them with a forum for discussing personal concerns without having to recount personal experiences" (<http://ctl.umassd.edu/programsresults1a.cfm>). Participants selected by the court receive intensive probation, pre-employment/job placement services and meet every other week on a university campus to discuss contemporary literature. The readings and the discussions mirror themes the participants may be dealing with in their own lives, such as violence, masculinity and individual identity. At the conclusion of the bibliotherapeutic portion of the program, local businessmen meet with participants to share their own life experiences and stories of success.

Program (Study) Location: Massachusetts

Study Published: 2013

Participant Type: Adult male and female probationers, probation officers, instructors, judges

Sample Size:

- Observation of program process: 28 program participants, 20 probation officers, instructors and judges
- Impact analysis of program: 1,218 adult male and female probationers (604 participants, 604 controls)

Data Type: Quantitative, Qualitative

- Observation of program process, including: focus group, class observations, semi-structured interviews, structured phone survey
- Impact analysis: recidivism data 18 months pre-program and 18 months post-program for participants were compared with recidivism data for a group of matched controls

Evaluation Focus: Impact of *CLTL* on participant recidivism

Summary of Impact:

- Observational study of program process: increased pride, self-esteem, social relations, problem-solving, trust and sense of accomplishment; cognitive reframing of issues
- Impact analysis: During the 18 months prior to *CLTL* participation, future program participants had more incidents than controls but at 18 months after, the number of incidents was significantly fewer for participants than for controls. Authors also noted a decline in the most serious charge pre- to post-program. For both measures, the amount of change was greater for the program participants than for the control group

KEYWORDS: adult, bibliotherapy, *Changing Lives Through Literature*, cognitive reframing, literature, pride, probation, problem-solving, recidivism, self-esteem, sense of accomplishment, social relations, trust

29. Worrall J., & Koines, M. (1978). *Project CULTURE*. Alexandria, VA: American Correctional Association.

Author Affiliations: American Correctional Association

Artforms: Arts and crafts, ceramics, chorus, clowning, creative writing, dance, design, drama, drawing, drums, guitar, leather, macrame, movement, music, oil painting, piano, sculpture, sketching, string art, theater, visual arts, weaving, woodburning, wood-carving

Program: *Project CULTURE*

Program Description: *Project CULTURE* (Creative Use of Leisure Time Under Restrictive Environments) was the first comprehensive national program of leisure-time activities inside correctional facilities. Twenty-one projects were implemented at 54 sites across the U.S. Four programs were included in the evaluation:

- California Institution for Women at Fontera: A theater workshop provided by the Los Angeles-based non-profit organization *Artists in Prison and Other Places, Inc. (AIPOP)* included writing, dance and theater components and culminated in an original theater piece created and performed inside the institution before an audience of more than 1,000 community members. The

final production involved 28 inmates in varying capacities. Participants received college credit in dance, creative Writing and theater production through LaVerne College in LaVerne, California.

- The New Jersey Correctional Institution for Women program included creative writing, dance, music/chorus, music/movement/theater, art program and a clown workshop
- The Sheridan Correctional Center Project CULTURE program was operated by Illinois Valley Community College (IVCC). A part-time arts-and-crafts instructor taught fourteen six-week mini-courses focusing on nine media: leather, oil painting, drawing and sketching, string art, macrame, wood-carving, woodburning, weaving and ceramics. A part-time music instructor taught four 10- or 11-week mini-courses including lessons on the electric and acoustic guitar, drums and piano. Participants displayed their arts-and-crafts projects
- Oklahoma Prison Arts Program: Three-month workshops were offered in leather, writing, drawing, painting, design, sculpture, drama and opera. Participants were involved in performances and exhibits.

Program (Study) Location: Evaluations were conducted at the following four facilities:

- California Institution for Women at Fontera, (program administered by *Artists in Prison and Other Places, Inc.*)
- New Jersey Correctional Institution for Women (CIW), Clinton, New Jersey
- Sheridan Correctional Center, Sheridan Illinois (program administered by Illinois Valley Community College)
- Oklahoma Prison Arts Program in five state institutions: McAlester, Granite, McLeod, Quachita and Strongtown (program administered by the Oklahoma Arts and Humanities Council)

Study Published: 1978

Participant Type: Adult male and female inmates

Sample Size: 5000+

Data Type: Quantitative, Qualitative: Self-evaluations of individual projects conducted by individual contractors; national evaluation conducted by an independent evaluator; pre- and post-program incident rates; interviews with inmates, artists and correctional officials

Study Design:

Evaluation Focus:

- California Institution for Women: discipline, commitment, creative self-expression, self-worth and sense of accomplishment, cooperation
- New Jersey Correctional Institution for Women: self-worth, self-motivation, release of emotions, positive peer group interaction, positive communication between staff and offenders
- Sheridan Correctional Center: cognition, attendance, self-concept, project completion, incident rates
- Oklahoma Prison Arts Program: Incident reports; self-respect, writing, interpretation, vocabulary, listening, reasoning, communication and critical analysis skills; self-respect

Summary of Impact:

- National Results:
 - 61.4% program completion rate (p. 6).
 - Only 16.8% of participants dropped out or were removed for poor behavior or attendance (p. 6).
 - Reduced tension levels.
 - Incident rates reduced between 54% and 100% depending on the location (p. 7).
 - Involvement of female offenders.
 - Greater community awareness of offenders.
 - Increased self-worth on part of participants.
- California Institution for Women:
 - Increased discipline, commitment, creative self-expression, self-worth and sense of accomplishment.
 - Cooperation between artists and California Institute for Women staff.
- New Jersey Correctional Institution for Women
 - Increased self-worth and respect for others.
 - Negative feelings towards staff and community became positive.
 - Increased respect of correctional staff towards inmates.
 - No behavior problems during the workshops.
 - Incident reports of incorrigible inmates markedly decreased after enrollment.
- Sheridan Correctional Center:
 - Participants scored higher than anticipated on cognition tests.
 - Music students exceeded the objective of 80% by 2.2%, arts and crafts students by 14% (p. 13).
 - 82% program completion rate (p. 13).
 - Improved self-concept as measured by skill acquisition, completion of projects and statistically significant results on the Tennessee Self-Concept inventory.
 - Arts projects were displayed through few were sold (because participants wanted to keep them).
 - Individual educational plans for each student were developed.
 - Incident rates declined from 2.4 per year per inmate prior to Project CULTURE to 1.2 per year (p. 13).
- Oklahoma Prison Arts Program:
 - Original program objectives achieved at 88% level (p. 15).
 - Drop in behavioral infractions in women's unit from 90% to 57% during program participation [as cited in Hillman, G. (Spring/Summer 1994). Kerouac's Town, Dickens and Prison Art. *Texas Journal of Ideas, History and Culture*, 16(2), p. 27].
 - Development of skills including but not limited to writing, interpretation, vocabulary, listening, reasoning, communication, critical analysis and publishing processes.
 - Increased positive verbal interaction among class and staff.
 - Increase in participant self-respect and subsequent enhancement of general institution atmosphere.

KEYWORDS: adult, arts and crafts, behavior, ceramics, chorus, clowning, commitment, community, creative writing, dance, design, discipline, drama, drawing, drums, guitar,

incident rates, leather, macrame, movement, music, oil painting, piano, *Project CULTURE*, sculpture, self-respect, self-worth, sense of achievement, sketching, string art, theater, visual arts, weaving, woodburning, wood-carving

**SECTION II:
JUVENILE OFFENDER ARTS PROGRAM:
EVIDENCE-BASED STUDIES & EVALUATIONS**

30. Baker, S. and Homan, S. (2007). Rap, Recidivism and the Creative Self: A Popular Music Programme for Young Offenders in Detention. *Journal of Youth Studies*, 10, (4), 459-476.

Author Affiliations: University of Leeds, UK (Baker); Cultural Industries & Practices Research Centre, University of Newcastle, Australia (Homan)

Artforms: Guitar, hip-hop, keyboard, music, rap, song-writing

Program: *Genuine Voices*

Program (Study) Location: Short-term (90-day) secure treatment center in Massachusetts

Program Description: *Genuine Voices* conducts music programs for youth in juvenile detention centers and other educational and institutional settings in the U.S. and worldwide. Its mission is to prevent youth violence and crime and foster youths' ability to plan and make "positive life decisions." The juvenile offender program consists of piano, guitar, rap and sequencing lessons, both group and individual, twice weekly. Youths who have earned good-behavior privileges may volunteer to participate in the program (p. 464).

Study Published: September 2007

Participant Type: Juvenile male offenders

Data Type: Qualitative: Ethnographic methodology including observation, interviews and program evaluation.

Evaluation Focus: Benefits of popular music programs in fostering individual creativity, self-esteem, identity and social communication

Summary of Impact: Researchers concluded that the program aided individual and collective communication and community-building and improved participants' organizational skills, self-esteem, self-control, focus and sense of achievement. Participants produced a CD recording at the end of the program.

KEYWORDS: communication, community, focus, hip-hop, identity, juvenile, music, rap, self-control, self-esteem, sense of achievement, youth

31. Center for the Study of Art & Community. [n.d]. *CORE Arts Program Report: 1999-2007*. Prepared for the Mississippi Arts

Commission by the Center for the Study of Art & Community.
Retrieved from
<http://www.arts.ms.gov/programs/documents/coreartsrev.pdf>

Author Affiliation: Center for the Study of Art and Community

Artforms: Biography, ceramics, collage, drawing, charcoal, furniture decoration, instrument making, mask-making, metal sculpture, music, painting, papier-mache, performance, poetry, watercolor, woodworking, writing

Program: *CORE Arts Program*, administered by Communities in Schools

Project (Study) Location: 25 sites (2 youth corrections facilities, 1 detention center, 8 adolescent offender programs, 7 alternative schools and 7 Boys & Girls Clubs) in 15 Mississippi counties

Program Description: *CORE Arts* provides ceramics, creative writing, music, visual and other arts programs to Mississippi youth, both adjudicated and non-adjudicated, in correctional settings, aftercare programs, and in alternative school settings. The program focused on "educational enhancement and workforce training through arts-based curricula" (p. 6). The *CORE Arts* initiative grew to include nearly 2500 students (2005-07) statewide, benefitting young people in communities throughout Mississippi. The report documents the program's development and summarizes research studies conducted between 1999 and 2007.

Study Published: 2007

Participant Type: Youth 12-18 years who had committed status offenses; staff members

Sample Size: 308 participants and 101 staff members

Data Type: Quantitative, Qualitative: interviews with program participants and administrators, teachers, counselors and correctional officers; surveys, review of reports, publications and documentary information from both the Mississippi Arts Commission and program sites; data on academic and behavioral progress

Evaluation Focus: Program's impact on critical success indicators for both youth justice/services and arts program providers. From 1999-2007, the program evaluation addressed:

- What goals do the various partners and participants have for the *CORE Arts* program?
- To what degree have these goals been achieved?
- What *CORE Arts* program characteristics (i.e. curriculum, staffing, and program design) advanced or inhibited achievement of these goals?
- How can the Core Arts partners improve their efforts to evaluate the accomplishment of these goals?
- How can the partners sustain the *CORE Arts* program beyond the initial research development phase supported by the Mississippi Arts Commission?

Summary of Impact: Evaluations were conducted from 2002-2007, and included: tracking impact on student, impact on staff, and the program characteristics that supported the articulated outcomes. Results showed that youth participants showed a decrease in the incidences of violence, and improvements in behavior. Participants demonstrated a

“connection between being in control of an artistic product and taking control over their lives” (p. 6). The summary of the evaluations revealed the following additional impacts:

- 71% improvement in attendance (p. 18).
- 58% reduction in referrals for behavioral problems (p. 18).
- Counselor ratings were 5.07% higher than during the three prior months of regular program offerings (p. 18).
- Positive correlation between time spent in program and improved attitudes and behavior.
- Improved overall academic performance.
- 15% improvement in grade average compared with pre-program performance (p. 19)
- Improved writing scores.
- Improved reading skills:
 - 83% of students at one site improved their reading skills by at least one grade level.
 - 50% at this site improved their reading skills by two-to-four grade levels (p. 19).
- Improved English grades:
 - 75% of students at one site improved grades by at least one letter grade, significantly more than the control group which did not receive creative writing (p. 19).
- Enhanced self-control and cooperation.
- Decreased violent behavior and idle time.
- Reduced tensions between students and staff.
- Improved communication, planning and cooperation between staff members.
- 86% of participating artists reported positive impact on them and their work.
- Improved program work environments.
- Staff viewed youth more positively.
- Reduced tension for both staff and participants.
- Opportunities for positive staff/student interaction.

KEYWORDS: academic performance, attendance, attitude, behavior, biography, ceramics, collage, *CORE Arts*, drawing, charcoal, furniture decoration, instrument making, juvenile, mask-making, metal sculpture, music, painting, papier-mache, performance, poetry, self-control, self-esteem, violence, watercolor, woodworking, writing, youth

32. Clawson, H. and Coolbaugh, K., (2001). *YouthARTS Development Project Program Evaluation. U.S. Department of Justice Office of Juvenile Justice and Delinquency Programs: Juvenile Justice Bulletin. May 2001. Retrieved from <https://www.ncjrs.gov/pdffiles1/ojjdp/186668.pdf>*

Author Affiliations: Caliber Associates, Fairfax, VA

Artforms: The project’s three sites included:

- Atlanta: ceramics, computer graphics, drama, furniture design and

- application, mosaics, photography
- Portland: drama, photography, poetry, printmaking, videography
- San Antonio: creative writing, dance, drama, storytelling, visual arts

Program: YouthARTS Development Project

Program Description:

- Atlanta: Art-at-Work provided one group of truant youth aged 14 to 16 with art instruction, job training, and literacy education over a 2-year period.
- Portland: youth produced and administered a public arts project from design to production and public exhibition.
- San Antonio: after-school arts education program for youth at 7 schools.

Program (Study) Location:

- Atlanta, Georgia: Art-at-Work/Fulton County Arts Council
- Portland, Oregon: Youth Arts Public Art/Regional Arts and Culture Council
- San Antonio, Texas: Urban smARTS/San Antonio Department of Arts and Cultural Affairs

Study Published: May 2001

Participant Type:

- Atlanta: truant youth first-time offenders aged 14-16 referred by probation officers
- Portland: adjudicated youth (excluding sex-offenders) aged 14-16 referred by probation officers
- San Antonio: non adjudicated, at-risk youth aged 10-12 referred by teachers, principals and self-referrals

Sample Size:

- Atlanta: 15 participants per program period; 7 in participant group and 10 in control group completed evaluation
- Portland: 15 youth per unit per session; findings provided for 21
- San Antonio: 60 youth at each of 7 schools; five schools participated in evaluation, complete data available for 22-112 participants

Data Type: Qualitative: Cross-site evaluation using participant and probation officer/caseworker feedback, skill assessment instruments, focus group interviews, academic data, court data. Data collected pre- and post-program on participants and control group.

Evaluation Focus:

- Outcome component of evaluation assessed program effects on art knowledge, attitudes and behaviors of participants
- Process component looked at program implementation and operations

Summary of Impact: Separate evaluations were completed at each of the three sites:

- Atlanta:
 - 85.7% of youth were communicating effectively with peers at the end of the program, up from 28.6% at the beginning of the program.
 - Program participants had, on average, fewer court referrals during the program period than the non-arts comparison group (1.3 and 2.0 respectively). This despite the fact that arts program participants had, on average more court referrals than the comparison group at the start of the program (6.9 and 2.2 referrals, respectively).

- 50% of program participants had committed new offenses during the program period versus 78.6% in the control group.
- Portland:
 - 100% of program participants demonstrated an ability to cooperate with others at the end of the 12-week program versus 43% at the start of the program
 - 31.6% of program participants' attitude towards school improved compared with 7.7% in the comparison group.
 - 22% of program participants had a new court referral compared with 47% of comparison group.
 - The level and type of offense committed during the program period were less severe than prior offenses.
- San Antonio:
 - 85% of participants were able to work on tasks from start to finish at the end of the program versus 72% at the beginning.
 - 82% demonstrated the skills necessary to produce quality artwork up from 65% at the start of the program.
 - 16.4% of the arts program participants had a decrease in delinquent behavior compared with 3.4% of the control group.

KEYWORDS: ceramics, computer graphics, creative writing, dance, drama, entrepreneurial skills, furniture design and application, juvenile, life skills, mosaics, photography, poetry, printmaking, prosocial skills, storytelling, videography, visual arts, vocational skills, youth, *YouthARTS Development Project*

33. Cleveland, W. (2001). *An evaluation of the Jackson County Children's Services Coalition Core Arts Program 2001-2002.* Minneapolis, MN: Center for the Study of Art & Community.

Author Affiliation: Center for the Study of Art & Community

Artforms: Ceramics, creative writing, music, visual arts

Program: Jackson County Children's Services Coalition, *CORE Arts Program*

Project (Study) Location: Detention center, public and private schools, community-based organization, religious institution, recreation center, arts organization, Jackson County, Mississippi

Project Description: *CORE Arts* provided ceramics, creative writing, music and visual arts programs to Mississippi youth.

Participant Type: Youth offenders, middle- and high-school students

Sample Size: 89 program participants and 22 staff members

Study Published: 2001

Data Type: Quantitative, Qualitative: Non-experimental consisting of Interviews/focus groups and survey/questionnaires with participants, administrators, teachers, counselors and correctional officers; daily student incident reports.

Evaluation Focus: Goals of participants and partners; extent to which goals had been achieved; which program characteristics advanced or inhibited achievement

of goals

Summary of Impact:

- 15% improvement in participants' grade averaged compared with pre-program performance.
- Improvements in student behavior including cooperation and self-control.
- 58% reduction in behavior referrals compared to pre-program performance.
- Student interest in other programs.
- High student satisfaction with programs.
- Overall "positive impact" on students.

KEYWORDS: academic performance, behavior, ceramics, *CORE Arts Program*, creative writing, juvenile, music, violence, visual arts, youth

34. Ezell, M., & Levy, M. (2003). An Evaluation of an Arts Program for Incarcerated Juvenile Offenders. *Journal of Correctional Education*, 54(3), 108-114.

Author Affiliations: Academic and Social Work Administration

Artforms: Cartoon art, collage, creative writing, drama, film, graphic design, multimedia, murals, music, papier-mache, photography, poetry, television, visual arts, wood sculpture

Program: *A Changed World*

Program Description: *A Changed World (ACW)* facilitates teaching and interaction between artists and institutionalized juvenile offenders. The purpose of the program is to reduce recidivism of juvenile offenders (p. 109). Major objectives include: 1) to inculcate cultural and community awareness; 2) to lessen the risks of inappropriate behavior within the institutional environment; 3) to develop vocational and academic skills that will motivate and assist the student with the search for employment/career; and 4) to reduce the likelihood to reoffend after release (p.109-110). Artists conduct workshops ranging from two weeks to two months. During the first and second evaluation years (1996 and 1997), participants created a touring multimedia exhibit that included curriculum materials for use by teachers and counselors. During the third year of the evaluation (1998), participants produced a film for television.

Program (Study) Location: Juvenile correctional facilities, Washington State

Study Published: 2003

Participant Type: Institutionalized juvenile offenders

Sample Size:

- First Year Evaluation (1996): 86
- Second Year Evaluation (1997): 57
- Third Year Evaluation (1998): 41

Data Type: Mixed Method: Quantitative and Qualitative

- First Year Evaluation: Youth self-reports and staff reports using a pre- and post-test multi-item scale design to measure changes in self-esteem, peer relations, cultural awareness, and community identity.

- Second and Third Year Evaluations: open-ended survey of participants; teacher assessments; artist observations; staff reports on misbehavior; court records.

Evaluation Focus: The evaluation sought to examine the potential of the arts to impact youth behavior during incarceration and after release. The evaluation asked: "1. Do students learn new academic and vocational skills from the art workshops? 2. Does institutional behavior of program participants improve during their workshops? 3. How does the recidivism rate of program participants compare to nonparticipants (p.110)?"

Summary of Impact:

- First-Year Findings:
 - No statistically significant change in youth's self-esteem, peer relations or cultural awareness during the two weeks duration of the program.
 - Ability to differentiate between life in and out of an institution improved in 31.7% of participants.
 - Moderate or substantial progress on all learning goals, especially academic goals including increases in 86 different academic skills.
- Second and Third Year Findings:
 - Artists perceived that almost all of youth had accomplished almost all of their goals.
 - 61.3% of youth said they learned concrete vocational skills.
 - 70.3% reported positive feelings about their projects.
 - 17.6% had feelings of accomplishment.
 - 63% reduction in behavioral incidents pre-workshops versus during workshops
 - Of 24 youth followed for recidivism, 16.7% recidivated within six months versus 32.9% for a control group of youth released in 1992.

KEYWORDS: academic, *A Changed World*, attitude, behavior, cartoon art, collaboration, collage, community, confidence, creative writing, cultural awareness, drama, employment, film, graphic design, identity, juvenile, misbehavior, multimedia, murals, music, papier-mache, peer relations, photography, poetry, recidivism, rules violations, self-esteem, skills development, television, visual arts, vocational skills, wood sculpture, youth

35. Kennedy, J. R. (2002). The Effects of Musical Performance, Rational Emotive Therapy and Vicarious Experience on the Self-Efficacy and Self-Esteem of Juvenile Delinquents and Disadvantaged Children. In Deasy, Richard J., (Ed.), *Critical Links: Learning in the Arts and Student Academic and Social Development*. Washington, DC: Arts Education Partnership, pp 119-120.

Author Affiliation: Department of Music and Dance, University of Kansas, Lawrence

Artforms: Guitar, music

Program: Doctoral Dissertation

Program Description: Students were divided into five groups. All received 30-minute weekly guitar instruction and all but the control group also received 30 minutes of additional instruction, depending on the group. The groups were:

- The *Performance Only* group received 30 minutes of instruction performance etiquette, strategies for achieving peak performance, memorization and musical expression then gave solo performances to their peers.
- The *Performance/Cognitive Strategy* group received 30 minutes of cognitive instruction (instruction in mental strategies for performing) and musical performance instruction (how to deal with performance anxiety) then gave solo performances to their peers.
- The *Cognitive Strategy* group received 30 minutes of the same cognitive instruction as the Performance/Cognitive group but were given no chance to rehearse these techniques or give solo performances.
- The *Vicarious Experience* group received 30 minutes of watching performances followed by discussion of successful and failed performances.
- The *Control group* received no arts instruction.

Program (Study) Location: Residential homes and juvenile detention centers

Study Published: April 2002

Participant Type: Male juvenile offenders 8-19 years

Sample Size: 45

Data Type: Quantitative: Pre- and post-test using scales of self-esteem using Rosenberg's Self-Esteem Scale, and musical self-efficacy (how confident participants felt about their musical ability)

Evaluation Focus: Effects of musical training and performance on self-efficacy and self-esteem of participants

Summary of Impact: Scores in Performance and Performance/Cognitive groups improved significantly. "The study demonstrated that guitar training coupled with repeated performance experiences improves both musical self-efficacy and self-esteem of these youth" (p. 119).

Musical performance and musical performance coupled with cognitive strategies improve self-efficacy in at-risk youth. The study further suggests that "music training improves self esteem because the opportunity to perform helps youth overcome fears and helps them see that they can succeed" (p. 119).

KEYWORDS: guitar, juvenile, music, self-efficacy, self-esteem, youth

36. Lauby, J. L., LaPollo, A. B., Herbst, J. H., Painter, T. M., Batson, H., Pierre, A. & Milnamow, M. (October 2010). Preventing AIDS through Live Movement and Sound: Efficacy of a Theater-Based HIV Prevention Intervention Delivered to High-Risk Male Adolescents in Juvenile Justice Settings. *AIDS Education and Prevention*, 22(5), 402–416.

Author Affiliations: Public Health Management Corporation, Philadelphia (Lauby,

LaPollo, Batson, Pierre, Milnamow); Prevention Research Branch, Division of HIV/AIDS Prevention, U.S. Centers for Disease Control and Prevention, Atlanta (Herbst, Painter)

Artforms: Movement, sound, theater

Program: *Preventing AIDS through Live Movement and Sound (PALMS)*

Program Description: PALMS is a theater-based HIV prevention intervention designed for groups of 8 to 20 adolescents and led by a trained health educator. Trained actors portray dramatic performances of real-life situations often faced by adolescents and young adults. Games and role-playing exercises provide opportunities for participants to learn and practice communication and condom-use skills.

Program (Study) Location: Two juvenile justice facilities, Philadelphia, PA

Study Published: 2010

Participant Type: Institutionalized juvenile male offenders aged 12-18

Sample Size: 298

Data Type: Quantitative: nonrandomized concurrent comparison group design; assessment data collected at baseline immediately after the intervention

Evaluation Focus: Effect of intervention on HIV and condom-use knowledge, changes in attitude towards HIV testing and persons living with HIV/AIDS, changes in condom use, changes in number of sexual partners (p. 404).

Summary of Impact: At 6-month follow-up, PALMS participants demonstrated greater increases in HIV and condom use knowledge and improved attitudes toward HIV testing and toward persons living with HIV/AIDS than did those in the comparison condition. PALMS participants were also significantly more likely to use a condom during their last sexual contact with a non-main female partner than comparison participants.

KEYWORDS: AIDS, condom use, drama, HIV, HIV testing, juvenile, movement, *Preventing AIDS through Live Movement and Sound*, sound, theater, youth

37. Lazzari, M.M., Amundson, K.A., & Jackson, R.L. (2005). "We Are More Than Jailbirds": An Arts Program for Incarcerated Young Women. *Affilia: Journal of Women & Social Work*, 20(Summer), 169-185.

Author Affiliations: Tacoma Social Work Program, University of Washington

Artforms: Painting, poetry, sculpture, writing

Program: NA

Program Description: Arts workshops culminating in works produced for museum display

Program (Study) Location: Juvenile detention center, Western United States

Study Published: 2005

Participant Type: Juvenile female offenders aged 11-17

Sample Size: 31

Data Type: Qualitative: Semi-structured interviews with youth participants and in-depth interview with teaching artist

Evaluation Focus: Social skills, violent behavior, self-identity

Summary of Impact: Improved relationship of participants to the artist, to other participants, their artwork, their families and communities, and themselves; increased empathy, caring, sense of community; shared responsibility; greater sense of self; reduced violent behavior

KEYWORDS: behavior, caring, community, empathy, juvenile, painting, poetry, relationships, sculpture, self-esteem, self-identity, social skills, violence, writing, youth

38. Lear, Tereze. (2010). *Why Are We Doing Art: The Impact of Sustained, Standards Based Art Instruction for Incarcerated Youth*. Unpublished master's thesis, California State University, Sacramento.

Author Affiliation: California State University, Sacramento

Artforms: Visual arts

Program: Master's thesis

Program Description: Teacher action research project for Masters of Art in Education

Program (Study) Location: Three maximum-security juvenile housing units

Study Published: 2010

Participant Type: Incarcerated juvenile male offenders

Sample Size: 105

Data Type: Quantitative, Qualitative: Pre- and post-test reading scores, control group, two housing units had sustained standards based visual art, one did not and served as the control group.

Evaluation Focus: Impact of standards-based, sustained visual art instruction on reading achievement in incarcerated youth

Summary of Impact: Participants in the sustained, standards-based visual art course showed an average 11 months more growth comprehension than the control group (21 months versus 9 months, respectively)

KEYWORDS: art instruction, juvenile, reading comprehension, visual arts, youth

39. Maschi, T., Miller, J., Rowe, W., and Morgen, K. (2013). *An Evaluation of a Cultural Arts Program for Youth in a Juvenile Justice Program: Technical Report*. National Endowment for the Arts working paper. Retrieved from <http://arts.gov/artistic-fields/research-analysis/research-art-works-grants-final-papers>

Author Affiliations: Fordham University (Maschi); Community Research Center, Inc.

(Miller); University of South Florida (Rowe); Centenary College (Morgen)

Artforms: Media arts, music, performing arts, visual arts

Program: Prodigy Cultural Arts Program, University of South Florida

Program Description: The Prodigy Cultural Arts Program is a diversion program for youth aged 7-17 who have been adjudicated in the juvenile justice system, offering classes in the visual, performing, musical and media arts as an alternative to court. Classes are taught by master artists. The program runs for eight weeks, with youth attending three hours per week. Goals are to build pro-social skills and reduce recidivism. Prodigy also has a prevention program geared to non-offending at-risk youth in the community.

Program (Study) Location: 7 counties, West Central Florida

Study Published: December 2013

Participant Type: Adjudicated and at-risk youth aged 7-17

Sample Size: 85 (53 in the intervention group)

Data Type: Mixed Method: Structured interviews, classroom monitoring tool, comparison group composed of students who had been suspended twice participating in another program; pre- and post-test with standardized measures assessing social skills, mental health, risk behavior, self-regulation skills

Evaluation Focus:

- Changes in mental health and social skills among youth who have participated in the program versus those who have not
- Whether individual characteristics such as age, gender, race and ethnicity are related to any changes in mental health symptoms and social skills
- What mental health variables and social skills are more and less likely to be positively influenced by the art programming

Summary of Impact: Trends towards improvement (especially in females) but no significant differences in pre and post-test between groups in social skills or mental health improvement. The authors conclude that “a short term art program impact on social skills and mental health is modest at best” (p. 31). They speculate findings may have been the result of sample size and/or selection bias.

KEYWORDS: identity, juvenile, media arts, mental health, music, performing arts, *Prodigy Cultural Arts Program*, risk behavior, self-regulation, social skills, visual arts, youth

40. Nelson, D. (1997). *High-risk adolescent males, self-efficacy, and choral performance: An investigation.* Arizona State University, Tempe, AZ.

Author Affiliation: Arizona State University

Artforms: Choirs, music, singing

Program: Doctoral dissertation

Program Description: Juvenile choir

Program (Study) Location: Adolescent residential treatment facility, Arizona

Study Published: 1997

Participant Type: Adjudicated males aged 11-17

Sample Size: 40 (21 in intervention group, 19 in control group)

Data Type: Qualitative: Bandura's Social Learning Theory of Self-Efficacy, research was augmented by the use of the Sherer and Maddux's Self-Efficacy Scale

Evaluation Focus: Music as an affective intervention for high-risk adolescent males

Summary of Impact: The author stated that the choral program was found to be an affective intervention for this population. Participants reported that performing in the choir was a special experience, that moments in the choir were "wonderful, difficult to verbalize and . . . deeply personal" (p. iv). They also reported that the relationships developed in choir were different than those with other residents of the facility.

KEYWORDS: affect, choirs, juvenile, music, singing, youth

41. Oakey, M.K. (1980). *Evaluation: Lorton Art Program, Inc.* Washington, DC: National Institute of Justice/National Criminal Justice Reference Service. Retrieved from <https://href.li/?https://www.ncjrs.gov/pdffiles1/Digitization/67588NCJRS.pdf>

Author Affiliation: Office of Resource Management, District of Columbia Department of Corrections

Artforms: Fine arts

Program: District of Columbia Department of Corrections

Program Description: *The Lorton Art Program, Inc.* is a comprehensive fine arts program which uses art education and individual skills development to rehabilitate participants. Classes are conducted four days a week for a minimum of two and one-half hours per session at the Lorton minimum-security facility and youth centers I and II.

Program (Study) Location: Lorton Correctional Facility, District of Columbia

Study Published: January 1980

Participant Type: Juvenile offenders (the program may have also included an adult component)

Sample Size: 372

Data Type: Quantitative, Qualitative

Study Design: Data were obtained from the art director's files and her evaluation of each student's performance, District of Columbia Department of Corrections records (inmate characteristics, parole violations, and new convictions), results of an institutional staff survey, and participant questionnaires.

Evaluation Focus: Recidivism, student characteristics, student program performance, institutional staff opinions of the program, and student attitudes toward the program

Summary of Impact:

- A comparison of program participants and nonparticipants provided no conclusive evidence that participation in the arts program reduced recidivism (p. 29).

- After four months, a lower percentage of “failure” for program participants (30%) released through a community correctional center, compared to nonparticipants (41%).
- Evaluation of program by treatment and administrative staff was highly favorable, (Executive Summary, no page number).
- Anonymous survey of participants showed less enthusiasm for the program but was generally favorable (Executive Summary, no page number).
- The only measure for which a correlation could be established with performance on parole was “student’s reaction to the program.” Degree of involvement, prior training, interest level, progress achieved, and talent were not related to post-release performance (Executive Summary, no page number).
- Authors concluded that the program was sufficiently effective for the Department of Corrections to consider assuming all or a major portion of the program’s funding.

KEYWORDS: fine arts, juvenile, *The Lorton Art Program, Inc.*, parole, recidivism, youth

**42. Rapp-Paglicci, L., Stewart, C., and Rowe, W. S. (Winter 2009).
Evaluating the Effects of the Prodigy Cultural Arts Program on
Symptoms of Mental Health Disorders in At-Risk and Adjudicated
Youths. *Best Practices in Mental Health: An International
Journal*, 5(1), 65-73.**

Author Affiliations: School of Social Work, University of South Florida

Study Published: 2009

Artforms: Cultural arts, media arts, music, performing arts, visual arts

Program: *Prodigy Cultural Arts Program*

Program Description: The *Prodigy Cultural Arts Program* is a diversion program for youth aged 7-17 who have been adjudicated in the juvenile justice system, offering classes in the visual, performing, musical and media arts as an alternative to court. Programs, taught by master artists, run for eight weeks, with youth attending three hours per week. Goals are to build pro-social skills and reduce recidivism. *Prodigy* also has a prevention program geared to non-offending at-risk youth in the community.

Program (Study) Location: West Central Florida

Study Published: Winter 2009

Participant Type: Adjudicated male and female juvenile offenders 11-18 years

Sample Size: 337

Data Type: Quasi-experimental pre and post test using MAYSI-2 (Massachusetts Youth Screening Instrument), Family Assessment Device to measure symptoms of mental health disorders (subscales: anger/irritability, somatic complaints, depression/anxiety, suicidal ideations, substance use), and Delinquency Index.

Evaluation Focus: Program’s effect on participants’ mental health-disorders controlling for demographic factors

Summary of Impact:

- Significant decrease in symptoms of mental health disorders, notably anger/irritability and anxiety/depression.
- Changes in somatic complaints, hypothesized to be related to mental-health issues or stressful environmental conditions.
- Females, who tended to score higher pretest on depression/anxiety scores, may have experienced a greater reduction in anxiety/depression symptoms than their male counterparts.

KEYWORDS: cultural arts, delinquency, family functioning, identity, juvenile, media arts, mental health, music, performing arts, *Prodigy Cultural Arts Program*, visual arts, youth

43. Ross, J. Art and Community: Creating Knowledge Through Service in Dance. In Deasy, R. J. (Ed.), *Critical Links: Learning in the Arts and Student Academic and Social Development* (p. 12). Washington, D.C.: Arts Education Partnership.

Author Affiliation: NA

Artforms: Dance

Program: NA

Program Description: Jazz and hip-hop dance classes

Program (Study) Location: NA

Study Presented: 2000

Participant Type: At-risk and Incarcerated adolescents aged 13-17

Sample Size: 60

Data Type: Qualitative: Teacher observation, interviews, reflection journals, in-class discussions, written syntheses

Evaluation Focus: This study sought to address the following questions: How does dance instruction affect self-perception and social development for at-risk and incarcerated adolescents? How does participant/observation research by undergraduates in a dance-centered service-learning project affect perceptions of the purposes of arts generally and dance specifically in the undergraduates' and the lives of others? (p.12)

Summary of Impact: Produced hypotheses about why dance may be a medium particularly well suited to "fostering positive self-perception and social development for disenfranchised adolescents, including the influence of teachers and teaching styles generally employed in dance; culturally valued leisure activities; the release of physical and psychological stress in which "expression, not conquest" is the activity's goal (in contrast to team sports); the focus of instruction on practicing non-linguistic bodily expression, which is a primary vehicle through which maladaptive social behaviors are conveyed; and the need and opportunity in dance to express individuality within a group, which provides practice with issues central to developing positive social identity and adaptability" (p.12).

- Dance may be a medium well suited to fostering positive self-perception and social development for disenfranchised adolescents.
- Congruence of dance, service (providing data to prison administration about the dance program's effectiveness), and research (placing college dance students in a

social/therapeutic context and requiring reflection about impact and uses of the discipline) is an effective tool for advancing college students' learning.

KEYWORDS: dance, hip-hop, jazz, juvenile, service learning, youth

44. Smitherman, T. & Thompson, J. (June 2002). "Writing Our Stories": An Anti-Violence Creative Writing Program. *The Journal of Correctional Education*, 53(2), 77-83.

Author Affiliations: Alabama Department of Youth Services School District (Smitherman); Alabama Writers' Forum, Inc. (Thompson)

Artforms: Creative writing, poetry, prose

Program: *Writing Our Stories: An Anti-Violence Creative Writing Program*

Program Description: Writers teach poetry and prose writing skills to incarcerated youth in Alabama.

Program (Study) Location: Alabama

Study Published: 2002

Participant Type: Incarcerated juvenile offenders aged 12-18

Sample Size: unspecified number

Data Type: Qualitative: pre- and post-testing, anecdotal data

Evaluation Focus: Self-esteem, writing skills

Summary of Impact: Impact information was anecdotal only with inconsistent results found on pre- and post-testing in different groups. Students submitted revised work for inclusion in the school's anthology. Anthologies were considered "outcomes in themselves" (p. 79). As of Fall 2001, nine anthologies were in print from "Writing Our Stories" programs. Juvenile court judges, social workers, therapists, psychologists and teachers have responded positively to the anthologies.

KEYWORDS: creative writing, juvenile, poetry, prose, writing, *Writing Our Stories*, youth

45. Stewart, C., Rapp-Paglicci, L., and Rowe, W. (2009) Evaluating the efficacy of the Prodigy prevention program across urban and rural locales. *Child & Adolescent Social Work Journal*, 26(1), 65-75.

Author Affiliations: University of South Florida School of Social Work

Artforms: Cultural arts, media arts, music, performing arts, visual arts

Program: *Prodigy Cultural Arts Program*

Program Description: The *Prodigy Cultural Arts Program* is a diversion program for youth aged 10-17 who have been adjudicated in the juvenile justice system, offering classes in the visual, performing, musical and media arts as an alternative to court. Programs, taught by master artists, run for eight weeks, with youth attending

three hours per week. Goals are to build pro-social skills and reduce recidivism. *Prodigy* also has a prevention program geared to non-offending at-risk youth in the community.

Program (Study) Location: West Central Florida

Study Published: 2009

Participant Type: Adjudicated and at-risk youth aged 10-17

Sample Size: 350 adolescents and their parents

Data Type: Quantitative: Quasi-experimental pre- and post-test

Evaluation Focus: Mental health symptoms, delinquency, family functioning

Summary of Impact:

- Significant improvement in family functioning overall.
- Statistically significant changes in mental health symptoms including depression/anxiety, somatic and suicidal symptoms for both males and females.
- Females seemed to especially benefit from the program.

KEYWORDS: cultural arts, delinquency, family functioning, identity, juvenile, media arts, music, performing arts, *Prodigy Cultural Arts Program*, visual arts, youth

46. Warner, Susan (1999). *Arts Programs for Incarcerated Youth: A National and International Comparative Study.* (Unpublished master's thesis). Antioch University, Seattle, WA.

Author Affiliation: Experimental Gallery, Seattle

Artforms: Collage, drama, photography, poetry, video

Program: Experimental Gallery is a partnership between the Children's Museum Seattle and the Department of Social and Health Services, Juvenile Rehabilitation Administration

Program Description: Arts programs for adjudicated youth.

Project (Study) Location: While the program operates in six locations in Washington State, the evaluation focused on three: Echo Glen Children's Center, Maple Lane and Green Hill juvenile facilities

Study Published: 1999

Participant Type: Juvenile female offenders (Echo Glen) and juvenile male offenders (Maple Lane, Green Hill)

Sample Size: unspecified number

Data Type: Qualitative: Observations, interviews, assessment forms from participants and visiting artists

Evaluation Focus: Research question: How do arts based, community programs educate and benefit incarcerated juvenile offenders?

Summary of Impact:

- Improved behavior within confining institution.
- Increased feelings of self-awareness or self-esteem.
- Improved vocational skills.

KEYWORDS: behavior, collage, drama, Experimental Gallery, juvenile, photography, poetry, self-awareness, self-esteem, video, vocational skills, youth

47. Warner, S. (2000). Final Survey Report. In Hillman, G., Warner, S. and Shute, J. (Eds.), *Arts Programs for Juvenile Offenders in Detention and Corrections: A Guide to Promising Practices*, (pp. 33-37). Washington, D.C.: Office of Juvenile Justice and Delinquency Prevention and National Endowment for the Arts.

Author Affiliation: Experimental Gallery, Seattle

Artforms: Dance, drama, literary arts, multimedia, performing arts, visual arts

Program: NA

Program Description: Survey of juvenile-offender arts programs

Program (Study) Location: National U.S.

Study Published: 2002

Participant Type: Juvenile-offender arts programs

Sample Size: 120 surveys mailed out, 24 returned: 20% response rate

Data Type: Quantitative: Survey instrument

Evaluation Focus: Art disciplines utilized, number of youth involved, kinds of artists employed, products generated, budgets, founding dates, challenges facing field, impediments to growth

Summary of Impact: Evaluation focused on institutional characteristics and benefits rather than benefits to offenders and found that:

- Most programs offered a multidisciplinary arts education model using a combination of contracted professional artists, art teachers from the local school district and volunteers.
- 43.2% of programs were founded in the 1990s.
- 3 programs had a history of 30 years or more.
- Slightly less than half the programs employed some kind of formal evaluation process to measure success.
- 18 out of 23 programs requested technical assistance with the evaluation, making evaluation the most requested service; fund-raising and curriculum and program design were the next most requested; the lowest response for assistance was in community relations.
- Evaluation was considered the weakest area for most programs.
- Slightly less than half the programs offered academic credit for their participants but three programs had no means in place to measure the success of this provision.
- About half of programs had budgets of \$100,000 and over and half less than \$50,000
16.8% received funding support from a correctional facility.
- Reports of numbers of youth served fluctuated between 3,000 — 12; actual numbers of youth being served by all 24 programs could not be determined.

KEYWORDS: dance, drama, Experimental Gallery, juvenile, literary arts, multimedia, performing arts, visual arts, youth

48. Williams, R. Marie-Crane. (June 2008). The Status and Praxis of Arts Education and Juvenile Offenders in Correctional Facilities in the United States. *The Journal of Correctional Education*, (59) 2, 107-126.

Author Affiliation: University of Iowa

Artforms: Dance, music, theater, visual arts

Program: NA

Program Description: NA

Program (Study) Location: U.S., and "Northeastern Training School (pseudonym)

Participant Type: Public residential juvenile correctional facilities

Sample Size: 175 respondents

Study Published: June 2008

Data Type: Quantitative and Qualitative: survey, interviews, case study; survey sent to all (478) public residential juvenile correctional facilities in U.S.

Evaluation Focus: Summarized the results of a national study conducted in 2001 sponsored by the National Art Education Association, which explored the intersection of arts education and corrections in residential detention facilities for juvenile offenders. Research questions were:

- What is the status of arts education in public juvenile correctional facilities?
- What do programs that combine art with juvenile justice and community re-entrance look like?
- Why do the arts matter to juvenile offenders?

Summary of Impact:

- 36.6% (175) of 458 facilities responded to the survey.
- 57.14% of responding institutions had arts programs.
- 42.86% had no arts programming.
- 69% had long-term arts programming, most meeting daily.
- 23% had short-term programs, 35% of these met weekly.
- most program sessions, both long-term and short-term, lasted less than one hour but more than 30 minutes.
- 73% of arts programs focused on visual arts.
- 9% on music/theater.
- 75 on visual arts/music.
- 4% on music/theater/dance.
- 3% on visual arts/theater.
- 2% on visual arts/dance.
- 1% theater.
- 1% music only.
- 65% used a written curriculum.
- certified art teachers created over 55% of written curricula.

- more than 50% of programs received funding from state sources.
- 20% of programs received funding from state arts programs.
- 10% were funded by state monies with private grants.
- donations or petty cash funded less than 5%.
- 86% of respondents did not indicate whether the budget included the cost of a teacher/artist/facilitator.
- 34% of programs participated in some form of evaluation.
- 62% had no formal evaluation data.
- more participants were male but, proportionally, more participants were female
- 22% had mandatory participating.
- 20% participation was recommended by a teacher, counselor or staff member.

Staff and volunteers of the "Northeastern Training School" stated in interviews that the arts provided students with an appropriate outlet for their feelings

KEYWORDS: dance, emotions, juvenile, music, theater, visual arts, youth

**APPENDIX:
PROGRAM EVALUATION RESOURCES**

The following references present information on program implementation as well as methodologies to effectively evaluate the impact of prison arts programs. These may serve to guide future researchers when studying how and how well prison arts programs work. They may also aid in the design and implementation of future programs.

Balfour, M. and Poole, L. (1998). Evaluating Theater in Prisons and Probation. In Thompson, J. (Ed) *Prison theater: Perspectives and Practices*. London and Philadelphia: Jessica Kingsley Publishers. p. 217-230.

Argues for the benefits and necessity of evaluating the effectiveness of arts in prison and probation. Presents theories and methodologies of evaluation.

Hillman, Grady (2000). Evaluation, Advocacy and Sustainability in Arts Programs for Juvenile Offenders in Detention and Corrections: A Guide to Promising Practices. Washington, D.C.: Office of Juvenile Justice and Delinquency Prevention and National Endowment for the Arts. p. 23-25

"Advocacy and evaluation activities that generate program recognition are critical components both to community acceptance and to the financial sustainability of juvenile justice arts programs" (p. 23).

Miller, Jerry and Rowe, William S. (Winter 2009). Cracking the Black Box: What Makes An Arts Intervention Program Work? *Best Practices in Mental Health*, 5(1), 52-64.

A review of "the limited literature on arts programming to identify a core set of practices that may be linked to positive outcomes [for arts programming for at-risk youth]. A template that identifies key components was developed to guide program implementation as well as future research" (p. 52).

Ploumis-Devick, E. (2011). Foreword in Shailor, J. (Ed.) *Performing New Lives: Prison Theater*. London and Philadelphia: Jessica Kingsley Publishers, p. 7-15. APA

Identifies three essential elements of effective arts-based programs as a mutually beneficial partnership with correctional professions; replicable and compatible program

architecture; result-focused programming and implementation consistency. (p. 7)

Williams, R.M. (2003). Evaluating Your Arts-in-Corrections Program” in Williams. *Teaching the Arts Behind Bars*. Boston: Northeastern University Press, p. 167-180.

Why evaluation is important, how to plan for an evaluation, what to look for when hiring an external evaluator, what to expect in a final report, and a way to do your own evaluation (p. 167).

YouthARTS Development Project (1998). Evaluation. In *YouthARTS Handbook: Arts Programs for Youth At Risk*. Americans for the Arts, p. 123-177. Retrieved from <http://youtharts.artsusa.org/>

How to conduct your own process and outcome evaluation, benefits and challenges of a well-planned program evaluation, a step-by-step approach for evaluating arts program outcomes and other best practices from field.

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Research assistance provided by **Beatrice Ogden**, a master's student in the Arts and Administration graduate program at the University of Oregon. Report design by Beatrice Ogden.

Attachment S

2/13/2018

Detainee art vanishes from Guantánamo media tour | Miami Herald



GUANTÁNAMO

Detainee art? What detainee art? Popular stop vanishes from prison media visit

BY CAROL ROSENBERG
 crosenberg@miamiherald.com

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GUANTANAMO BAY NAVY BASE, CUBA — Detainee artwork, once a proud fixture of media visits, has vanished from prison materials that reporters are allowed to see in the aftermath of a new policy forbidding the release of artwork by war on terror detainees.

Prison leadership says the art program continues and the captives are still making art.

But a usual stop at a trailer where, for years, troops and contractors hung detainee drawings and paintings was excluded from a five-hour Detention Center Zone visit by U.S., Australian and Colombian reporters on Feb. 3. It was the first media visit since summer, and the first since the Pentagon declared the art U.S. government property and halted a long-standing prison policy of letting captives give their artwork to their lawyers and families.

“Detainees are still going to art class,” the prison’s cultural adviser, known as Zaki, said, acknowledging that artists among the captives “were not happy about the change.” He blamed the new ban on defense lawyers who decided to display it in an exhibit in New York City.

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Zaki's boss, prison commander Rear Adm. Edward Cashman, later read a lengthy statement in response to a reporter's question on whether the prison had been or would be burning art as a method of disposal — something a lawyer quoted a captive as being told by a guard.

"I do not have the mission, the requirement, the direction or the capability to store every detainee art project forever," the admiral said. "I don't have a project to build a detainee art museum. I do not have a project to hire a detainee art curator."

Pressed on the incineration issue, he replied that detainees voluntarily turn in "completed projects" or those "they've lost interest in" and the method of destruction was not incineration but having it "shredded, thrown away if necessary."

RELATED: "After years of letting captives own their artwork, Pentagon calls it U.S. property. And may burn it."



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Guantánamo prison put its stamp of approval for release on the sail of this model ship built by a current captive, Yemeni Moath al Alwi. He made it from discarded paper and other objects, and gave it to his lawyer as a gift. Here it was on display on Oct. 25, 2017, at the John Jay College of Criminal Justice in midtown Manhattan.

CAROL ROSENBERG - crosenberg@miamiherald.com

The Department of Defense ordered the prison commander to stop letting detainees send art away in November in response to a display of art by current and since-released Guantánamo detainees at John Jay College of Criminal Justice in midtown Manhattan. One concern was that the exhibit's website offered an email address for people "interested in purchasing art from these artists." Proceeds were to go to needy family members, according to two lawyers.

The show also included a watercolor by a man awaiting a death-penalty trial on charges he conspired in the Sept. 11, 2001, terror attacks that killed 2,976 people, most of them at the World Trade Center in lower Manhattan. It was not for sale. His lawyers say the piece, "Vertigo at Guantánamo," portrays a condition Ammar al Baluchi suffers as a result of his torture in CIA custody.

The prison's cultural adviser, who had championed the art classes years ago, said the idea was to "let out their steam on paper instead of taking it out on the guard force."

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For years, he noted, "nobody in the government had an issue with it. The artwork was going to their families, it was given as gifts to their lawyers."

One current captive at the prison has used discarded paper and other objects to craft model ships and gave a gondola to his lawyer as a gift. Models were on display at the New York City gallery.

In one instance, a captive who for a time was considered for war crimes trial drew a portrait of the chief prosecutor for military commissions, Army Brig. Gen. Mark Martins. He presented the art to the general before his release from Guantánamo.

Any detainee artwork given to prosecutors — "something that has happened on a few infrequent occasions," according to war court spokeswoman Navy Cmdr. Sarah Higgins — was "turned over to law enforcement channels for safekeeping."

Higgins was unable to say whether the turnover happened before or after the Pentagon declared detainee artwork U.S. government property.

<http://www.miamiherald.com/news/nation-world/world/americas/guantanamo/article199444279.html>

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“Everything was going fine until the lawyers decided to parade their artwork in New York City,” Zaki said. “Put yourself in the shoes of somebody who lost their family member on 9/11. How would you feel?”

The art wasn’t actually paraded. It was on display in a hallway outside the offices of the college president, legal counsel and chief diversity officer. It had received some international and domestic media attention before the ban but nothing in comparison to the coverage it got after the Department of Defense halted future releases.

Zaki suggested that, if the college had made use of the art in a class rather than an exhibit, there might have been no problem. “OK, take it to that classroom, there is no need to parade it in the streets and to have people take pictures of it and show it. That’s where the screw-up was.”

The Manhattan exhibit closed on Jan. 26. That may not be the last time, however, that the public will get to see it. John Jay College curator Erin Thompson said by email Thursday that it may travel. She said she was “in negotiations with a number of venues interested in displaying the art.”

For his part, Cashman, who was introduced to the prison in April as “one of our Navy’s rising stars,” declared it “disappointing that obviously the politicization of what’s fundamentally a humanitarian program has developed the way it is and obviously it’s continuing with the desire to find sensational words to keep it in the news.”

Editor’s note: An earlier version of this story incorrectly referred to the title of the chief war court prosecutor, Army Brig. Gen. Mark Martins.



Guantánamo prison had this painting by Pakistani ‘forever prisoner’ Mohammed Ahmed Rabbani in the wall on Saturday, Dec. 10, 2016, as part of its display of art projects done by captives. The photo was approved for release by the U.S. military at the U.S. Navy base in southeast Cuba.

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<http://www.miamiherald.com/news/nation-world/world/americas/guantanamo/article199444279.html>

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Detainee art vanishes from Guantánamo media tour | Miami Herald

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Here's a transcript from a formal podium question-and-answer session on Feb. 2, 2018, between reporters from four news organizations and Navy Rear Adm. Edward Cashman, commander of detention operations at Guantánamo Bay.

Reporter: "Admiral, are you able to settle once and for all the question of whether any detainee art has been incinerated and whether there will be incinerated art?"

Cashman, reading a statement: "So as you know the detainee art program like all the detainee programs — language classes, music classes, business, general education classes — are designed to provide intellectual stimulation for the detainees as part of the humane conditions of detention. The recent policy decision to stop the transfer of detainee-made objects off the island was just that. It was a policy decision. And that is the only thing that has changed in our operations — halting the movement, the transfer of those detainee-made objects. Detainees have the ability to maintain some of their art projects in containers in their cells. They have the ability to store some detainee art projects in storage facilities in the camps. I do not have the mission, the requirement, the direction or the capability to store every detainee art project forever. Detainees have a method to request which projects they want in their cell areas, which ones they want to have and store. There have been no complaints or issues with detainees regarding their ability to store projects. They periodically turn in completed projects, they turn in projects that they've lost interest in for disposal and destruction or objections when they exceed their capacity. I don't have a project to build a detainee art museum. I don't have a project to hire a detainee art curator. That's not part of my mission."

Reporter: "Follow-up, sir. How is it destroyed? You said, disposal and destruction."

Cashman: "Yes it's disposed the way that, think most things are disposed of. Things are shredded, thrown away, whatever, if necessary. It's a little disappointing that obviously the politicization of what's fundamentally a humanitarian program has developed the way it is and obviously it's continuing with the desire to find sensational words to try to keep it in the news."

Reporter: "Just a follow up on Carol's. Why was the policy enacted that the art can no longer be sent out?"

Cashman: "That really is a question for policymakers. I get policy. I receive orders. I provide advice and recommendations and policymakers establish policy."



'Vertigo at Guantánamo,' a 2016 watercolor by former CIA captive Ammar al Baluchi, was on display Oct. 25, 2017, in an exhibit called Ode to the Sea at the John Jay College of Criminal Justice. CAROL ROSENBERG - crosenberg@miamiherald.com

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Attachment T

Footprints: ARTWORKS FROM GUANTANAMO

I



'Giant' model ship by Moath Al Alwi.—Courtesy John Jay College

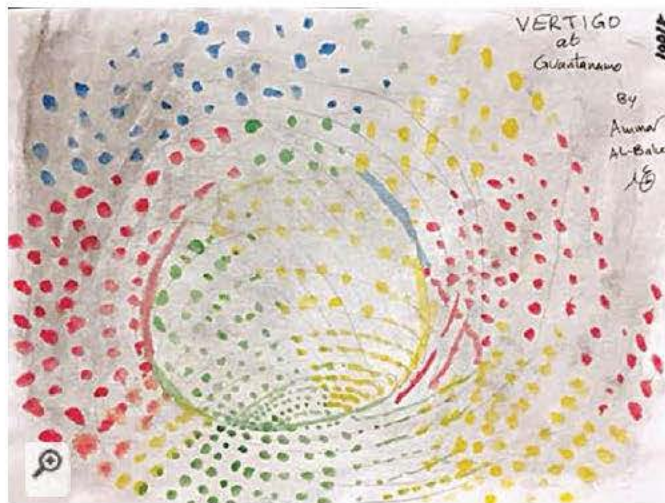
In *Witnesses of the Unseen*, a published account of life at Guantanamo by former detainees Lakhdar Boumedine and Mustafa Ait Idir, Boumedine recalls how his neighbours in the prison didn't initially know where they were. One thought they were in Korea. Another assumed Oman, since the Gulf country had similar birds. Instead, they were at Guantanamo, in southeast Cuba, at a detention facility on a US naval base.

A brief reflection of what goes through the minds of the men detained there — and how they imagine the world outside — is currently on display at a remarkable art exhibit called *Ode to the Sea: Art from Guantanamo*. The

exhibit, currently ongoing at the John Jay College of Criminal Justice in New York, displays artwork by eight current and former detainees held at Guantanamo.

When a lawyer for a detainee approached Erin Thompson, an art crime professor, about exhibiting the work, she was surprised to hear that there was art produced at Guantanamo at all. And while Thompson expected that the work might contain themes of anger, or torment, instead she came across beautiful seascapes, and images reproduced from National Geographic.

Art has been produced in other prisons and detention camps: during the Holocaust, in internment camps after the Second World War, even at Karachi's Central Jail. But what is different about the art produced at Guantanamo, the exhibit's co-curator Thompson says, is that for a long time it was made for "no one at all" — the work couldn't be shared with the world.



'Vertigo at Guantanamo' by Ammar al Baluchi —Courtesy John Jay College

The Ode to the Sea exhibit opened in the fall of 2017 to a slew of press and visitors. But in recent weeks, the

artworks have gained new significance. The Miami Herald reported last month that the US government has stopped the release of art made at the prison, and is considering it government property, after it emerged that the exhibit's website had an address for potential sales. After the Herald reported that a detainee was told the art might be burned when they left Guantanamo, the US military said there were no plans to incinerate the work.

For now, the exhibit exists. It seems surreal to step off the streets of New York and into a world inhabited by people as a result of events that transpired in the city. It is even more surreal to come face to face with the art created by people held in such a remote space, and how they depict this distance. That comes through in the imagery of the sea — which Guantanamo detainees cannot see from their cells, or visit, but can hear. There are depictions of coastlines, and reproductions of iconic images: the Statue of Liberty, the Titanic, the body of the Syrian child Ayman Kurdi washed up on a beach. The sea, which to others might represent summer holidays and happier times, is an unending expanse in some of the work. The art is left open to interpretation: one has to wonder whether the artists see the ocean as an escape route to which they have no access to, a constant reminder of a world outside, or a force of nature.

This is no ordinary exhibit either: there are restrictions on what can be depicted, and every work is cleared by the prison authorities. "You have to think about what's missing from the art as well as what's there," Thompson says.

"A lot of the art does not make its way out," says lawyer Shelby Sullivan-Bennis, from the international human rights organisation Reprieve. "What makes it through is a

small sampling that the government has deigned capable of being released. What it ends up being is artwork that's non-political in nature and it doesn't depict their treatment whatsoever. We have clients who've depicted everything from their torture to their loneliness or sarcastic messages — I remember seeing one with a sign with a picture of a heart and a line through it saying 'no hearts allowed in here'."



'Crying eye' by Muhammad Ansi
—Courtesy John Jay College

It is remarkable, then, to see the ingenuity that has gone into a painstakingly detailed model ship created by Moath al Alwi by using scraps of cardboard and rags, with a sail bearing a military stamp, or in Khalid Qasim's model of a 'Hall of Enlightenment' bearing the phrase: "Time is invaluable". A painting by Muhammad Ansi shows hands with flowers behind jail cell bars, but there is an evident pencil outline of his initial drawing, which depicted hands reaching to the bars. In Qasim's depiction of the ocean, there are shark fins visible above the surface. Ammar al Baluchi's drawing is striking: it is a series of colourful dots, drawn over and over again, as al Baluchi tried to describe

his condition of vertigo. One of two works by Ahmed Rabbani, a Pakistani detainee, depicts glassware: a still life that wouldn't look out of place in an art class, but belies the fact that Rabbani is one of the prison's most well-known hunger strikers.

The curatorial decisions behind this exhibit are significant. In any art show, there are detailed guides; but the curators kept information minimal, and chose not to write about the accusations against the detainees. "I'm also a lawyer as well as an art historian," Thompson said, "and I know that seven out of the eight prisoners never even had charges filed against them. That's just me proving my 'innocent until proven guilty' idea."

< Since the exhibit opened, Thompson has received more art and images from Guantanamo that she is currently archiving. And while she believes the decision to stop artworks from leaving the prison is "horrifying", lawyers of detainees have told her the attention has renewed focus on the prison. >

"It's been astounding to me how many people have come to the exhibit and said 'What do you mean Guantanamo is still open?' It's almost like it's become this forgotten issue in America," Thompson said.

It also seems to be just as forgotten in Pakistan, where Guantanamo or the Pakistanis held there are largely missing from political or social discourse. Sullivan-Bennis, whose clients include Saifullah Paracha, who at 70 is the eldest prisoner at Guantanamo, said there was nothing to show that the Pakistani government was pushing for a trial or release of any of the men held there. Paracha, who has heart disease and diabetes, has had two heart attacks at

Guantanamo and is yet to be charged with a crime 14 years after he was first captured. It's almost as if once the men disappeared over the seas, they went away forever.

Saba Imtiaz is a freelance journalist currently based in the Middle East.

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Attachment U

The Disarming Paintings Made by Guantánamo Detainees | The New Yorker <https://www.newyorker.com/culture/cultural-comment/the-disarming-pai...>

THE
NEW YORKER

THE DISARMING PAINTINGS MADE BY GUANTÁNAMO DETAINEES



By Alexandra Schwartz December 13, 2017



"Untitled (Oasis)." Art work by Muhammad Ansi

Djamel Ameziane arrived at the detention center at Guantánamo Bay

shortly after it opened, in early 2002. A citizen of Algeria, he had left his country during its civil war in the early nineties and sought refuge first in Vienna, where he worked as a chef, and then, when his visa expired, in Montreal. After his application for Canadian asylum was denied, Ameziane went to live in Afghanistan. By then, it was 2000. When the United States invaded, the following year, he tried to escape the violence by crossing the border into Pakistan, where he was captured by local bounty hunters and turned over to the American military for five thousand dollars. At Guantánamo, Ameziane was placed in solitary confinement and tortured. He was never charged with a crime; his lawyers insisted that he had been a victim of circumstance. In 2005, he filed a habeas petition. In 2008, he was cleared for release, but where could he go? The U.S. wanted to send him back to Algeria; as a member of the persecuted Berber minority, he feared for his safety there. Five more years passed at Guantánamo as Ameziane's lawyers fought the American government's efforts to repatriate him in the country he had fled.

As Ameziane waited for a final decision, he made art. Two of his watercolors are included in "Ode to the Sea: Art from Guantánamo Bay," a startling exhibit on display through January at the John Jay College of Criminal Justice. The first is a tranquil landscape of mountains and pines ringing a lake with a house on the far shore, reflected in the calm water. It's the sort of soothing, contemplative image that you might expect to find in the dining room of a country inn, not in a cell of one of the world's most notorious prisons. Ameziane's second painting, of a dramatic storm at sea, seems to speak more directly to his distress. Under bruised clouds, a battered sailboat is tossed on dark, frothing waves, about to capsize. The picture put me in mind of those moody, shipwreck-loving Romantics, artists like Claude Joseph Vernet, whose paintings of sea storms revel in pathetic fallacy and the magnificent cruelty of nature's triumph over man—except for the eerie fact that in Ameziane's scene, nature has no antagonist, because no people are shown at all. He himself was the ship, he told his lawyers, buffeted by the waves, without a friendly shore in sight.

The Disarming Paintings Made by Guantánamo Detainees | The New Yorker <https://www.newyorker.com/culture/cultural-comment/the-disarming-pai...>



"Untitled (Buildings on a Shore)." Art work by Djamel Ameziane

"Untitled (Sunset)"

 Full-screen

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"Ode to the Sea" includes work by eight Guantánamo detainees, half of whom have been released. The others remain there still. In all the years that they have spent living on the shore of the Caribbean Sea, they have seen the water only once, in 2014, when guards took down the green tarps covering the prison's fences to prepare for a hurricane. But water is everywhere in the exhibit, as its title implies. A livid sunset over a bridge that looks very much like the Golden Gate was painted by Abdualmalik Abud, a Yemeni held at Guantánamo for fifteen years and released to Montenegro, in 2016. An image of a lighthouse on a craggy, purple shore is by Ghaleb al-Bihani, also from Yemen. He was released to Oman, last January, as was Muhammad Ansi, whose work in the show

includes a painting of a lemon-yellow bay with a hazy city just visible in the far background and one of a pink beach, complete with families gathered under sun umbrellas. “Everyone who could draw drew the sea,” Mansoor Adayfi, a former detainee, wrote in a recent Op-Ed in the *Times*, describing his fellow-prisoners’ rapture when the tarps temporarily came down. “I could see the detainees put their dreams, feelings, hopes and lives in them. I could see some of these drawings were mixtures of hope and pain. That the sea means freedom no one can control or own, freedom for everyone.”

The sea can also mean danger, loss, and separation, or a difficult, uncertain journey, and not all the work in the show is so sanguine. Ansi’s pieces—sixteen, the most of anyone—include a painting of the famous photograph of Alan Kurdi, the three-year-old Syrian child who drowned off the coast of Turkey during his family’s attempt to flee the war, as well as one of the *Titanic*, still intact and sailing toward its doom, which puzzled me until I learned that Ansi had been shown the James Cameron movie by a female interrogator who was trying to create a rapport with him. (The catalogue notes that he “was entranced by the film, but recognized the attempted manipulation of being shown sexual scenes while sitting beside a woman.”) Erin Thompson, an assistant professor at John Jay and one of the show’s curators, told me that the detainees have to be careful not to show anger in their art lest they compromise their chance for release, though some of the work does toe the line. In one of Ansi’s paintings, a giant, kohl-rimmed eye—his mother’s, he told his lawyer—weeps in the sky, while in another, the Statue of Liberty, painted black, turns her ashen back to the viewer. As in a seascape that shows shark fins slicing through the water, painted by Khalid Qasim, who is still in detention and on a gruelling hunger strike, the symbolism speaks for itself.

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"Untitled (Fins in the Ocean)." Art work by Khalid Qasim

With one exception, the detainees represented in the show were allowed to enroll in art classes, where they used *National Geographic* and other approved magazines for material. (The exception is Ammar al-Baluchi, a high-value detainee and nephew to Khalid Sheikh Mohammad, who is charged with aiding the 9/11 attackers; he served as the basis for the character tortured on a C.I.A. black site in "Zero Dark Thirty." He painted "Vertigo at Guantánamo," a cone of swirling, colored dots, to help his lawyers understand the symptoms he experiences as a result of a brain injury that he suffered during interrogation.) The source material explains the detainees' surprising depiction of American scenes that they have never laid eyes on: picture-postcard landmarks like the Statue of Liberty and the Golden Gate Bridge that might be seen anywhere in

the world, but also subtler motifs, like the cacti and desert shrubs of the Southwest. There is an uncanny familiarity, too, in the style of many of the works—that particular aesthetic shared by art students who are growing more comfortable with their materials, learning how to shade and crosshatch, how to use line and color, how to show the way that light bounces off the curve of a glass in a still-life.

The work in the show came to Thompson through the detainees' lawyers, who have held onto them for safekeeping as their clients waited for release. It is fortunate that they did. A few weeks ago, the government, apparently reminded of the existence of the detainees' art by press coverage of the show, declared it government property and therefore subject to destruction, a policy that Thompson, in a *Times* Op-Ed, denounced as petty and cruel.

“I didn't want to manipulate their work, so I kept asking them through their lawyers, ‘What do you want from displaying your art?’ ” she told me. “And they all kept telling me, ‘We want people to look at our art and recognize that we're human beings.’ ” It is confounding to try to fathom the lives that these detainees have had, the conditions that they have endured in our name while hidden from our view. Is that fathoming more or less difficult while looking at the pictures that they have made of the ocean, of buildings, of trees and flowers and the moon, ordinary subjects rendered extraordinary by the circumstance of their creation that have, against the odds, washed up on the shore of our city like messages in a bottle? I don't know, but the sense that I had, at “Ode to the Sea,” was of real contact being made. Art is created for every reason under the sun, but surely the most basic, the most elemental reason of all, is to mark the fact of one's own existence in the world, to send a sign of it out like a flare so that others might see.

My favorite pieces in “Ode to the Sea” are not paintings but sculptures: model ships made from scavenged materials—trash, essentially—by Moath al-Alwi, who is still in detention. (It seems that his latest project, still in progress, has been confiscated as a result of the government's new policy.) They are fanciful

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treasures of ingenuity and imagination, the work of countless careful hours. Al-Alwi made his ships' sails from old T-shirts and their wheels from bottle caps; their rigging comes from the nets that line Guantánamo-issued prayer caps. On the basis of a picture, he constructed a Venetian gondola with painted sponges for seats and lanterns whose glass is the plastic cover of a shaving razor. There is something magical about these ships, built in captivity, which have now improbably come to dock on Tenth Avenue. Their prows are all graced with cardboard eagles' wings, like the ones on Hermes' sandals, speeding them ahead on their unfinished journeys.



Alexandra Schwartz is a staff writer at The New Yorker. [Read more »](#)

Video

*A Bitter Eden for Syrian Refugees
Lebanese farms provide subsistence living for refugees but no route home.*

The Disarming Paintings Made by Guantánamo Detainees | The New Yorker <https://www.newyorker.com/culture/cultural-comment/the-disarming-pai...>

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Attachment V

The New York Times | <https://nyti.ms/2khWPHU>

Opinion | EDITORIAL

Art, Freed From Guantánamo

By THE EDITORIAL BOARD DEC. 3, 2017

The American prison at Guantánamo Bay, Cuba — where men suspected of terrorism are for the most part being held indefinitely without trial — has long been a stain on this country’s human rights record. Now the military has stumbled needlessly into a controversy over, of all things, art.

The Pentagon allowed its nose to be knocked out of joint by a free exhibition in Manhattan: a display of 36 paintings, drawings and sculptures that eight Guantánamo prisoners produced in the last few years.

Since early October, these works have lined walls outside the office of the president of John Jay College of Criminal Justice. “Ode to the Sea,” they are collectively titled, and appropriately so, given that most of them have river and ocean themes. The exhibition is scheduled to continue deep into January.

Erin Thompson, a curator of the exhibition and a John Jay professor of art crime, said she had been contacted by a lawyer for one of the prisoners and asked if she wished to show the artwork. Her reaction, Ms. Thompson recalled was: “What are you talking about? There’s art from Guantánamo?”

Indeed there is. Art classes have been held there for at least eight years, if only to give prisoners something to do and perhaps reduce tensions with their jailers and among themselves. The paintings are unthreatening, having been vetted for hidden messages and inflammatory political statements. Elaborate ship models made by a Yemeni man out of cardboard and glue-stiffened cloth were X-rayed to ensure they contained nothing untoward. Their sails are stamped, “Approved by U.S. Forces.”

Prisoners were permitted to give their works to their lawyers, sometimes as thank you gifts. But now the Pentagon says that, while the art instruction will continue, any new creations will go nowhere. They will stay at Guantánamo, a spokesman said, and “remain the property of the U.S. government” (even though some materials were supplied by detainees’ lawyers, not the military).

There has been no claim of a security breach or risk to Americans. The military, it would seem, is simply unsettled by the attention that the John Jay exhibition has drawn from news organizations. It may also be annoyed that some paintings are for sale — not by the college but by a few of the artists and their representatives. Of the eight men, only four are still detained, three of them without any formal charges having yet been brought; they are among 41 men still being held at Guantánamo. The other four artists have been cleared and released, and thus are free to do as they wish, including sell their work.

Ramzi Kassem, a law professor at the City University of New York who represents three detainees, said it isn’t “the art exhibit per se” that offends the Pentagon. “It’s that prisoners take control of their own narrative,” he said, describing the new policy as “a kneejerk ‘let’s stomp it out’ approach.”

An inevitable question is whether unseen art is, in fact, art. For Ms. Thompson, there’s another consideration. “We spend years trying to get inside their minds,” she said of the prisoners, adding that the art is one way for interrogators to gain possible insights. And the viewing American public reasonably gets a peek behind the curtain that has long enveloped Guantánamo.

She added, “Why cut off the information?”

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