CAN PRISONS WORK? THE PRISONER AS OBJECT AND SUBJECT IN MODERN CORRECTIONS, Stephen Duguid (Toronto: University of Toronto Press, 2000)

> That institutions yield no public life is felt by more and more human beings, to their sorrow; this is the source of the distress and search of our age.... True community does not come into being because people have feelings for each other (though that is required, too), but rather on two accounts: all of them have to stand in a living reciprocal relationship to a single living center, and they have to stand in a living, reciprocal relationship to one another.[1]

Stephen Duguid's *Can Prisons Work?* is a remarkably rich book.[2] Its virtue lies not so much in its originality — many of its ideas are discussed elsewhere by others — or in the depth of its analysis — its "lite" (or perhaps more charitably "emblematic")treatments of Voltaire, Rousseau, de Sade, Kant, Hume, and Foucault would doubtless irritate specialists — but in its integration of a tremendous number of threads and themes around the correctional enterprise. The book illuminates, educates, and provokes. I will review (A) its overarching theme; (B) its history of modern corrections; (C) some additional issues arising in its exposition; and (D) some challenges it poses.

I. OVERARCHING THEME

The main theme explored in *CPW* could be summarized as follows: prisoners are subjects, not objects, who have made inappropriate choices; to reduce the likelihood of their continuing to make inappropriate choices when released from prison, steps must be taken to assist them to become citizens. These steps, in particular, involve providing prisoners with a liberal arts education. Let us interrogate this thesis.

A. WHY SHOULD WE BOTHER WITH PRISONERS AT ALL?

If one were interested in writing about subjectivity, citizenship, and education, one might have situated the discussion in a setting more hospitable than the prison. Why should these topics be pursued through such an unlikely environment? Why the fascination with the prison? The prison is marginal. Physically, it is pushed to the margins of communities, to the outskirts. Economically, while the prison may have large regional economic benefits, and while the prison-industrial complex may be big business,[3] the prison is not a visible big business on the scale of our resource, manufacturing, or computer industries. Culturally, while prison may be the subject of movies and print and electronic media stories, and while prison-export cultural products (*e.g.*, in music or

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1 M. Buber, *I and Thou*, trans. W. Kaufman (New York: Charles Scribner's Sons, 1970) at 94 [hereinafter *I and Thou*].

2 S.R. Duguid, *Can Prisons Work? The Prisoner as Object and Subject in Modern Corrections* (Toronto: University of Toronto Press, 2000) [hereinafter "*CPW*"]. Duguid is a professor at Simon Fraser University. He is Chair of the Department of Humanities and Director of the Centre for Scottish Studies, online: Centre for Scottish Studies Homepage <http://www.sfu.ca/scottish/start. htm> (date accessed: 30 June 2001).

3 See J. Miller, *Search and Destroy: African-American Males in the Criminal Justice System* (Cambridge: Cambridge University Press, 1996) at 228.

clothing fashions) may have some broad-based (if genealogically amnesiac) influence, at least for persons whose work is not in the criminal justice system, the prison is not a preoccupation. Out of sight, out of mind.

Duguid's turn to the prison is, in part, the result of simple biography. He has taught in prisons, he has reflected on his experience, he has done research in this area, and he has written about it. Duguid's turn to the prison is also, however, a postmodern turn to the margins. A frequent postmodern methodological gambit is to turn to the margins, to turn to the small, the ignored, the unimportant. On the margins, protective layers of rhetoric, pretense, and self-delusion may be not have been laid down, and we may be able to see with some clarity how we constitute ourselves, how we organize our lives, and how our lives organize us. The prison, in particular, as a hidden place, as a place where disguise is not necessary, is where some researchers believe we can get a clear glimpse of the relations that cut across modern society. For class-based analysts, the prison is the "image of the bourgeois world":

> Man in prison is the virtual image of the bourgeois type which he has still to become in reality. Those who cannot manage outside are forcibly held in a terrible state of purity in prison.... The prison is an image of the bourgeois world of labor taken to its logical conclusion; hatred felt by men for everything that they would themselves wish to become but is beyond their reach, is placed as a symbol in the world.[4]

For power theorists like Foucault,

> Prison is the only place where power is manifested in its naked state, in its most excessive form, and where it is justified as moral force.... What is fascinating about prisons is that, for once, power doesn't hide itself.[5]

The margins betray the whole.

Duguid shares motivations with thinkers like Foucault. A study of the prison may disclose the "fate of the self" in mass society.[6] There is "no shortage of links between prison and society on the issue of the self and the preservation of an authentic subjectivity."[7] A study of the prison will lead to conclusions about "some central aspects of contemporary culture," to conclusions about our "modern selves."[8]

One might contest Duguid's type of enterprise. Even if we assume, as we probably should, that the majority of the occupants of the prison are not much different than you or me (we will return to this point under the next heading), as an institution the prison is precisely abnormal; it is precisely marginal — and why should we think that any

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4 M. Horkheimer & T. W. Adorno, *Dialectic of Enlightenment*, trans. J. Cumming (New York: Seabury Press, 1972) at 226.

5 "Intellectuals and Power" in D. Bouchard, ed., trans. D.F. Bouchard & S. Simon *Language, Counter-Memory and Practice* (Ithaca, New York: Cornell University Press, 1977) at 210.

6 *CPW*, *supra* note 2 at 233.

7 *Ibid.*

8 *Ibid.* at 14-15.

conclusions about larger society can be drawn from the peculiar experiment of the prison? Even if the prison does reflect broader societal relationships, why should we think that those relationships are not fatally distorted as they pass through the prison lens? Duguid does not draw out the various links between the prison and larger society. Duguid fails to deliver on his promise of drawing conclusions about our modern selves. Here Duguid is one with Foucault in *Discipline and Punish*. By inference and extrapolation, we can move from conclusions about the prison to conclusions about larger society, but the research leaves that work, to the greatest degree, for the reader. We must be fair — drawing those conclusions would doubtless have required a second volume. Even though Duguid's suggestions are, I suspect, right, we must still view the transmission of conclusions from the prison to broader society with caution.

B. WHAT DOES DUGUID MEAN BY SPEAKING OF THE PRISONER AS "SUBJECT," AS OPPOSED TO "OBJECT"?

To reach the prisoner as subject, we must move through three stages.

The first step is the hardest step. I do not know whether the urge to punish is "natural," but it is at least common. Offenders hurt us. They may destroy our property. They may destroy our lives. Even purportedly "victimless" crimes (*e.g.*, concerning gambling, prostitution, or illegal drugs) are ringed about by tragedy, damage, and cruelty. When hurt, we want to lash back. We want to punish. Our inclination is to treat offenders as objects, as organisms on whom we may visit, according to law, our tactics of redemption or social protection. Duguid asks us to suspend our rage and our pain. We are to suspend our moral judgments and social condemnation, adopt a critical distance from the offence, a disinterested understanding of the prisoner.[9]

To aid in suspending or bracketing our emotions when dealing with prisoners, we should keep in mind that they are already being punished. They have received denunciation or censure by sentencing; they have been stigmatized by conviction; and the deprivation of liberty itself is their punishment.[10] Prison is the punishment; we need not punish in prison.

Second, we are to recognize that the prisoner is not wholly Other, not a member of a different species, not a fundamentally different creature than you or me. Duguid expressly puts to one side extravagant, bizarre offenders such as serial killers and serial rapists.[11] He wishes us to focus on the vast majority of prisoners who do not elicit the fear and loathing associated with the worst among us. Those prisoners who remain, Duguid believes, will be types of people familiar to us. They are more "extreme" versions of types of people we encounter outside the prison.[12] More precisely, they are more extreme versions of ourselves: "there, but for the grace of God, go I." Duguid does not intend the insult that you and I are lucky criminals who haven't been caught. Neither does he

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9 *Ibid.* at 247-48.
10 *Ibid.* at 263.
11 *Ibid.* at 13, 14, 232.
12 *Ibid.* at 232.

insinuate that we have tendencies that make us criminals in potential. He means that the types of motivations, desires, dreams, frustrations, and mistakes we all make are only some number of steps away from those that lead others to prison. We can look at our own lives and the lives of our neighbours and understand how prisoners moved to their crimes.

Third, if we set aside emotion and spy the familiarity of the prisoner, we can then take the step of treating them as persons, like us. We are not to condone their crimes. We are not to pardon them or excuse them or justify their behaviour. We should extend respect to them as persons.[13]

C. WHAT IS THE SIGNIFICANCE OF SPEAKING OF PRISONERS' "CHOICES"?

Understanding prisoners as subjects does not entail only that we treat prisoners with respect. It also entails that we consider them to be responsible for their actions. We should view their offences as the products of their choice, their will. On one level, Duguid rejects the "allopathic" or "medical" paradigm that understands crime as being the impelled or determined result or symptom of some internal ailment, disease, or dysfunction.[14] On a deeper level, Duguid rejects the application of the "modern"/Enlightenment scientific paradigm for understanding crime and criminals, and human behaviour more generally. We should not assume that actions are effects, the products of causes that can be identified, isolated, and modified.[15] With Foucault, Duguid bids us to turn away from judging the "shadows lurking behind the case."[16] As prisoners are not objects to be acted on by others, they are not objects that are acted on by internal causes.

Frequently, a focus on prisoners' choice is coupled with a retributivist or "just deserts" approach to offenders: they chose to offend, so they should pay the (severe) price — that is what they deserve. For the retributivist, the problems posed by offenders might be described as "vertical" and "horizontal" equity. On the "vertical" plane, the punishment must be "proportionate" to the crime (the offender should "get what he or she deserves"); on the "horizontal" plane, one offender should be treated fairly, as compared with other like offenders. While retributivists might be concerned with issues such as the standardization of sentence lengths and "truth in sentencing" ("'X years' means 'X years,' not some lesser number plus conditional release), they tend not to be concerned with programs for prisoners.

Duguid might say that retributivists' approach to choice is excessively abstract. Choice must be understood in context. Offenders do choose, but they choose among the options that are practically available to them in their particular life worlds, and they choose among

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13 *Ibid.* at 122, 248.

14 *Ibid.* at 34. "For along the continuum of world healing practices, allopathic medicine stands at one pole — an extremist premise. Its radical position grows from the unique belief that the malady is *in* the person and the cure is achieved by professional intrusion *into* that person ... it emphasizes the malady within and the expert assault upon that pathogen": J. McKnight, "Thinking About Crime, Sacrifice, and Community" in *The Careless Society: Community and its Counterfeits* (New York: BasicBooks, 1995) 135 at 137 [hereinafter "Thinking About Crime"].

15 *CPW*, *supra* note 2 at 10.

16 *Ibid.*; M. Foucault, *Discipline and Punish*, trans. A. Sheridan (New York: Vintage Books, 1979) at 17 [hereinafter *Discipline and Punish*].

the options that they have learned are available. Duguid asks us to understand crime as behaviour that is "functional" in offenders' worlds.[17] Duguid points to recent work in evolutionary psychology that suggests that, from the standpoint of adaptation to restrictive and harsh environments, even violence can be understood as functional.[18] Again, Duguid does not condone or celebrate violence or other crimes, but neither does he condemn or vilify the criminal. The criminal is the subject that has erred, from the standpoint of the community. He or she has made a wrong choice. That choice was no less wrong if it seemed like the only choice available to the offender at the time. If error is the root of ordinary crime, then the circumstances disposing to error (environment and lack of education) should be the targets of intervention, rather than the "soul" of the criminal.[19]

D. WHY IS DUGUID CONCERNED WITH "CITIZENSHIP"?

Perhaps the most striking aspect of *CPW* is Duguid's folding of the prison into the discourse of citizenship. One might respond that this is an obvious move. Of course we want prisoners to become "law abiding citizens." What's so interesting about this talk of citizenship?

Ordinarily, when we talk of citizenship we mean that prisoners should become disciplined, productive, quiet non-offenders. We think of "good citizenship" negatively, as involving the absence of criminal behaviour. Good citizenship has this aspect, true enough, but Duguid is concerned with the positive aspect of citizenship. Both the tactics and the objective of prison educational interventions should be to assist prisoners' transformation into persons who actively participate in their community lives, into practicing democrats.[20]

Duguid's work links here with a vast and growing literature in political science and political philosophy on the importance of citizenship and community. Numerous commentators have noted the decline in citizenship and community in our lives. We lose ourselves in large impersonal bureaucratic apparatuses like government and big corporations, and we lose ourselves in privacy when we can escape the grip of government and work. What we have lost is the "space between" privacy and large-scale functionings, the space in which we can deliberate together, negotiate, develop goals, and work together, the space in which we can participate in governing ourselves.[21]

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17 *CPW*, *supra* note 2 at 68-69.

18 *Ibid.* at 208-10.

19 See Foucault, *Discipline and Punish*, *supra* note 16 at 19.

20 *CPW*, *supra* note 2 at 95, 266.

21 See "Thinking About Crime," *supra* note 14; J.P. Kretzmann and J.L. McKnight, *Building Communities from the Inside Out: A Path Toward Finding and Mobilizing a Community's Assets*, online: Institute for Policy Research, Northwestern University <http://www.nwu.edu/IPR/publications/Introd.building.html> (date accessed: 30 June 2001); B.R. Barber, *A Place for Us: How to Make Society Civil and Democracy Strong* (New York: Hill and Wang, 1998) at 4; M.J. Sandel, *Democracy's Discontent: America in Search of a Public Philosophy* (Cambridge, Mass.: Harvard University Press, 1996) (particularly respecting "republican freedom"); R.D. Putnam, "Bowling Alone: America's Declining Social Capital" (1995) 6:1 *Journal of Democracy* 65, online: Project Muse:Scholarly Journals<http://muse.jhu.edu/demo/journal_of_democracy/v006/putnam.html>(date accessed: 30 June 2001).

Prisoners illustrate the extreme case of loss of community. On the one hand, they are caught in the coils of the massive anti-community penal machinery of the state. On the other hand, they are judged by experts to be caught in egocentricity, caught within the limited horizons of their own private interests.[22] Prisoners have little presence in any space in between, in any living community outside of the gang or accomplices. Duguid's suggestion is that we need to create, within prisons themselves, the "space between," in which prisoners can learn to be participating members in a community. Duguid's prisoners are to take the steps that we should be taking to revive our own lives outside of ourselves.

E. IF WE WANT TO PRODUCE CITIZENS, HOW DO WE GO ABOUT IT?

To become citizens, we must practice being citizens. This means that we must be given opportunities to work with others in community: we must learn to make judgments, to deliberate together, to make compromises, to consider interests beyond our own, to accept that our own interests need not always be paramount, to use our energies to promote a community goal.[23] We must have an opportunity, in Buber's terms, to have relationships with others as subjects and to stand in "living, reciprocal relationships" with those other subjects.[24]

In Duguid's estimation, a liberal arts education may support the development of citizenship.[25] A liberal arts education is not simply an indoctrination program; it does not involve merely the communication of information.[26] A liberal arts education exposes students to a wide variety of perspectives, lifting students out of their private world-views. It encourages introspection, critical reasoning, and discussion. It develops students as individuals. It may also develop small communities within class settings or within institutional governance bodies. Drama and theatre studies (which one might have considered exceedingly remote from community activism) may provide the most full preparation for citizenship. Participating in a play requires introspection and the appreciation of the perspective of characters; with other cast members and participants, a rough democracy may be established (depending on the degree of tyranny of the director); the play may have a message critical of prevailing social standards or practices.[27]

Of course, a liberal arts education is not a precondition for citizenship. University classrooms are not the only places in which citizenship may be developed.[28] Many (most?) individuals have developed into good citizens without attending university; and many individuals have attended university without developing into good citizens. Liberal arts programs may provide good opportunities for exposure to differing perspectives and

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22 *CPW*, *supra* note 2 at 236.

23 *Ibid.* at 247, 260.

24 Buber, *I and Thou*, *supra* note 1.

25 *CPW*, *supra* note 2 at 18.

26 *Ibid.* at 128, 129, 131.

27 *Ibid.* at 244-45.

28 Indeed, citizenship may perhaps be better developed on the floors of community league or union meetings than in large, sleep-infested junior year courses.

for exercising critical judgment, but, at least outside the prison, there are opportunities for democratic community participation other than university classrooms.

F. IF WE WANT TO ASSIST PRISONERS TO BECOME CITIZENS, HOW DO WE GO ABOUT IT?

A pessimistic response to this question would be that there is nothing we can do, so long as prisoners are in prison. A widely held view is that in the prison "nothing works." We should expect no rehabilitative effects.[29] We should not expect any prison program to reduce recidivism.[30] Prison has iatrogenic effects — the offenders who leave prison are more anti-social and liable to offend than they were before they entered.[31] Foucault, for example, perceived the prison as being an important element in the machine that produces delinquency.[32] Duguid does accept that many types of programs employed in prison settings do not work — group and individual counselling and therapy, and boot camps.[33] Programs depending on fear of punishment, conditioning, coercion, and confrontation do not work.[34] Prisoners cannot be forced to change.[35]

For Duguid, a liberal arts education in prison is the school of last resort.[36] Duguid provides a "model," or better, "style" or "approach," to liberal arts prison education.[37] Four aspects of the "style" should be distinguished — the non-program support elements, the program itself, the relationship of the program to the institution, and post-release resources. First, the liberal arts program cannot work by itself, without non-program support elements. Prisoners must be put in a position to attend to their economic well-being. They must have or learn adequate social and job or vocational skills.[38] They must be healthy (freed from drug or alcohol addictions).[39] Second (consistent with the foregoing discussions), the educational program should encourage critical thinking and ethical self-reflection; it should permit the prisoners/students to participate democratically in the administration of the courses.[40] The educational program must be a space for democratic participative action, a microversion of the public sphere.[41] To recognize the wide variety of prisoners' interests and needs, programs should be diverse, rather than pre-packaged, one-size-fits-all-modules.[42] Third, the program itself must have relative

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29 The Supreme Court of Canada, whose social science research is often somewhat out-of-date, has approached endorsing the "nothing works" philosophy: see *R.* v. *Gladue*, [1999] 1 S.C.R. 688 at paras. 52-57.

30 *CPW*, *supra* note 2 at 70, 73, 74.

31 McKnight, "Thinking About Crime," *supra* note 14 at 138; I. Illich, *Tools for Conviviality* (New York: Harper & Row, 1973) at 4.

32 Foucault, *Discipline and Punish*, *supra* note 16 at 266-67, 301.

33 *CPW*, *supra* note 2 at 210, 198.

34 *Ibid.* at 210, 235.

35 *Ibid.* at 225.

36 *Ibid.* at 96.

37 *Ibid.* at 93.

38 *Ibid.* at 264.

39 *Ibid.* at 266.

40 *Ibid.* at 265.

41 *Ibid.* at 236-37, 239, 246.

42 *Ibid.* at 230, 256.

autonomy from the institution. Autonomy is secured by both segregating the classroom area from the remainder of the prison and by allowing prisoners/students to attend classes full-time, in lieu of other work requirements.[43] Autonomy is also secured by delivering the program through outside post-secondary institutions and their staff. A point emphasized by Duguid is that the instructors should not be prison staff or corrections professionals.[44] The use of "outsiders" and "amateurs" ensures that education will not become a means for mere discipline or indoctrination, for the more subtle imposition of institutional demands. The instructors preserve the integrity of the material and the course atmosphere. Moreover, post-secondary institutional involvement with the prison and the presence of post-secondary amateurs in the prison help prisoners to develop links to the community outside the prison walls.[45] The "amateur" status of educators also helps to resist the allopathic/medical paradigm mentioned above. Teachers come to the prison not because they are experts at penetrating to the root of deviance and curing it through the therapy of education, but because they know something about teaching, learning, and research, and they want to encourage their students to think about the subject areas for themselves. Finally, Duguid believes that post-release institutional support is important. Without post-release support, prisoners may return to the relationships that contributed to their incarceration.[46] If former prisoners have access to the institutions that assisted them while in prison, they may continue their programs, or at least they may be able to put themselves into environments that will assist their transitions to the outside world.[47]

G. IF WE ASSIST PRISONERS TO BECOME CITIZENS, WILL WE REDUCE RATES OF RECIDIVISM?

Duguid has tested whether his educational prescription works. The research has provided evidence that prison liberal arts programs, cast along the lines of Duguid's prescription, do work.[48] They do reduce recidivism rates below the rates one would expect for prisoners who had not had the benefit of the education. They reduce recidivism rates below the rates for other types of educational programs, including the "cog skills" program discussed below.[49]

H. WHY "SHOULD" WE FOLLOW DUGUID'S EDUCATIONAL PRESCRIPTION?

A primary reason for following Duguid's educational prescription is prudential. If a goal of punishment is the production of a safer society, and if there is evidence that a liberal arts education conducted along the lines Duguid indicates reduces the recidivism rate better than other types of interventions and thereby makes society safer, then, to promote our goal, we should increase opportunities for prison-based liberal education. Support for prison-based education is in line with traditional utilitarian approaches to

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43 *Ibid.* at 122, 238.
44 *Ibid.* at 129.
45 *Ibid.* at 230.
46 *Ibid.* at 251.
47 *Ibid.* at 238.
48 *Ibid.* at 134, 225.
49 *Ibid.* at 211ff.

penal intervention.[50] It produces the greatest good for the greatest number. Duguid draws a striking and provocative analogy to the allied treatment of former enemies after World War II. We did not further punish our enemies, but provided aid to them. We supported their efforts to achieve prosperity to ensure our own.[51] Similarly, offenders — enemies of the social contract — should be met with aid, rather than further punishment, for our benefit.

A second reason for following Duguid's educational prescription is that it recognizes and treats prisoners as subjects. Duguid rightly observes that "at the base" of our "modern project" is the determination to place "almost unlimited value on the individual," to treat persons as ends and not means.[52] Using the prison as the school of last resort takes seriously the Kantian liberal commitment to the value of the individual; it engages the prisoner as a rational, conscious, responsible subject, and not as a thing.

Finally, following Duguid's educational prescription may be our duty. We demand much of prisoners. We want them to abandon the lives that led them into prison and take up the lives of citizens. If we demand much, we should provide prisoners with the resources to transform themselves.[53] Not providing resources for transformation would be unfair to prisoners. We would be setting them up for failure, for which we would punish them again.

II. A HISTORY OF MODERN CORRECTIONS

Duguid provides a history of modern corrections. In the 1960s prisons were in thrall with the rehabilitative ideal. Rehabilitation, conceived as allopathic medical intervention, was ascendant.[54] The "nothing works" research in the early 1970s marked the end of this approach. The 1970s to the early 1980s was a period of openness and deprofessionalization in the prisons. Life styles, vocational training, and educational programs were established. Varieties of educational and training options were made available for prisoners.[55] Duguid describes some post-secondary experiments that took place in prisons between the late 1960s and the 1980s — Project NewGate in several American States,[56] the Santa Cruz Women's Prison Program,[57] the Barlinnie program in the UK,[58] and the University of Victoria program, in which Duguid participated.[59] The mid-1980s, with budgetary cutbacks and the war on crime, led to the demise of this period of "humane confinement," which was replaced by a focus on incapacitation and

50 *Ibid.* at 260.
51 *Ibid.*
52 *Ibid.* at 33.
53 *Ibid.* at 260.
54 *Ibid.* at 180.
55 *Ibid.* at 74, 77, 93, 226.
56 *Ibid.* at 99ff.
57 *Ibid.* at 105ff.
58 *Ibid.* at 114ff.
59 *Ibid.* at 123ff.

certainty of sentences.[60] Since 1985, however, a rehabilitative renaissance has occurred.[61] This rebirth troubles Duguid.

The new rehabilitative approach shares with Duguid's approach a focus on the prisoner as decision-maker. As with Duguid's approach, the prisoner is regarded as a poor decision-maker. And again, as with Duguid's approach, the prisoner is to be assisted through education.[62] Duguid and the new rehabilitation, however, diverge in both theory and practice. The new rehabilitative theory is based on research tending to show that offenders have deficient or underdeveloped cognitive structures. Offenders have a "criminal personality," characterized, for example, by a lack of comprehension of detail in perception, an insufficient ability to compare short-term and long-term outcomes, deficient analytical ability, poor planning, a lack of empathy, egocentrism, and a perception of personal uniqueness, cleverness, and luck.[63] These defects are to be targeted by "cognitive skills" programs.[64] "Cog skills," which became Canadian national correctional policy in 1990,[65] is concerned with teaching prisoners how to think, not what to think.[66] It includes anger management, life skills, and critical thinking components.[67] It is taught by correctional staff members, who themselves are trained in short, intensive sessions.[68] Cog skills "repatriates" education to correctional staff.

Cog skills revives the allopathic model of internal pathogen. In the cog skills case, the ailment is not a physical disability or an illness; it is arrested development. This pathogen may be attacked and eradicated by trained professionals. These professionals form part of the prison apparatus. Cog skills has no democratic participation component. While it develops critical thinking, it does not encourage development of critical perspectives on self and society. It does not present options for thinking about oneself and others. For Duguid, cog skills provides the form of thinking only, the mere semblance of real education. It provides no foundation for the formation of citizens.

III. SOME ADDITIONAL ISSUES

In the course of his exposition, Duguid sheds light on some additional important issues.

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60 *Ibid.* at 149, 175.

61 *Ibid.* at 182.

62 *Ibid.* at 182-83.

63 *Ibid.* at 188, 287. This model of the criminal personality has been taken up by some law enforcement agencies and by close-quarters tactics instructors. See Marc (the Animal) MacYoung, "Criminal Mindset" online: No Nonsense Self-defense Web Page <http://www.diac.com/~dgordon/criminal.html> (last modified: 7 December 2000).

64 *CPW*, *supra* note 2 at 189, 191.

65 *Ibid.* at 194.

66 *Ibid.* at 196.

67 *Ibid.* at 193.

68 *Ibid.*; one might note the late twentieth and early twenty-first century interest in short-term training for trainers — the "certification" process that crops up in educational contexts from computer training, self-defence tactics, to oral conflict resolution systems.

Duguid points out that the profiles of prisoners across the "developed countries" are very similar.[69] They tend to have no more than a grade ten education. Some 30 percent of prisoners have drug addictions and abuse drugs and alcohol at higher rates. They tend to come from "toxic" families (*e.g.*, familial situations of neglect or abuse or both). Their preincarceration unemployment rate is about 40 percent. Of those who were employed, the majority received wages providing less than poverty levels of income. Over half have served three or more periods of incarceration for offences involving violence. Many are mentally disturbed. Minority groups are overrepresented, especially minority group males between twenty and thirty years old.

Duguid provides a very helpful discussion of prediction or risk assessment of human behaviour. Prediction — or the dream of prediction — plays key roles across the administration of criminal justice, from bail determinations, peace bond or s. 810.1 applications, "ordinary" sentencing proceedings, dangerous offender applications, security classification decisions, conditional release decisions, to rehabilitative intervention determinations. Duguid links the difficulties of predicting human behaviour with the difficulties of predicting "dynamic systems" (such as the weather) more generally.[70] While patterns may be predicted (*e.g.*, snowfall in winter), particular incidents (rain during the picnic) may not; while patterns of human behaviour may be predicted (*e.g.*, the total number of homicides in a city or province), particular human actions (whether this individual will kill another person) are less predictable. Duguid distinguishes three types of approaches to predicting an individual's future behaviour: the "anamnestic" (prediction based on how that individual behaved in the past in relevant circumstances); the actuarial (prediction statistically based on how people like the individual, in relevant circumstances, behaved in the past); and the clinical (prediction based on a clinician's experiences with that individual or others).[71] Duguid reminds us — and we can never be reminded often enough — that of these, clinical predictions are the least accurate.[72] Actuarial predictions are the second most reliable, while "anamnestic" predictions are the most reliable of all. This should give us some comfort for our common sense evaluations of character based on a person's history and for the typical strong inferential value of (admissible) similar fact evidence.

Duguid provides, if we needed it, further confirmation that abstract, "totalizing" accounts of the prison are inadequate. The prison should never be described as the product

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69 *Ibid.* at 86.

70 *Ibid.* at 203.

71 *Ibid.* at 204.

72 *Ibid.*; clinical experience and clinical prediction may have some relevance to a proper prediction of an individual's behaviour, along with other, more solid evidence supporting the prediction. To use University of Calgary sociologist Gus Brannigan's term, clinical evidence may be used to "triangulate" predictions. By itself, however, clinical prediction is too weak to support legitimate inferences. Technically, its prejudicial effects outweigh its probative value, and it should not be considered as evidence, whether in court or in any decision-making forum. Possibly the most enlightened Canadian decision on this matter is *R.* v. *Olscamp* (1994), 95 C.C.C. (3d) 466 (Ont. Gen. Div.) per Charron J. (as she then was).

of any one political technology or as having a particular class-based functionality.[73] The prison (like any other area of human interaction) is a site of shifting, transient power relations. Prisoners engage in varieties of resistance to prison programming.[74] Correctional professionals resist policies imposed on institutions by politicians.[75] Correctional staff should not be understood monolithically. Different groups (management, guards, psychiatrists and psychologists, educators, union representatives) pursue different and not always consistent objectives.[76] As Foucault noted in a properly empirical moment — "I am simply saying this: maybe everything is not as easy as one believes ... look, the problem of power is complicated."[77]

IV. CHALLENGES

CPW, of course, challenges the current correctional education paradigm. Its challenges, though, stretch beyond prison walls. In particular, *CPW* challenges the university as an institution.

A university like the University of Alberta lies close to correctional facilities — *e.g.*, the Edmonton (maximum security) Institution, the Edmonton Institution for Women, the Fort Saskatchewan Correctional Centre. If Duguid's thesis is valid, does the University of Alberta (and do other public post-secondary institutions in the Edmonton area) have an obligation to participate in prisoner education, in the fashion of the University of Victoria? If a liberal arts education can reasonably reduce recidivism, and because our post-secondary institutions have a virtual monopoly on the delivery of this type of education, are we responsible for promoting the public good through educating prisoners? And because "ought" implies "can," should the federal and provincial governments provide additional funding (from Justice or Solicitor General budgets) so that the University of Alberta (or other institutions) are able to reach out to prisoners?

If the education that produces citizens is a liberal arts education, the liberal arts would seem to be a highly profitable investment — whether the consumers of the educational product are imprisoned or free.[78] One might argue that current trends in post-secondary educational funding, whereby base budget institutional funding has declined and new funding tends to be targeted, envelope fashion, to non-liberal arts programs, do not reflect the importance of the liberal arts.[79] If the Alberta government is interested in getting tough

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73 For all of his insights into modern punishment, in *Discipline and Punish*, Foucault himself tended to lapse into totalizing generalizations about the effects of the technology of discipline in the prison and about the usefulness of the prison in promoting class-based interests.

74 *Ibid.* at 58, 79, 83, 84, 88.

75 *Ibid.* at 201.

76 *Ibid.* at 59-60, 65, 75, 76, 80, 81.

77 "Clarifications on the Question of Power," trans. J. Cascaito, in *Foucault Live* (Interviews, 1966 - 1984) (New York: Semiotext(e) Foreign Affairs Series, 1989) at 179, 184-185.

78 Or whether, recalling Blake, manacles are mind-forged or iron.

79 The best discussion of these issues I have seen — and I think it should be compulsory reading for academics, politicians, and bureaucrats involved in University funding and administration — is C. Judge, *The Impact of Changes in Funding and Related Policies on Higher Education in Alberta from 1994 to 1997* (Ph. D. Thesis, Department of Education Policy Studies, Faculty of Education, University of Alberta, 1999); see also Confederation of Alberta Faculty Associations and Alberta

on crime, an excellent measure to take would be to increase base funding to universities and other post-secondary institutions so that liberal arts programs can flourish.

If the education that produces citizens has as an important component the democratic participation of students, all of us involved in the teaching enterprise and in collegial governance might consider whether we have reasonably maximized the possibilities for student participation in our classrooms and in our systems of governance. For Duguid, student participation is not pandering to consumers, but part of the process of education itself.[80] It is pedagogy, not marketing.

V. CONCLUSION

The breadth of discussion in *CPW* makes it an ideal work for seminars dealing with corrections in law school, criminology, political science, philosophy, psychology, or education settings. It inspires many topics of interdisciplinary research. However, its value is not only academic. It also provides a wealth of information and direction for those concerned with correctional policy. It is well written and accessible, and it will be useful reading for anyone concerned with the roots of crime, the fate of persons caught in the correctional machine, the value of a liberal education, or the nature of citizenship. The arguments of *CPW* resonate long after its covers are closed.

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College-Institutes Faculties Association, *Post-Secondary Education in Alberta, 1997 - 2005* (October, 1997).

[80] *CPW*, *supra* note 2 at 237.