

Leavenworth's Political Prisoners

Race, Resistance, and the Prison's Archive

*Farewell, O comrades, I scorn life as a slave!
I begged no tyrant for my life, though sweet it was;
Though chained, I go unconquered to my grave,
Dying for my own birth-right—and the world's.*

—RICARDO FLORES MAGÓN, "FAREWELL!" 1922

The Black Twenty-Fourth Infantry of the US Army, the Industrial Workers of the World (IWW), and the organizing board of the Partido Liberal Mexicano (PLM), who began the Mexican Revolution from exile in the United States, met as prisoners at Leavenworth Penitentiary in 1918. They had known one another before. The Black Twenty-Fourth Infantry, which formed in the wake of Reconstruction, was sent to patrol the US-Mexico border and to guard striking workers at Coeur d'Alene, Idaho, who became the Western Federation of Miners and later the IWW. When the Black Twenty-Fourth Infantry later rebelled against police brutality in the city of Houston, their military status was withdrawn, and they were thrown into a prison camp with the IWW at the US-Mexico border. Librado Rivera and Ricardo and Enrique Flores Magón, as radical voices of the Mexican Revolution, endured the regimentation of the border between home and exile as journalists who wrote speeches, poetry, songs, and plays beloved by the IWW.

In 1918, these movements, as ideas about freedom, were convicted in mass trials under the Espionage and Sedition Acts, which punished with twenty years of imprisonment all conspiracies intended to "willfully cause . . . or incite insubordination, disloyalty, mutiny, or refusal of duty, in the military or naval forces."¹ The United States argued that the Black Twenty-Fourth Infantry had conspired to cause mutiny among themselves by stealing their own guns, that the Mexican revolutionaries had incited US military forces to anarchism by mailing literature opposing Mexico's Diaz regime, and that the IWW had encouraged the refusal of military duty by telling its membership to register for the draft as "IWW—Opposed to War." Legislative debates reveal that the act targeted the "pernicious vermin" and "outlaw leaders" of the IWW in order to prevent the circulation of their ideas, which, it was feared, would travel "all through the South urging Negroes to rise up against white people."²

Although these three social movements were convicted under the 1918 Seditious Acts, which was a set of amendments to the 1917 Espionage Act, they were initially charged under both sections of the law. The Espionage Act made it a federal crime to “willfully utter, print, write, or publish any disloyal, profane, scurrilous, or abusive language about the form of the government of the United States,” to “willfully urge, incite, or advocate any curtailment of production in this country of any thing or things . . . necessary or essential to the prosecution of the war,” and to “by word or act support or favor the cause of any country with which the US is at war or by word or act oppose the cause of the US therein.”³ These charges, while not resulting in convictions, were designed to contain the IWW threat of “One Big Union,” to target the anti-imperialist organizing of the PLM that contested the ownership of most of Mexico by US capitalists, and to punish the Twenty-Fourth Infantry, avid readers of the *Crisis*, for openly rebelling against white supremacy in the South.

When antiracist, anticapitalist, and anti-imperialist political prisoners arrived at Leavenworth in 1918, they entered a racial architecture that worked to discipline cross-racial solidarity out of existence. Political prisoners became part of a racial script that undermined movements for democracy. This chapter explains the kind of racial regime that defined Leavenworth in the early part of the twentieth century and examines two sets of social movements whose members were incarcerated en masse as political prisoners. First it explores how in the early 1900s the IWW, the Black Twenty-Fourth Infantry, and Mexican anarchist-revolutionaries were targeted because they challenged the prison as an antidemocratic institution and worked across difference to abolish it. Then it examines the political work of prisoners in the early 1970s who drew attention to the problem of mass incarceration through a series of work strikes and ethnic studies initiatives that changed how the public understood the problem of the prison. This was a cross-racial movement that introduced the idea of a time beyond the prison. These movements arrived collectively at an analysis that broke from the terms of carceral democracy and offered the theory that prisons existed primarily as a means of inflicting mass punishment on targeted groups.

THE PRISON AS A RACIAL HOUSE

When political prisoners arrived at Leavenworth, they entered a structure of racial segregation that had begun only four years before they arrived. Because the prison’s labor needs had previously prevented the arrangement of prisoners by race, the prison’s racial regime had to be constructed as part of its architecture. The prison was not driven by a formal segregation policy until 1914, after members of Congress were shocked to discover in congressional hearings that Leavenworth did not segregate its prisoners:

Chairman: You mention the question of race and color. In the dining room, what distinction, if any, is made with respect to race and color?

Warden: We do not make any. . . .

Chairman: Do you not think it could be arranged?

Warden: It is very desirable to do that, if it can be done.

Chairman: You do make that distinction in celling?

Warden: Yes, sir.

Chairman: That is, you do not put in the same cell men of different races or colors?

Warden: No. I would like to arrange it . . . but, really, we are so crowded now that we have not been able to do that.

Chairman: Any Mexicans?

Warden: We have several, I think, now. We received 4 or 6 the other day. . . .

Chairman: Do you cell Mexicans, Japanese, Chinese, Indians—these races, with the colored convicts?

Warden: No sir, not when we know it. The Mexicans cell together; but we had two or three years ago, I think, a case where there was a Mexican and a Negro who was part Mexican. They were put in the same cell.⁴

Despite the absence of a formal segregation policy, the prison's racial taxonomy was considered to be part of the institution's "tradition."⁵ In order to institute a culture of segregation, Leavenworth had to teach racial order to its prisoners. Its method was prison leisure. The theatrics of prison minstrelsy transmitted state pedagogy to the prisoners in its form and content.⁶ In at least three performances in 1914, 1915, and 1917, performers traveled from the neighboring military prison at Fort Leavenworth "on street cars and marched to our front gate, band playing and continued with a scripted performance written, staged and produced by the military prisoners."⁷ Having come "from their prison to OURS," as the prison newspaper reported, "forty soldier lads broke in" on the federal prisoners in 1914 and performed "the first minstrel show ever given by prisoners of one institution before prisoners of another."⁸ The prisoners received the entertainment with "thunderous applause" that "shook the very foundations of the building" as "three hundred visitors and eleven hundred of us fell easy victim to volley after volley of original wit, songs well rendered, dancing, fancy roller skating, acrobatics, etc., etc., well executed."⁹

The trick of prison leisure was that the prisoners appeared to be teaching themselves—the military prisoners wrote the script and produced the wardrobe, while the federal prisoners built the set and provided the music. Although prison minstrelsy appeared to be a collective recreational project accommodated by the institution, the minstrel shows were state scripts of racial order. The state's pedagogical project was received not only through the show's content (deriding Black culture through mimicry and celebrating a properly ordered southern past) but also through its form.¹⁰ The shows were structured into parts—a "minstrel part" followed by the *Olio* or variety show and then the obligatory semicircle—and

was moved along by the cast of characters. The interlocutor stationed in the center “keyed” the semicircle and pulled jokes out of his “end men” or “bones,” who poked fun at prison authorities. Prison minstrelsy therefore borrowed its form from minstrelsy’s practice in the outside world, which used the bones as critics of class order.¹¹ As actors in blackface who “ran short on black face makeup and had quite a time . . . getting it off,” white military prisoners were able to deride authority because they were not themselves when they did it—the “boys from the Fort,” who called themselves the White Mice Smoking Club, joked that the warden and the deputy warden were popular only because their friends were “number-less.” The political function of these routines was to route critiques of the administration through comedy rather than protest.

These spectacles of prison minstrelsy taught race to the prisoners but also to the citizens. The teaching of state scripts of racial order was incentivized by prisoners’ temporary reincorporation into the life of citizenship—they were allowed to “don citizens’ clothes for the occasion” as they appeared in “black knickerbockers, white vests, and red coats” and “brilliant yellow and gold uniforms.”¹² The military prisoners performed their prison minstrel show for the town of Leavenworth—they “came into town on a special electric car, formed a line and marched through the principal streets, band playing and streamers flying, to the Lyceum Theatre, where matinee and evening performances of the American Black Face Minstrels were given.”¹³ The streets of Leavenworth City were “packed solid” for the parade in blackface, and reviewers praised the show as “rattling good . . . better than many professional performances.”¹⁴

In the production of a racial regime that crossed the social landscapes of the prison’s inside and outside, the message was received not only through the spectacle of prison minstrelsy but through participation in prison sports, which also emerged in 1914 as the prison constructed a racial architecture of segregation. The prison’s Black baseball team, the Booker T’s, played against the Brown Socks and the Red Men. In the prison football league, the Mixed Vegetables were the white team and the Pork Chops the Black team.¹⁵ While sports coverage in the prison newspaper, the *Leavenworth New Era*, described sports participation and spectatorship as a method of survival for prisoners at Leavenworth, prison sports, according to Charles Wharton, a former congressman imprisoned at Leavenworth in the 1930s, were “typical of Leavenworth’s contradictions”—prison leisure helped prisoners survive but channeled their allegiances through a sports program governed by intrarace solidarity and cross-racial competition.¹⁶

Although the state pedagogical project that emerged at Leavenworth worked to naturalize racial segregation, curricular gaps in the social labor of prison leisure enabled the formation of cross-racial resistance. As prisoners witnessed, absorbed, and resisted Leavenworth’s racial architecture, they also challenged the mass incarceration of political prisoners through letter-writing and legal defense

campaigns. In the course of this work, political prisoners were forced to confront the state's racial pedagogy and to grapple with the idea of Leavenworth as an idea about race. In the movements that followed in the 1970s, another set of cross-border imaginaries of freedom became targets of federal efforts to control and politicize punishment. This work built on the earlier legacies of social movements at Leavenworth.

“CITIZENS OF INDUSTRY”: THE CRIMES AND PUNISHMENTS OF THE IWW

The IWW was an idea born in jail. It emerged from the labor struggles in the western United States, where labor unions like the Western Federation of Miners emerged to counter the power of the Mine Owners' Association and the Pinkerton Detective Agency in bringing a violent end to labor strikes.¹⁷ Big Bill Haywood once noted in a United Mine Workers Convention speech that the Western Federation of Miners was “not ashamed at having been born in jail, because many great things . . . have emanated from prison cells.”¹⁸ After clashes between 1892 and 1899, Bill Haywood and others drew on the knowledge of labor struggles in the Western Federation of Miners to develop the idea of “One Big Union.”¹⁹ It was a coming together of unskilled labor and the unemployed that resulted in new ideas about freedom, work, and citizenship. Rather than identify as citizens of states that routinely used violence against starving workers, IWW workers described themselves as “citizens of industry.”²⁰ Formally established in Chicago in 1905, the IWW articulated their work in the language of democracy—the founding convention was opened as the “continental congress of the working class.”²¹

When ninety-four members of the IWW arrived at Leavenworth in September of 1918, the prison's newspaper reported that the “eyes of the nation were focused on this prison.”²² They were charged with ten thousand crimes in four mass trials in Chicago, Sacramento, Omaha, and Wichita. Each trial employed a different prosecutorial strategy.²³ In Wichita, Kansas, the prosecution set out to prove only that the defendants were members of the IWW, while in Sacramento a silent defense in protest of the deaths of two Wobblies in the Sacramento County Jail resulted in harsh sentences. In fifty-five minutes, the Chicago trial sentenced the paid employees of the union to 878 years in prison and focused on the IWW as an antiwar organization aligned ideologically with the German Kaiser. The event was accompanied by a military band and was billed as the “trial of the century.” The movie theater across the street featured *The Red Viper* and *The Menace of the IWW*.²⁴ When the court began handing down ten- and twenty-year sentences, Benjamin Fletcher, the only Black prisoner among the Wobblies, announced to the courtroom that “Judge Landis is using poor English today. His sentences are too long.”²⁵ By the time the IWW reached Leavenworth, five of its members had already died in the local jails.

Once at Leavenworth, the ninety-four members of the IWW began organizing for their release, but they were limited by prison rules in their communication with the outside world. Although the IWW were allowed to publish “News and Views from the Labor World” in the prison’s newspaper, *Leavenworth New Era*, they were prohibited from publishing any writing in the outside press. E. F. Doree noted in a letter that “the matter of our freedom is out of our hands. We are not permitted to write for publications. We cannot conduct meetings. We are limited in the number of letters we may write. Our mail is subject to censoring. What we may do is not much.”²⁶ Some Wobblies were able to smuggle their writings out—James Rowan, for example, published an article in the *Nation* while imprisoned at Leavenworth.²⁷ The insularity of the prison was also an opportunity to read and to think about strategies and principles. Earl Browder, who would later become the leader of the Communist Party, recalled in his memoirs that “in Leavenworth our university courses began. We began an intensive education. We had plenty of time on our hands.”²⁸

Their efforts to organize a legal defense campaign were complicated by the new organizational leadership that emerged in their absence. The imprisoned IWW believed that those who had replaced them in the IWW offices preferred seeking status as Communist Party politicians to taking on the burden of antiprison activism. Doree noted that he had read nearly every issue of *Industrial Worker* and that “to read it you would not know we were here at all.”²⁹ Feeling a sense of erasure, Ralph Chaplin drew and distributed one of his most famous drawings—an image of himself behind bars pointing out at the free world: “Remember! WE ARE IN HERE FOR YOU, YOU ARE OUT THERE FOR US.”³⁰ While Chaplin’s circular motivated outside groups to mobilize in defense of the IWW—the Children’s Crusade for Amnesty, for example, brought twenty-five children of imprisoned Wobblies to the White House—organizing efforts were complicated when the IWW was accused of starting a fire at Leavenworth. The warden told the local newspapers that “an IWW spirit” had purposefully targeted the only wooden structure in the whole prison.³¹

Within the context of their further criminalization as prison arsonists, the Wobblies at Leavenworth splintered—some believed that individualized applications for clemency could lead to their release, while others believed that an appeal for clemency was an admission of guilt and that the IWW should remain, as a matter of principle, in prison. “An Open Letter to President Harding From 52 Members of the IWW in Leavenworth Penitentiary Who Refuse to Apply for Individual Clemency” argued that while “there is not one of us who will not bear the scars of the prison until he dies,” they had arrived at Leavenworth on a group conviction for conspiracy that could be remedied only by mass release.³² The document noted that three prisoners had applied for clemency at the insistence of the fifty-two signers because they were dying of tuberculosis or going insane.³³ Their applications were denied. One successful application resulted in the temporary release

of the IWW for twenty-two months but ended with their return to Leavenworth on the grounds that the government had not yet issued a formal declaration of peace. In the context of a wartime economy of crime and sedition, Bill Haywood escaped to Russia,³⁴ while the editors of IWW newspapers published in immigrant languages, *A Bermunkas*, *Darbunenku Balsas*, *Il Proletario*, *Rabochy*, *El Rebelde*, *A Luz*, *Allarm*, and *Solidarnose*, were deported from the United States after their release from Leavenworth.

When the Wobblies met Ricardo Flores Magón and Librado Rivera at Leavenworth, they formed a discussion group in the prison's yard called the Campus. This collective space of learning emerged because Ralph Chaplin and other members of the IWW considered the Flores Magón brothers their "personal heroes" before their arrival at Leavenworth.³⁵ The publication of John Kenneth Turner's work *Barbarous Mexico* (1910), which chronicled the PLM's work to link indigenous and workers' rights to the construction of the US-Mexico border, made the IWW into regular readers of the PLM's paper, *Regeneración*.³⁶ The paper, often credited with beginning the Mexican Revolution, was published from St. Louis and then Los Angeles because the PLM had been exiled from Mexico after they hung a large banner from the newspaper offices of *El Hijo del Ahuizote*, which read "LA CONSTITUTION HA MUERTO." As a result, they were thrown into Mexico's Belén Prison and were then prohibited under threat of further punishment from ever publishing any statements in the Mexican press. Once exiled in the United States, the PLM survived police brutality in Los Angeles, confinement in the St. Louis and Los Angeles jails, and prison sentences at Yuma Territorial Prison in Arizona and McNeil Island in Washington before arriving at Leavenworth Penitentiary in 1918.³⁷

Although Ricardo Flores Magón and Librado Rivera refused to admit guilt or ask the state for mercy, any application for clemency or pardon would have been denied. Department of Justice memos reveal that although the men had committed no violence they were considered "IWW's of the most violent character."³⁸ Prison authorities also condemned them as "anarchist types," even though members of the PLM understood anarchism through an indigenous framework of self-determination represented by the slogan "Land and Liberty!" The mathematician Librado Rivera is described in prison records as a "Mexican who is said to have made trouble in his own country and he works with the I.W.W. and other destructive groups in the United States."³⁹ In reflecting on the twenty-year sentence handed down by the courts, the Department of Justice noted that while "the sentence is a long one . . . nothing else will deter a criminal of this kind," since "Punishment for short terms in the penitentiary has absolutely no effect upon them."⁴⁰ US Attorney Alfred Bettman admitted in internal documents that espionage law was not "designed to reach pamphleteering of this kind" but recommended that "any consideration of commutation" be "postponed until after they have served a considerable term."⁴¹

Although the PLM prisoners chose not to generate a legal defense in order to reject the very terms of US law and their own punishability, they continued

to publish, through their lawyers, updates on the failing health of Ricardo Flores Magón. They resisted the insularity of civil death by writing letters and poetry even when their writing privileges were revoked. His lawyer published Ricardo's own description of his failing health in the *New Republic*:

Once when I was young, I was kept for several weeks in a dark dungeon, so dark that I could not see my own hands. It was in the City of Mexico during that harrowing period in which Diaz swayed with a bloody hand. . . . But I could suffer all that excepting the absence of light. I need light. I need light. I need light, and I want to be free to cure my eyes. . . . I can still see the color of a flower. I can still see a sunbeam and can still glory in the sight of a smile. If I could only step into life again before it be too late.⁴²

Having resisted civil death and the force of US law, Ricardo Flores Magón died at Leavenworth on November 21, 1922. Pressure from outside organizations had resulted in Ricardo's examination by prison doctors in October of 1922, when he was declared only "slightly pale from indoor confinement."⁴³ State documents offer conflicting accounts of his death, which is listed on the Record of Death and Internment as the result of angina pectoris (a strangling feeling in the chest caused by blocked arteries). In a telegram sent by prison officials to Magón's lawyer, his time of death is recorded as 5:00 in the morning, while an internal report from the prison physician to the warden puts his death at 4:15 in the morning: "The night attendant at the hospital was called by guard Lewis in Cell House B about 4:15 o'clock this morning. The attendant went over promptly and found Magón suffering with distress and pain about the heart, he examined him and returned to the hospital for medicine. While the attendant was returning to the hospital the guard called again and stated that Magón was dead."⁴⁴ Both Librado Rivera and Ralph Chaplin maintain that Flores Magón was moved to a different cell where they could not see him in the days before his death. Librado Rivera was called to see the body and swore until his own death in 1932 that Magón's body bore the marks of strangulation. As a result, Rivera's mail privileges were "suspended indefinitely"—he wrote three undelivered letters detained in his prison file that described Leavenworth as a "regime of terror" and insisted that the prison physician consistently misrepresented Magón's declining health.⁴⁵ When Magón's body was transported to Los Angeles and then to Mexico, thousands gathered along the train's route to honor his dreams of freedom.⁴⁶

What Ricardo Flores Magón left behind was a critique of the prison as a form of mass incarceration. In reflecting on the state pedagogy of punishment, he asked, "What is the object aimed at by means of these banishments, and incarcerations, and even lynchings of those who cherish an ideal different to that sustained by those in power? And after thinking and thinking until my head aches I can find but one answer: to kill the ideal!"⁴⁷ Flores Magón was already analyzing the racialization of US prisons in some of his earliest political speeches. "The Intervention and the Prisoners of Texas," delivered on May 31, 1914, implored his audience to

take up arms to “claim our brothers who are prisoners in Texas from the hands of bourgeois justice” and to recognize moreover that “the prisons in the United States are full of Mexicans.”⁴⁸ In a 1911 speech, he referred to the “shameful rule called Law” and to the words of Praxedis G. Guerrero, “the first Mexican libertarian,” who often said, “To be alive is to be a prisoner.”⁴⁹ He offered a cross-border analysis of “the world” as a prison, “a much larger one than those with which we’re familiar, but a prison nonetheless. The prison guards are the police and soldiers; the wardens are the presidents, kings, and emperors; the watchdogs are the legislators; and in this sense we can exactly equate the armies of prison functionaries and their acts with the armies of government functionaries and their acts. The downtrodden, the plebeians, the disinherited masses are the prisoners, obliged to work to support the army functionaries and the lazy, thieving rich.”⁵⁰ When Rivera was finally released in 1923, he would not “obey the laws of the United States if released unless they agree with his conscience” and was deported to Mexico, where he was imprisoned again for his radical journalism.⁵¹ The dreams of the PLM remain central to theories of prison abolition that take seriously the relationship between walls and borders and the potential for solidarity between the working classes of Mexico and the United States.

The IWW and the PLM were joined by the members of the Black Twenty-Fourth Infantry, who were also considered guilty at the level of the group and who built a successful movement for mass release. The Black Twenty-Fourth Infantry was created in the aftermath of the Civil War in 1868 as part of the Reconstruction troops, along with the Twenty-Fifth Infantry and the Ninth and Tenth Cavalries. Because of their relationship to the western United States (they were, unlike white troops, rarely rotated out of duty in the frontier states), they came to be known as the Buffalo Soldiers. When Black soldiers claimed the rights of citizenship through military service, conflicts between Black troops and local police were common. The Twenty-Fifth Infantry stationed at Brownsville, for example, were falsely accused of shooting and killing a white person and were dishonorably discharged as a group by Teddy Roosevelt for their “conspiracy of silence.” Like the soldiers at Brownsville, the Twenty-Fourth Infantry had encountered extreme racial violence—at Salt Lake they endured the taunts of the Mormons, in Tampa, Florida, they witnessed the use of a two-year-old boy for target practice, and in Waco, Texas they experienced harassment by the police and fought back. When they were transferred to Houston to guard a military camp under construction on the outskirts of the city, Houston’s white residents posted circulars warning Houston to “remember Brownsville” and refuse the service of alcohol to Black soldiers. The resistance quickly gave way to tolerance on the part of white merchants who profited from their residence. On the night of the “Houston Riot,” they were to be honored at an event at Emancipation Park.

In the months before the arrival of the Twenty-Fourth Infantry, police violence in Houston and lynching in Texas had reached unprecedented levels.⁵² The racism

of Houston's citizens was backed by a police force known for its frequent practice of shooting at the ground to invoke terror in Black citizens. The Twenty-Fourth Infantry, as readers of the *Crisis*, encouraged Houston's Black citizens to stand up for themselves and began tearing down the "whites only" signs and the segregation screens from the public street cars and throwing them out the windows.⁵³ Three days before the Houston Riot, a white man stabbed Sam Blair, a Black camp employee, for cutting into the payment line; one day before the Houston Riot, the soldiers had asked to be transferred out of Houston on the grounds that they were "treated like dogs here."⁵⁴

The next morning, the newspapers described a military attack on the city of Houston by enraged soldiers marching in formation. Houston saw sixteen white bodies and four Black bodies. It could not see its own history of racial violence. Amid calls for revenge and the restoration of white supremacy in the city, W. E. B. Du Bois, as editor of the *Crisis*, sent Martha Gruening, a white reporter from New York, to investigate. Her report, published in the November 1917 edition of the *Crisis*, revealed that the Twenty-Fourth Infantry had been disarmed after two of its members—Baltimore and Edwards—were beaten and shot by two police officers who had earned reputations for "negro baiting." The soldiers were beaten after intervening in the arrest of Sara Travers, a Black woman whose home had been invaded by police looking for "crap shooters" while she ironed in her underwear. As Travers was arrested for hostility toward police, Edwards approached the police officers but was beaten and arrested, and when Baltimore confronted the police officers that assaulted Edwards he was shot and wounded. It was the inaccurate news that Colonel Baltimore had been shot to death that brought the Twenty-Fourth Infantry to the edge of law, and it was the subsequent expression of outrage that brought the US Army to disarm the Twenty-Fourth Infantry, leaving them entirely unprotected against police violence. For these reasons, "They faced and faced fearlessly the vision of a shameful death."⁵⁵ As they walked toward Houston, one thousand white citizens gathered at the police station and were provided with police weapons.⁵⁶

The following morning, every member of the Twenty-Fourth Infantry was arrested and sent to Camp Furlong near the US-Mexico border, where they were imprisoned with one thousand members of the IWW before their removal to Fort Bliss. As they left Houston by train, the soldiers dropped signs of their discontent scrawled on paper: "remember august 23, 1917" and "take tex and go to hell."⁵⁷ The remaining members of the Twenty-Fourth Infantry were sent south to dig ditches in Georgia and were permanently disarmed; the unit was eventually dissolved altogether.⁵⁸ Black Houston was also disarmed—police searched houses and confiscated guns. Two weeks after the uprising, Officer Sparks shot two more Black men in the city of Houston.

While the "Houston Riot" was depoliticized almost immediately in political memory (a riot is an unthinking and apolitical act of chaos, not rebellion), the Twenty-Fourth Infantry used the trial as another stage for the condemnation of

American justice. The structure of the military courts-martial, governed by a panel of judges and a judge-advocate who was both the trial organizer and prosecutor, limited any available defense to the casting of doubt on the identities of the participants. This was the same legal strategy used in the federal prosecution of the IWW. Having already established their collective guilt, the military judges were ruling simply on the question of whether these men as a mass constituted "Houston Rioters." Coming before the law as a group, the Twenty-Fourth Infantry refused to legitimize the law by participating in its proceedings. In a photo published by Du Bois in the *Crisis*, the prisoners at trial are dressed in army uniforms but surrounded by armed guards and seated behind a rope that divides them from the room, a diamond-shaped chapel at Fort Sam Houston. The photograph, taken from one point in the diamond, focuses on the rows of soldiers who sit in protest of the legal ritual—the entire front row distances themselves from the work of law with crossed legs and crossed arms. Only the seven soldiers who confessed and implicated others in exchange for lesser sentences were allowed to speak during the proceedings.

In the aftermath of the largest courts-martial in US history, a trial that was not about establishing guilt, the US Army sentenced thirteen members of the Black Twenty-Fourth Infantry to death on December 11, 1917. They were hanged within a few hours of the trial despite their request that they be shot like soldiers. Buried without the customary right to appeal and in graves marked only by numbers 1 through 13, the soldiers Baltimore, Nesbit, Brown, Wheatley, Moore, McWhorter, Davis, Divins, Breckenridge, Hawkins, Snodgrass, Johnson, and Young were confined to coffins, each with a soda bottle containing a slip of paper with the soldier's name, rank, and date of death. This was a combination of the burial of a soldier and an enemy—they remained anonymous to the world above ground but retained the identity of the soldier inside the coffin. Two subsequent mass trials resulted in two more mass executions, while sixty-two men were given life sentences at Leavenworth Penitentiary.

When the soldiers-turned-prisoners arrived at Leavenworth, they built a mass movement that resisted the insularity of the prison house door in order to reframe their collective identity from the Houston Rioters to the Houston Martyrs. After their initial work began, outside organizers were focused on the Dyer Anti-Lynching Bill, and Congress entertained the idea of paying restitution to the white people of Houston for the events of "Black mutiny." The Houston Martyrs began a letter-writing campaign to the NAACP. Nearly every letter acknowledged the failure of the antilynching bill but suggested that their cause would draw attention to the injustice of their own mass incarceration. They argued that only a mass movement could end a structure of punishment that was defined by blanket charges that applied to the group and by individualized remedies for mass injustice: "Now the [War] Department, upon being urged to consider our cases, says that only individual consideration can . . . be given to each man."⁵⁹ Their mass sentence was

recalibrated, on the basis of individual behavior, from life to twenty- and thirty-year terms. When an unsigned letter reached Du Bois in November of 1920, he wrote to James Weldon Johnson that he was writing an editorial for the December issue of the *Crisis*, adding, "I think we ought to start something."⁶⁰

Although the Houston Martyrs convinced the NAACP and the National Equal Rights League to organize a mass movement around their case, they had to proceed as individuals making applications for clemency. To build support for executive action, James Weldon Johnson hand-delivered two petitions to two US presidents—one with fifty thousand signatures to Harding in 1921 and one with one hundred thousand signatures to Cleveland in 1923, when he brought a delegation of black churches, the black press, and black women's organizations to the White House. Eventually, he orchestrated the unprecedented strategy of bringing 558 members of the NAACP to Leavenworth Penitentiary. In September of 1923, the NAACP held its annual meeting in nearby Kansas City so that delegates could visit the Houston Martyrs. Johnson's speech at the prison reiterated the organization's commitment to their cause and noted that even Warden Biddle believed they were "neither criminals nor murderers."⁶¹ The *Crisis* referred to the Leavenworth visit as that "now famous pilgrimage" to Leavenworth by 558 delegates ("stirring addresses made") and reported to readers that the Houston Martyrs were "clean-cut specimens of manhood, their head unbowed by six years of prison."⁶²

Although the Martyrs had the support of the warden, they were recalled by military authorities in January of 1925 and transferred to the neighboring Fort Leavenworth prison. This had the political effect of keeping them incommunicado—they could not write to outside groups, including the NAACP, but smuggled messages on toilet paper. This retaliatory action on the part of the military returned to them their status as soldiers. Once stripped of that status and housed as civilians, they were now returned to military custody in order to be hidden away from the outside world. In 1927, according to a letter written by Leroy Pinkett, the National Equal Rights League convinced authorities to reduce the prison sentences by eighteen months, which made the remaining men eligible for parole.⁶³ After a twelve-year campaign initiated and sustained by the men themselves, the last of the Houston Martyrs, Stewart Phillips, left Leavenworth in 1936.

The movement generated new ways of working across the walls, but it was enmeshed in Leavenworth's racial architecture, which pitted prisoners against each other to undermine a sense of collective power. Some prisoners resisted that framework. Ben Fletcher of the IWW smuggled information to NAACP officials about the mistreatment of the Twenty-Fourth Infantry. He and other Wobblies committed themselves, even after they were released, to securing the freedom of the Twenty-Fourth Infantry.⁶⁴ Two members of the Twenty-Fourth Infantry accepted roles in the labor of prison discipline, which meant that they served as "isolation orderlies" in Building 63. In an "Open Letter" published by the IWW in 1922, the authors described an "atavistic" Black prisoner who "beat our boys into

insensibility in the prison dungeon with a club” and then was “given his liberty.”⁶⁵ Roy Connor, an IWW placed in isolation for three years for refusing to break rock, wrote in a letter to Senator Henry Cabot Lodge that was smuggled out of the prison that the permanent isolation cells were “ruled by two Negro Rioters.”⁶⁶ One of these men remains unnamed, but the other was likely Roy Tyler, who Warden Biddle wrote deserved clemency because he was “on duty for a long time as [an] orderly in the isolation department . . . and . . . rendered valuable services in protecting officers when attempts were made to assault them by vicious characters.”⁶⁷ Biddle reported to federal authorities that Tyler “always lines up with the side of good order and shows a commendable disposition to back the prison officials. On November 14, 1923, when Joe Martinez, a Mexican murderer killed Captain Andrew Leonard and wounded six guards by stabbing them, Tyler voluntarily entered the underground coal bunker and took a dagger from Martinez.”⁶⁸

There is also a remote possibility that one of the men was Jack Johnson. Jack Johnson had a complicated presence in the racial regime of Leavenworth, sometimes representing a figure of Black freedom and sometimes becoming part of the prison's logic. When Johnson arrived at Leavenworth as a fugitive world champion, he drove himself to the prison's gates greeted by cheering crowds. As the famous world champion, Johnson had traveled the world to avoid prison time on Mann Act charges (which meant transporting a woman across state lines for lewd or immoral purposes, or, in Johnson's case, having consensual interstate sex with white women).⁶⁹ Because of his fame, Johnson dined with the warden in his home, wore starched jackets instead of prison grays and blues, and kept a supply of liquor, cigars, and fancy foods in his possession. His relationship with the prison administration and his confidence made him the target of outraged guards who wrote him up for using the staff restroom.⁷⁰ He was allowed and encouraged to return to the ring inside Leavenworth, and in 1920 the entire prison and many of the city's local elite gathered ringside to watch him box.⁷¹ But there was a period of three months when Johnson was borrowed from his regular job in the prison's baseball park as a sweeper and umpire and was used as an isolation orderly.⁷² Johnson wrote his own account of his time in Leavenworth, but the 135-page manuscript written on a combination of prison stationery and blank *New Era* paper remained in federal custody until the 1990s because the warden refused to release it.⁷³ It reveals little about the institution's racial architecture, but Johnson's place within the labor of prison discipline illustrates how the art of division is part of the prison's project.

Although the labor of prison discipline was a mechanism for dividing prisoners, the vast majority of the IWW and the Twenty-Fourth Infantry saw the connections between their struggles and refused the logic of the prison as a racial architecture. After his release, the Wobbly H. F. Kane wrote a letter to the NAACP noting that “much has been made by some who call themselves radicals, of the fact that in Leavenworth penitentiary several of the imprisoned 24th Infantrymen have been used by prison officials to beat members of the I.W.W. who had



FIGURE 10. "Lest We Forget," drawing signed "Holloway," *Pittsburgh Courier*, January 12, 1924, Papers of the NAACP.

been accused of revolting against the inhuman prison system. . . . Prison officials, as do the employing class, try to pit white and black workers against each other whenever it is possible."⁷⁴ Kane insisted that these men were "forced to maltreat men of my organization" and that the incorporation of prisoners into the violence of the institution does not erase the legacy of the Houston Martyrs: "The grave cannot give up the dead. . . . But the fifty-four victims still living can be released from their prison cells."⁷⁵ This analysis of the connections between mass incarceration and the targeting of political prisoners against war, racism, and imperialism was generated in discussion groups in Leavenworth's yard, where Librado Rivera and the Flores Magóns taught and learned as teachers and students.⁷⁶ Out of this period came a critique not just of individualizing struggle but of the whole idea of what it meant to build a prison like Leavenworth. In the disciplinary mechanisms

of Leavenworth's internal arrangements, prisoners imagined new ways of relating across difference in spite of the prison's lessons in segregation. As a staged racial encounter, Leavenworth worked to contain political possibilities and to discipline political movements that disbelieved in its power. In a cartoon image published to draw attention to the mass incarceration of the Houston Martyrs, thirteen ghosts stand with a banner that spells out that ongoing struggle, but they are pointing at Leavenworth. With arms outstretched and fingers extended, they are pointing to the prison as an antidemocratic idea about democracy.

The prison in that image was by that time a powerhouse in a carceral state that targeted citizens for political crimes. The federal prison population had exploded in the early part of the twentieth century, when Leavenworth held as many as four thousand prisoners. Much of this overcrowding resulted from the creation of new federal crimes in 1910, 1914, and 1920 that regulated interstate sexual relations, drug taxes, and automobile thefts. These new prisoners joined Native people convicted of "major crimes" and a whole generation of political prisoners who were imprisoned as a mass in the years between the world wars. There were more than one hundred Mennonite conscientious objectors imprisoned at Leavenworth in 1917, and when they protested the shaving of their beards they were sent as a mass to the isolation cells.⁷⁷ At Leavenworth and the other federal prisons, socialist, communists, and anarchists wrote letters and memoirs describing the terms of mass incarceration. Eugene Debs was sent to Atlanta, Elizabeth Gurley Flynn was sent to a newly built federal prison for women at Alderson in West Virginia, and Earl Browder was sent to Leavenworth. During the Second World War, political prisoners continued to arrive at Leavenworth, including 160 Jehovah's Witnesses who were imprisoned for their opposition to the conflict. Bayard Rustin was sent to the federal prison in Lewisburg, Pennsylvania, from 1944 to 1946 for violating the Selective Service Act.

When the mass incarceration of political prisoners accelerated in the 1950s, leaders of the Communist Party, Black civil rights movement, and the Puerto Rican independence movement became targets of federal law enforcement. A new generation of political prisoners arrived at Leavenworth, including Gus Hall, the leader of the Communist Party, who was sent to Leavenworth in 1951 on Smith Act charges along with ten other defendants. The Smith Act required federal prison time for anyone advocating the overthrow of the federal government, and by 1956, 131 more members of the Communist Party had been indicted. Leaders of the Puerto Rican independence movement were also sent to federal prisons. Lolita Lebrón was sent to Alderson, while Oscar Collazo, Irving Flores, Andrew Figueroa Cordero, and Rafael Cancel Miranda were sent to Leavenworth.⁷⁸ In the antiprison movement that emerged from these cross-currents of mass incarceration, political prisoners and their vision of a different future resonated with a later generation of Leavenworth activists who resisted the prison's lessons and built movements that contested the power of the prison and its place in democracy.

MASS INCARCERATION IN THE 1970S:
THE END OF A BEGINNING

Drawing on the spirit of those who came before, the mass movement that was generated in the early 1970s drew the nation's attention to the problem of the prison house door. Prison litigation was a strategic use of the law to force the courts into the struggle to end state violence. When Leavenworth's prisoners challenged the conditions of their confinement, the Tenth Circuit maintained a hands-off posture, even when confronted with the brutality of the carceral state. In *Morgan v. Willingham* (1970), the Tenth Circuit responded to the beating of a prisoner with total deference to prison administrators: "Courts do not supervise the execution of the penal sentences they impose. This function is rightly committed to the discretion of the executive, acting through the Department of Justice and the Bureau of Prisons; and judicial interference does not comport with effective administration."⁷⁹ In ratifying the prison as a structure of violence, the Tenth Circuit relied on the language of the Supreme Court: "Accepting as we do Mr. Justice Harlan's opinion in *Barr v. Matteo* . . . (1959), the immunity of these government officers is absolute if the acts complained of were committed 'within the outer perimeter of [their] line of duty,' even though maliciously done."⁸⁰ Between 1971 and 1974, prisoners mounted legal challenges to the use of the control unit, the procedural framework of the disciplinary hearing, racial discrimination, and the practice of the rectal exam. The Tenth Circuit upheld in *Long v. Harris* (1971) the use of solitary confinement as a form of "institutional security" and shielded the prison in *Shimabuku et al v. Britton* (1972) from the US Constitution by creating the conditions of its legal enclosure.⁸¹ In challenging the prison as a form of racial discrimination, a class-action lawsuit was filed in March of 1972 on behalf of all Chicano prisoners at Leavenworth. It was promptly dismissed by the federal court.⁸² *Daughtery v. Harris* (1973) held that the rectal exam was a "necessary and reasonable concomitance of appellants' imprisonment."⁸³

In a series of work strikes beginning in September of 1971, the prisoners honored the struggle at Attica and the legacy of George Jackson only to find that the prison dismantled the ethnic studies curriculum that brought them together. After taking a class called "Cultural History of the Southwest," Raúl Salinas and others built Chicanos Organizados Rebeldes de Aztlán (CORA) and wrote the CORA Constitution, reframing the four hundred Chicano prisoners at Leavenworth as a "miniature nation."⁸⁴ After 165 mostly Chicano prisoners went on strike in 1971, Leavenworth's brush and clothing shops were shut down in March of 1972 during an event involving eight hundred prisoners. In a third strike in July of 1972, Salinas recorded the vote count: "July 19, 1972, vote slips—66 out of 600 in favor of resuming work."⁸⁵ During the resulting seven-day punitive lockdown, prison administrators disestablished the ethnic studies curriculum in "the purges of '72," when sixty-four of Leavenworth's legal activists were transferred to the new behavior modification program at Marion Federal Penitentiary in Illinois.⁸⁶ Salinas later

recalled that he was greeted with “fists through the bars” and was deeply impressed by “all that talent on the grounds.”⁸⁷ In spite of the use of “box car cells” to physically and mentally incapacitate radical activists who had used the law to force the question of the prison’s contradictions, they formed the Student Union/Law Library, which developed into the Federal Prisoners for Freedom of Expression Committee (FPFEC) and the multiprison/systemwide Federal Prisoners’ Coalition Intra-National.⁸⁸

This was a mass uprising of federal prisoners across the system, using the law to turn the whole federal framework of justice back on itself. The prisoners did this by drawing on the tradition of cross-racial antiprison organizing at Leavenworth to work across the very differences that were solidified in the prison’s script. As Salinas writes, “So we immersed ourselves in the Puerto Rican history and united our struggles . . . joined our struggles as one. And so through that connection and the Black Muslims that were coming in, and the Republic of New Africa, and the Black Liberation Army People, we began to talk.”⁸⁹ Those conversations and the “prison rebellion years” that followed were, according to Salinas, critical moments in the history of social justice:

We weren’t just challenging the state in an irrational, inane way, but we were very clearly outlining our arena of struggle and what we had to deal with. The fact that people were becoming educated, helping each other to go into higher learning, to read books critically, to become writers and painters and . . . jail-house lawyers . . . there was a transformation taking place. And this was happening throughout the country, no doubt about that. But we were focused on our arena of struggle, which happened to be the federal joint at the time—Leavenworth federal penitentiary, and later, Marion. It was a time of organizing and turning each other on to new materials that we never had the opportunity of holding in our hands, much less read; new languages that we were learning, new concepts, new paradigms, that began to make it clear to us that it was part of a colonial mindset. This is the captives, this is the renegades, these are the ones who will not conform to the reservation or the plantation, and we must deal with them.⁹⁰

With most of the movement locked up in Marion’s program of sensory deprivation, a small group of prisoners at Leavenworth engaged in a series of actions with significant consequences. In July of 1973, after an unsuccessful food boycott, a white prisoner named William Hurst engaged in a strategy of forced negotiation. He took four hostages into the laundry room for eleven hours, holding them until the warden agreed to a public conference with prison administrators, two sympathetic members of the press, and twenty men “who had something to say.” For the next two hours, the men sought rights to education and due process, and the abolition of solitary confinement and the rectal examination. They also sought an end to the federal prison system’s use of behavior modification programs, including the Special Treatment and Rehabilitative Program (Project START) at the Springfield Medical Center in Missouri, and the Behavior Research Center

under construction at Butler, North Carolina. Warden Daggett rarely spoke, but at the meeting's end he ordered fifteen prisoners placed in the control unit. Six men remained in the hole for more than six months and were indicted in February of 1974 on riot and assault charges. The public's relationship to this moment in the prison's history was complicated by Hurst's involvement in a "militant" organization known as the Church of the New Song (CONS) and an unrelated event that occurred alongside the actions of the men that became the Leavenworth Brothers. The administration blamed Hurst's actions on his membership in CONS, which "attracted to its membership men primarily interested in the prisoner rights movement and penal reform, including some of the most militant-minded."⁹¹ The public was unsure how to interpret the actions of other prisoners that day, who wore "pillow cases or other white pieces of cloth with eye holes cut in them" and attacked and killed a guard.⁹² Even though all murder charges were eventually dropped in the Leavenworth Brothers cases for "lack of evidence," the administration linked the crime and the protest as part of the same political problem.⁹³

In the political trials that followed, public sentiment turned against Leavenworth and its gothic inversions concealed in democratic symbols. In proceedings broken up by the racial logic of the prison, the six men on trial were tried in groups. Hurst, who had been held separately from the other men at a local jail, died mysteriously of suicide, but not before insisting that white prisoners had a revolutionary duty not to become "the enforcers of the status quo of prison life."⁹⁴ In refusing to become part of the labor of prison discipline, Hurst organized the prison takeover with mostly Black prisoners, including Jessie Evans, Odell Bennett, Alf Hill Jr., and Alfred Jasper. They were each sentenced to an additional eighty years in prison for conspiring to incite a riot and assaulting prison personnel in trials they condemned as frauds.⁹⁵ As the *Afro-American* reported, behavior that prison officials "attributed to Jasper on July 31, was in an Aug 6 report attributed to another inmate named Coleman."⁹⁶ The Leavenworth Brothers Offense/Defense Committee emerged from the local Veterans of Foreign Wars chapter because each of the four Black defendants was a veteran and member of the VFW. By linking the struggle for prisoners' rights with the struggle for veterans' rights, the Leavenworth Brothers used their trial to put the prison on trial.

Having been shut out of the courts, prisoners at Leavenworth invited the public to the prison in a letter-writing campaign to the *Kansas City Star*. In two hundred letters, Leavenworth was described as the "next Attica" and as a crisis that could still be given another ending:

In retrospect to Attica, the conditions here are almost identical. The races have been brought together through their persecution. I beg of you to hear our charges in the backward house of dehumanization before it is too late. I ask you to take the initiative to act as interveners and to move for changes to begin now, not after the crisis as in Attica or McAlester, Ok. This is not a threat or is it meant to be one, but is only the certainty of the doom that fills the air inside the walls of Leavenworth Penitentiary.⁹⁷

As a result of their organizing efforts, *Kansas City Star* reporters Harry Jones and J. J. Maloney publicly condemned the institution as “one of the worst prisons in the federal system” and contrasted the federal prison’s use of the rectal search with the neighboring military prison’s use of the metal detector.⁹⁸ In the case of the Leavenworth Brothers, District Court Judge Wesley Brown continued to dismiss the legal claims of Leavenworth’s prisoners as “ill-disguised attempt[s] by recalcitrant, abusive, litigious criminals to vex and harass the courts and prison officials with contrived and exaggerated personal grievances.”⁹⁹

As the federal courts continued to isolate the prison as a kind of legal island, prisoners continued to draw attention to the contradictions of the prison house door. Federal prison administrators finally saw in Leavenworth the tools of the prison’s undoing. In September of 1974, the director of the Bureau of Prisons, Norman Carlson, suddenly announced that Leavenworth was obsolete and would be closed within ten years. He noted Leavenworth’s aging structure and suggested that “no one would have kept a high school or hospital open that long.”¹⁰⁰ But instead of being shut down permanently, it underwent structural and systemic renovations that breathed new life into an old institution.