

# AVP HISTORY

AS I MENTION IN MY LAST POST ABOUT AVP I FIGURE I GIVE YOU A LITTLE HISTORY ABOUT HOW AVP GOT STARTED.

FOLLOWING THIS PAGE YOU WILL FIND AN ARTICLE I FOUND IN THE NEW YORK LAW JOURNAL DATED SEPT. 1996 BY DAVID C LEVEN TITLE

## 25 YEARS AFTER ATTICA

THINGS MIGHT HAVE GOTTEN A LITTLE BETTER BUT IT IS FAR FROM WHAT THEY (THE STATE) PORTRAIT TO THE PUBLIC. THE CIVILIANS KILLED WERE KILL BY THE SAME PEOPLE THAT KILL THE PRISONERS, THE STATE.

Back in 1971, an occurrence took place known as the Attica Uprisings. From September 9th through the 13th the prisoners rebelled against their repressive living conditions and stood up for things like better food and medical attention, better education and of course respect. On the 4th day (known as Bloody Monday) the prisoners were gassed and fired upon claiming the lives of 49 people - 39 prisoners, 10 civilians. The following weeks and months the remaining prisoners were shipped across NYS, prison to prison, with a bulk of them landing here at Green Haven numbering just under 500; only to be placed back into similar oppressive conditions. Realizing this, a group of men got together and formed a "Think Tank". Here they brainstormed on ways to make their strained environment a little more suitable for doing their time. They came up with a few educational programs and organizations (such as the ones I mentioned earlier; AVP being the first). These men wrote to outside organizations, churches, faith groups, etc. for help. The Quakers were the only ones to reach back (the Quakers believe their is good in everyone). So, they got together (prisoners and Quakers) and formatted the project; the Quakers took it to the streets and communities while the prisoners set up shop behind the wall with the very first workshop being held here in 1975. Thirty-Six years later, AVP is in 16 facilities across NYS with 9 Area Councils ranging from Niagra Falls to NYC. AVP is in 48 states (AVP/NY being headquarters), and international with 52 countries including 11 states in Africa. Today AVP is successful in what it stands for: finding alternatives to violence.

## PERSPECTIVE

## 25 Years After Attica

BY DAVID C. LEVEN

**T**HIS MONTH marks the 25th anniversary of the Attica Prison rebellion which remains a vivid and painful memory. Remembered are the deplorable conditions that led to the rebellion which prompted an inmate spokesman to say, "If we cannot live as people, then we will at least try to die as men." And 39 men did die when the state, without justification, retook the prison by force. The Official Report of the New York State Special Commission on Attica (McKay Commission) describes the lawless behavior of the State Police, who are supposed to uphold the law: "There was no justification for the many instances of shooting into tents, trenches and barricades without looking . . . There was clearly indiscriminate firing into congested areas by men who did not value the inmates' lives."

The lawless behavior continued as the state regained control of the prison. Inmates were told by a law enforcement officer in a helicopter above " . . . to surrender peacefully. You will not be harmed." That was not true for some inmates who, as they lay on the ground, had their heads and bodies kicked while standing inmates were "clubbed across the knees . . . not too disguised attempts were made to hit them in the genitalia." Naked inmates, under control, entering a building tunnel from an outside yard were forced to run barefoot through a gauntlet as correction officers and troopers beat them.

The rebellion and the conditions that it exposed created an impetus for change, yet only modest improvements have been made. Our prisons today are even more overcrowded warehouses where many inmates must spend 15 to 23 hours a day in 50 to 60 square-foot cages, euphemistically called cells, and close to a thousand inmates are now double-celled in space that was built, but is hardly adequate, for one inmate.

In 1971, there were 2,200 inmates at an overcrowded Attica where the "principal occupation was idleness." Today about the same number of inmates reside at Attica where for many,

if not most, the principal occupation remains unchanged. Sadly, some programs, including education, drug treatment and work release, which are often essential to prepare inmates for the outside world, have been cut back or discontinued.

Many of the improved conditions in prisons in New York State and nationwide are the result of litigation. Today, 36 states are under court orders or consent decrees to improve conditions in the entire system or in major facilities. Earlier this year, however, Congress passed the Prison Litigation Reform Act (PLRA). It will severely limit the ability of the federal courts to correct serious abuses suffered by prisoners, including those who seek to enjoin the rape of juveniles and women prisoners by prison guards, sadistic beatings of prisoners and failure to provide prisoners with minimally adequate medical and mental health care. The effects will be profound.

**T**HE PLRA, for example, requires a court to terminate relief, on motion of either party, two years after issuance of a court order or two years after the act's enactment unless the court holds a new trial and finds an ongoing violation of law. This would allow defendants to escape the oversight of the court regardless of whether they have complied with the terms of the order. In fact it legislatively authorizes defendants to revert to practices that had

already been shown to violate the Constitution or federal statutes without consequence, until the court is able to conduct another trial and re-issue relief.

The PLRA effectively ends settlement agreements and consent decrees reached without trial by requiring a finding of a federal law violation before a court can issue any relief in a prison conditions case. Historically, many cases have been settled by consent decree where defendants did not admit liability but recognized that changes needed to be made. Now, state and local officials are deprived of the option of settling cases. If plaintiff's counsel are not agreeable to a non-enforceable settlement agreement, and they often will not be, the act forces prison officials to choose between a costly trial, even in a case they believe they will lose, or an admission of liability which will expose them to damage suits from individual prisoners.

A particularly onerous provision of the act calls for the immediate termination of all existing consent decrees upon motion by the defendant, unless a trial is held and the judge makes a finding of a current violation of a federal right. This provision could destroy all the work done by both plaintiff's and defendant's counsel in reaching agreements and could cause conditions to decline in every state prison that is currently operating under a consent decree.

The PLRA renders even emergency relief of a preliminary injunction all but ineffective by causing it to terminate 90 days after entry unless the court makes the injunction final within that time. This would require the

parties to complete discovery and the court to complete a trial and issue a decision within the 90-day period, an impossible time frame in the context of complex litigation. This aspect of the PLRA frustrates the very purpose of preliminary injunctions, which are designed to address emergencies, often life and death situations, which warrant attention in advance of the time required to conduct a full blown trial.

Finally, many prisoners will be discouraged from filing cases and many attorneys will

be discouraged from taking them. Prisoners, unlike other litigants who are granted in forma pauperis status, will eventually be required to pay the full filing fee of \$120. And attorney's fees in prisoners civil rights cases, unlike attorney's fees awarded to other successful attorneys in civil rights litigation, which are based on a reasonable hourly fee, will be strictly limited to an hourly rate which in many cases will be half or even less than half of what attorneys could previously recover.

**T**HE MCKAY COMMISSION Report, released 24 years ago, urged that "if prisoners are to learn to bear the responsibilities of citizens, they must have all the rights of other citizens except those which have been specifically taken away by court order." That fundamental recommendation remains an illusion as programs, privileges and legal remedies have been curtailed. However, the public has a right, at least, as the report states, "to demand that . . . prisons not turn out men more embittered, more anti-social, and more prone to violence than they were when they entered." The public ought to be making that demand now as 25 years later, too many of the lessons of Attica seem to have been forgotten.

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Police line up inmates in the prison yard before strip-searching them following the Attica riots in 1971.

WIDE WORLD PHOTOS