

ARTICLE

Is the Foucauldian Conception of Disciplinary Power still at Work in Contemporary forms of Imprisonment?

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ABSTRACT: In this article I will identify the position from which I write and the methodology I will employ, and then I will ask: "Is the Foucauldian conception of disciplinary power still at work in contemporary forms of imprisonment?" I will answer this question in the affirmative and report the results of a case study of the operational philosophy of a contemporary prison in Melbourne Australia while highlighting some key comparative points from *Discipline and Punish*. How prisoners resist and subvert disciplinary power by turning an inclusive grouping within the prison into a site from which they highly differentiate Self from Other will be touched upon. I will conclude by finding that *homo criminalis* has in fact become a definite object in the field of knowledge and he is emerging as a product from the machine for altering minds.¹

Keywords: Margnoneet, a machine for altering minds.

My research is undertaken from a particular engaged perspective, and it is, in part, about my personal experience in prison in one state in Australia. Many researchers undertake their task with the status of an "an unpaid staff member with an official position, that of researcher [with] a staff badge."² I am not a privileged actor with a "staff badge" and the freedom to roam around the prison at my own self directed will. My piece of plastic identifies me as a 'Prisoner' and it limits my freedom, it does not open doors, rather it closes doors, for as a prisoner I am a person against whom disciplinary power is directed.³ I am not researching in the

¹ Michel Foucault, *Discipline and Punish: The Birth of the Prison*, translated by Alan Sheridan (London: Penguin Books, 1991), 125.

² Fred C. Alford, "What Would It Matter If Everything Foucault Said About Prison Were Wrong? *Discipline and Punish* After Twenty Years," *Theory and Society*, vol. 29, no. 1, (2000), 125-146.

³ Craig Minogue, "The engaged specific intellectual: resisting unethical prison tourism and the hubris of the objectifying modality of the universal intellectual," *Journal of Prisoners on Prisons*, vol. 18, no. 1 & 2 (2009), 129-142.

field of criminology, 'convict' or otherwise. Rather my research is in the field of applied ethics with a ontological focus on the orthodox evaluation of how understandings of Self and Other emerge through the specific discourse associated with the power to punish.⁴

Critics have argued that Michel Foucault's history and analysis in *Discipline and Punish* is representative of an ideal theory of disciplinary power and its manifestation in mass imprisonment, but that it is an ideal that is divorced from the reality of the contemporary prison and disciplinary praxis.⁵ Writing from a North American perspective, researchers like David Garland and Fred Alford say that in the contemporary era they have not found any of the main elements of disciplinary power as Michel Foucault frames it in omnipresent "surveillance, categorisation, classification, the time-table, [and] non-idleness" which are aimed at re-shaping the subjectivity of the delinquent.⁶ Karl von Schriltz argues that Michel Foucault tortured history to punish capitalism and that the historical record of the eighteenth century does not support the development of the prison as the primary punishment and the creation of useful bodies by disciplinary power. In short, Karl von Schriltz argues that Michel Foucault is simply wrong about everything.⁷

⁴ This case study is part of my research for a PhD in applied ethics at La Trobe University in Melbourne Australia. Through a Foucauldian genealogical analysis, I have traced an immoral normative discourse surrounding crime and punishment through which a carceral understanding of a good Self emerges which is literally murderously oppositional to the bad Other as that is manifested in vigilantism. In my thesis I argue this murderously oppositional understanding of Self and Other is maintained by the norms of, and resistance to, Michel Foucault's conception of disciplinary power. I am re-mapping how the coherence of disciplinary power as a tactic is responded to by: the delinquents themselves; the law abiding populace; those empowered to deliver a learned discourse about such matters; and finally what practical effect all this has on the present emergent understandings of Self and Other as being in a state of violent dichotomy.

⁵ Alford. David Garland, *Punishment and modern society: A study in social theory* (Oxford: Clarendon Press, 1990). Philip Smith, *Punishment and Culture* (Chicago and London: The University of Chicago Press, 2008).

⁶ Alford, 126. In this paper I will refer to people by their full proper names, for as Paul Ricoeur says in his seminal *Oneself as Another*: "The privilege accorded the proper names assigned to humans has to do with their subsequent role in confirming their identity and their selfhood." See Paul Ricoeur, *Oneself as Another* (Chicago: Chicago Press, 1992), 29. In most academic disciplines it is common practice to refer to one's fellows in professional journals and other written work by the collegial use of second names only. This practice is no doubt a kind of shorthand, but it is also a type of elitism and thus a language of exclusion. Nor does 'discipline' end in the academy, as a verb the word 'discipline' means the practice of imposing obedience and punishment on another person, this discipline is a personal rebuke and in these types of disciplinary systems the person who is rebuked is most often stripped of his or her social and human character and objectivised in a way to suit the particular disciplinary project, be that the prison, the military or other total institutions like English public schools. My academic discipline is that of the humanities, of philosophy, applied ethics and morality, I write however from within the physical discipline of the prison and the loss of the honorific Mr. and the loss of one's first name is not at all a collegial experience for me, but an excluding, objectivising and dehumanizing one. Reference to people by their family names only is read by me as an objectifying and oppressive device, a language of exclusion and a form of class elitism, for this reason I try to break with this particular academic tradition of such a usage whenever I can in my work. It will be my practice here to use full proper names, or honorifics of the people mentioned in this work if their first name is unknown—perhaps as you read you will see the humanizing affect which I think this achieves.

⁷ Karl von Schriltz, "Foucault on the Prison: Torturing History to Punish," *Critical Review: A Journal of Politics and Society*, vol. 13, issue 3 & 4, (1999), 199.

The discrete element of disciplinary power that I am focusing on here is that which is invoked by Michel Foucault's claim that the prison would become "a machine for altering minds."⁸ So, has the prison become anything like an administrative machine for altering minds? Philip Smith, David Garland, Fred Alford and Karl von Schirletz all argue that no such machine exists in the contemporary era and they have not found any of the main elements of disciplinary power (existing in combination) as Michel Foucault claimed. In contrast I have found an example *par excellence* of an administrative machine for altering minds though omnipresent "surveillance, categorisation, classification, the time-table, [and] non-idleness" which are all aimed at reshaping subjectivities.⁹ This administrative machine is found at Marngoneet Correctional Centre in Lara Victoria Australia. The policy and operation of Marngoneet is wholly faithful to Michel Foucault's conception of an administrative machine for altering minds and shaping subjectivity to create a specific sense of Self and Other, and a hopefully useful, but ultimately docile body for citizenship in the carceral society of the modern world.

Disciplinary power is not a homogeneous entity, it is not a program with policy-like aims and objectives, it is a "coherence of a tactic."¹⁰ And this tactic is able to respond to acts of resistance and acts of allegiance, and the accompanying discourse, which emerge as part of this field of power relations. This means that the prison and its praxis are not going to be the same from one country to another, from one time to another, or even from one prison to another. For example, Marngoneet Correctional Centre is less than 700 metres from Barwon Prison and both are operated by the same entity of Corrections Victoria, but they are very different. The harshness of the praxis of Barwon Prison is a physical one; if a prisoner steps out of line there, the prison staff lay hands on him and confine him in a supermax punishment and control unit.¹¹ At Marngoneet however the harshness of the system is about a perpetual "norm-based distinction between good and bad acts as the orthodox evaluation of the humans in question."¹² Michel Foucault finds that in "the harshest of prisons" the disciplinary discourse holds over the prisoner the inescapable reality that the custodial officer and the psychologist will "note the slightest irregularity in your conduct."¹³ *And so it is at Marngoneet Correctional Centre.*

I do not for a moment suggest that Marngoneet is a representative example of modern prison praxis, and this case study is not comparative with any other prison. For all I know Marngoneet could be a unique island in the carceral archipelago, but it is the one on which I am marooned and from my position I can check the empirical claims of Michel Foucault's conception of disciplinary power against the praxis I am personally experiencing.

⁸ Foucault, 125.

⁹ Alford, 126.

¹⁰ Foucault, 139.

¹¹ I have been imprisoned since 1986 and I have spent 6 years in Supermax punishment and control units. The situation in Supermax units is beyond the scope of this topic.

¹³ John S. Ransom, *Foucault's Discipline: The Politics of Subjectivity* (Durham and London: Duke University Press, 1997), 53.

¹⁴ Foucault, 299.

Many of the criticisms of Michel Foucault's work are aimed at "his idiosyncratic brand of historical analysis."¹⁴ To read Michel Foucault as saying "this is the way it was, or is going to be" is to misunderstand the point of his genealogical method, for he takes a particular historical and philosophical perspective, an engaged one, not an objective disinterested one. The genealogy of a specific intellectual is not a work in the modality of universalism, it is a work situated 'in' the field that is being examined. Michel Foucault's work is *an experience of a truth* rather than an objective point by point measuring of the truth; it "serves as a historical background to various studies of the power of a normalising discourse and for the knowledge [about Self] in modern society."¹⁵ In excavating disciplinary power Michel Foucault says that he "simply intend[s] to map on a series of examples some of the essential techniques that most easily spread from one to another," he goes on to say that he is not seeking an adjudication of "meaning," but a sense of the "coherence of a tactic."¹⁶

Any history, or set of circumstances, or archive, can be approached in a number of different ways; choices always need to be made for the sake of space and for the sake of a particular project having an end. An objectively analytical approach seeks to settle the matter, to trace all of the currents back to their origin and in an exhaustive account, and as C.G. Prado says, nail the subject down as a set of "future-determining continuities."¹⁷ Alternatively the genealogical method seeks to identify the "microparticulars as components of some broader process rather than those particulars being exhaustive of history's subject matter."¹⁸ Michel Foucault's genealogical method is intimately linked to the events that it is analysing; that is, it provides *an* answer for how things are from within the events being examined. As C.G. Prado has rightly said of the analytical method, the Foucauldian genealogy does not provide for some underlying or behind the scenes "guiding hand or set of regulating principles that determines how things progress and explains why the present is as it is."¹⁹ The Foucauldian method departs from analytical philosophy and the scientific method in that it is not concerned with first principles or origins, or capital T truth.

So, to the case study of a contemporary prison which I argue is a machine for altering minds, and which is entirely faithful to the Foucauldian conception of disciplinary power. Marngoneet Correctional Centre is a medium security prison that "functions as a Treatment Community" though an individualised "Offender Management system [that] manages prisoners in a manner which... recognises and responds to the needs of specific prisoner groups."²⁰ The 'Prison Profile' is officially stated as providing "selected male prisoners with an intensive level of treatment and offender management activity to prepare for a successful crime-free

¹⁴ Madan Sarup, *An Introductory Guide to Post-Structuralism and Post-Modernism* (Athens: University of Georgia Press, 1998), 391; von Schirletz, 73.

¹⁵ Foucault, 308.

¹⁶ *Ibid.*, 139.

¹⁷ C.G. Prado, *Starting with Foucault: an Introduction to Genealogy*, Second Edition (Boulder: Westview Press, 2000), 34.

¹⁸ *Ibid.*

¹⁹ *Ibid.*

²⁰ Emma Cassar (document authorised by), *Marngoneet Correctional Centre Operating Manual* (Melbourne: Corrections Victoria, Department of Justice, 2007), "Operating Procedure No. 3.01 Offender Management," 1.

release from prison."²¹ Preconditions for placement at Marngoneet are managed through a Classification system which is overseen by a Sentence Management Unit. This process includes categorising prisoners according to a hierarchy of four levels of risk and security rating.²² To be "classified" is a prisoner's "right" pursuant to section 47(1)(1) of the *Corrections Act* 1986. Prisoners deemed eligible for Marngoneet are selected through an individual interview and assessment process which employs a specific "referral criteria to inform the identification of, and timing, of individual prisoners [being sent] to the prison."²³ Prisoners are classified to a particular treatment Neighbourhood prior to transfer.²⁴ There are three "Neighbourhood communities," each provides a different treatment focus on, or "target" at, offending behaviours.²⁵ The "targeted clinical purpose" of the first Neighbourhood is for "violent offenders," the second for "drug/alcohol offenders," and the third for "sex offenders."²⁶

The clinical/medical services policy, which acts as an overarching modality and operating principle of Marngoneet Correctional Centre needs to be described in detail, for as Michel Foucault said, the genealogical method "demands relentless erudition," "from a vast accumulation of source material" to demonstrate the depth of impact of the power relations which are being examined.²⁷

The "Clinical Service Model" at Marngoneet is designed and operates in a co-ordinated way in relation to its systems of "assessment, management and treatment/intervention" which are aimed at "programs designed to reduce re-offending."²⁸ Of the "Sexual Offender Treatment" program the Operating Manual says it "is based on sound, recent theoretical knowledge and uses cognitive-behavioural therapy techniques."²⁹ The medicalized knowledge system for controlling offenders in the prison and beyond is made clear for "Marngoneet Clinical Service is managed by a health professional" and "staffed by suitably qualified health professionals."³⁰ No doubt all of this sounds benign and well-intentioned enough, but the depths of the prisoner's soul that it seeks to chart is limitless and it all starts as part of the reception, orientation, integration and initial management processes when judgments are made to fix the prisoner in place as "a case" in the system.

Keep in mind the criticism that the mechanisms of disciplinary power as Michel Foucault conceptualised them are not found in contemporary imprisonment. Now, imagine being a prisoner at Marngoneet. On the day of arrival an initial assessment is carried out to al-

²¹ *Sentence Management Manual* (Melbourne: Corrections Victoria, Department of Justice Victoria, 2007), Appendix I, A1.21.

²² *Corrections Regulations* (Victoria Australia, 2009), rr. 22-23.

²³ Cassar, 3.

²⁴ Len Norman (document authorised by), *Marngoneet Operating Manual* (Melbourne: Corrections Victoria, Department of Justice, 2008), Operation Procedure 3.14, 1.

²⁵ *Sentence Management Manual*, Appendix I, A1.12.

²⁶ *Ibid.*

²⁷ Michel Foucault (1971), 76, 77, quoted in Prado, 40.

²⁸ Marlene Morison (document authorised by), *Margoneet Correctional Centre Operating Manual* (Melbourne: Corrections Victoria, Department of Justice, 2006), OP. 6.01, 2.

²⁹ *Ibid.*, 6.

³⁰ *Ibid.*, 12, 15.

locate a suitable "Case Manager."³¹ The Case Manager is a member of the Custodial Staff whose role it is to formulate a Local Management Plan ("LMP") and to formally meet with the prisoner "at least once a fortnight to discuss the prisoner's progress in working towards the identified goals on the LMP" and a list of sixteen other suggested subjects.³² Then a psychologist is allocated as a "Treatment Manager."³³ A "Custodial Assessment" is then undertaken to settle the "specific security and day to day needs and risks of the individual prisoner, and appropriate accommodation placements and case management support needs."³⁴ As well as physically confining the prisoner, much information about the prisoner is also brought under control. As part of the Custodial Assessment it is expected that further "relevant information" will be provided by the prisoner

about themselves including, but not limited to, current offences, cooffenders, offending history, family relationships, visits, protection issues, daily living skills/deficits including literacy, interests/hobbies, participation in sporting activities, general attitudes about prison, reintegration and release needs, goals/aspirations and preferences for future accommodation within the Neighbourhood.³⁵

The Mission Statement-like slogan on framed signs around the prison read, "Treatment and Skills for Positive Futures."³⁶ Prisoners need to be useful bodies. So the next step in the initial processes is a "Vocational Services Assessment" which fixes in place an assessment of the personal development and educational level of the prisoner, and how that relates to their release preparation and their obtaining of useful employment after release.³⁷ Before release, as a transitional strategy, employment in prison industries is linked directly to education and training and teachers often work in the prison factories conducting on-the-job training, which is all "designed to facilitate enhanced post-release employment outcomes."³⁸ The focus is clearly about making useful bodies. Work in prison in Victoria is compulsory and it is a prison offence to refuse to work if directed to do so.³⁹ Work is part of "Training Prisoners for Capable Crime-free Lives," so goes another Mission Statement-like slogan on framed signs in the accommodation areas.⁴⁰ Prisoners are provided with a small gratuity for work they are compelled to perform, 20% of which is placed in a "Compulsory savings" account "to assist with post release" matters.⁴¹ Just as Mr. La Rochefoucauld-Liancourt proposed in 1796 and Charles

³¹ Cassar, OP 3.01, 4. Norman, *Marrngoneet Operating Manual*, OP. 3.02, 2.

³² Norman, *Marrngoneet Operating Manual*, OP. 3.02, 5-6.

³³ Cassar, OP 3.01, 6.

³⁴ *Ibid.*, OP 3.01, 7.

³⁵ Norman, OP 3.02, 3.

³⁶ Personal observation (2008-2011).

³⁷ Cassar, OP 3.01, 7.

³⁸ Norman, *Marrngoneet Operating Manual*, A.22, 2.

³⁹ *Corrections Act* (Victoria Australia, 1986), 84H.

⁴⁰ Personal observation (2008-2011).

⁴¹ *Corrections Regulations* (Victoria Australia, 2009), r.31. *Director's Instructions* (Victoria Australia, 2008), DI. 4.9, 2

Lucas proposed in 1836.⁴²

The final step in the initial round of assessments is the "Clinical Assessment" which is "an information-gathering process designed to increase efficiency in identifying a prisoner's treatment needs/targets and treating prisoners appropriately as part of a holistic, individualised rehabilitation plan."⁴³ There are a number of stages to the clinical assessment process that diagnoses what contributed to the offending behaviour. Apart from the information gained from the prisoner, the most important documents are the sentencing comments from the judge which most often carries the biographical, social, medical and psychological information about the prisoner that was presented at the plea hearing on his behalf. The end result of the Clinical Assessment process is a diagnosis/judgment of the level of risk of reoffending and the level of intervention needed, be that moderate or intensive. Each identified need is categorised on a scale of one to five, and is formalised in the "Treatment Management Plan" which forms the Clinical Services part of the LMP.⁴⁴ As part of these processes there are "Pre-and-Post-Psychometric Testing [which is designed] to gauge the prisoner's level of motivation, specific treatment needs and treatment progress."⁴⁵ The treatment of the prisoner (management of "the case") is quantified against scales which measure progress.

The "Custodial Assessment," "Vocational Services Assessment" and the "Clinical Assessment" constitute the "Whole of Services Assessment."⁴⁶ The "Whole of Services Assessment" is overseen by a "Review and Assessment Committee" which acts as the recording and validating mechanism which continuously reviews every prisoner's LMP and ensures that "custodial, vocational and clinical staff [all] contribute to offender management decisions."⁴⁷ The LMP for each prisoner, which is approved by the Review and Assessment Committee, consists of four elements. The first is the "Accommodation Plan" by which "each prisoner's placement will be assessed individually and an appropriate accommodation plan will be customised for each prisoner's requirements and suitability."⁴⁸ Accommodation, or where one is locked up in a prison, is at the heart of disciplinary power. Of the military/medical disciplinary management of the town or city under plague, Michel Foucault wrote:

This enclosed, segmented space, observed at every point, in which the individuals are inserted in a fixed place, in which the slightest movements are supervised, in which all elements are recorded, in which an uninterrupted work of writing links the centre and periphery, in which power is exercised without division, according to a continuous hierarchical figure, in which each individual is constantly located, examined and distributed... all this constitutes a compact model of the disciplinary mechanism.⁴⁹

To look at Marngoneet in light of this description of disciplinary power we see that apart from

⁴² Foucault, 124, 243.

⁴³ Morison, OP. 6.08, 1.

⁴⁴ Cassar, OP. 3.01, 7.

⁴⁵ Morison, OP. 6.08, 2.

⁴⁶ Cassar, OP. 3.01, 6.

⁴⁷ Norman, OP. 3.09, 1.

⁴⁸ *Ibid.*, OP. 3.14, 1.

⁴⁹ Foucault, 127.

each Neighbourhood having an individual treatment target, there are five types of accommodation that cater to prisoners who are assessed as meeting certain personal criteria and as having a certain level of living skills. They are:

one 40 bed unit with individual cells and meals provided by the prison kitchen (7 "Criteria for placement" that need to be assessed);

two 6 cell lock-up units with communal cooking (5 "Criteria for placement" that need to be assessed).⁵⁰

There are communal cooking and accommodations in flat and cottage-like buildings in which only the one entry and exit door is locked at the end of the day. A key and a privacy lock are provided for each room. These accommodations are configured thus:

two 6 bed, 2 storey flat type accommodations (4 "Criteria for placement" that need to be assessed);

four one story 6 bed flat like accommodations (4 "Criteria for placement" that need to be assessed); and

three 4 bed cottage like accommodations (3 "Criteria for placement" that need to be assessed).⁵¹

The various "criteria for placement" in the differing accommodations and if prisoners meet these criteria or not are documented in the Accommodation Plan.⁵² The most desirable accommodation is the 4 bed cottages, and although there are only 3 criteria, they require a prisoner to have been judged to have the most living skills and good behaviour. The accommodation placement, therefore, is a kind of hierarchical ranking system; it carries a judgement made by the staff about the prisoner which is a visible sign. This "sign" can result in benefits like less surveillance in the most desirable accommodation, the 4 bed cottages, if the prisoner acts in a way that confirms the judgment that has been made about him.⁵³

Recall the Mission Statement-like slogans on framed signs around the prison which read, "Treatment and Skills for Positive Futures" and "Training Prisoners for Capable Crime-free Lives."⁵⁴ These "futures" and "lives' *beyond the prison* are given a normative value by the judgments that are perpetually made about the delinquent and which act to establish a field of relations through which a reconceptualised sense of Self of the delinquent can emerge. The normalising discourse of "Neighbourhoods" is a key element in the system. No account of Foucauldian power is complete without considering how that power is resisted and subverted by those who have it applied to them. As an example of resistance, rather than being an inclusive and cooperative grouping of people with similar needs, interests and preferences, the

⁵⁰ Norman, OP. 3.14, 2.

⁵¹ Ibid., 2-4.

⁵² Ibid., 2-3.

⁵³ Personal observation (2008-2011).

⁵⁴ Ibid.

geographical sign, the classification/categorisation of the Neighbourhoods in the prison, has been subverted by the prisoners to become sites of opposition and differentiation from Others.

The sex offender and protection Neighbourhood is physically separated from the violence and drug/alcohol intervention Neighbourhoods; the prisoners in these mainstream Neighbourhoods refer to the sex offender and protection Neighbourhood as "the dark side," and the prison staff have taken up that phraseology.⁵⁵ As an analogy for evil and wrongdoing, "the dark side" is of course best known from the *Star Wars* series of films. The main leitmotiv in the *Star Wars* films is the Jedi prophecy of "bringing balance to the Force," the heroes and villains fight over this balance, that is of the Light and Dark Sides of the Force, that of good and bad (evil), or in religious terms, "Heaven" and "Hell."⁵⁶ The idea of restoring the balance of good and bad (evil) or right and wrong in the world, or between the temporal world of people and eternal existence of God in heaven, is not a new one as it underpinned the sovereign power to punish with the offender suffering the same fate as his or her victim by pinning the "public torture on the crime itself" as a promulgation of the wrong done and thus annulling the crime and restoring the balance.⁵⁷

So effective are the classification, categorisation and normalization tactics of disciplinary power; such is the "coherence" of this "tactic" as Michel Foucault would say, that it is seamlessly taken up as a practice by delinquents who try to differentiate themselves from a particular Other and move themselves towards a conception of, and acceptance of, the agreed-upon Self of the dominant, normalising discourse of disciplinary power. Prisoners take on the labels associated with the Neighbourhood communities in which they are placed and depending on what offending behaviour the therapeutic community is targeting. The use of the labels, however, are not inclusive like one would normally understand the concepts "Neighbourhood" and "community"; they are normalising labels yes, but they are used by prisoners to differentiate their norm from the abnorm of Others, and not to include. So, the sex offender treatment Neighbourhood is called "the dark side;" the drug and alcohol treatment Neighbourhood is openly called, by those in the violence treatment Neighbourhood, "the drug fucked side." I am in the violence treatment Neighbourhood, and I am unaware of what the men on the dark side or the drug fucked side call the Neighbourhood in which I am placed; perhaps they are reluctant to say because might is often right in the prison.⁵⁸ The point here is that disciplinary power normalises a highly differentiated dichotomy of Self and Other. Foucauldian power is not a tool used by the State or its agent the prison, it is a field of relations through which the sense of Self of the delinquent emerges, or traverses. This field is that which gives form to a particular political axis of individualization, it is a field of relations which sees one type of delinquent differentiating themselves against another type of delinquent. So, not only does the institution, which is the subject of this case study, and the way it functions represent an example *par excellence* of disciplinary power, but so too does the way in

⁵⁵ Ibid.

⁵⁶ Jason T. Eberl, "'You cannot Escape Your Destiny' (or can You?): Freedom and Predestination in the Skywalker Family," in *Star Wars and Philosophy*, edited by Kevin S. Decker and Jason T. Eberl (Chicago: Open Court Books, 2005), 3, 7, 9.

⁵⁷ Foucault, 44-45.

⁵⁸ Personal observation (2008-2011).

which the delinquents have responded. As an example of how delinquents respond to disciplinary power, the creation of "the dark side" and "the drug fucked side" by those in the violence treatment Neighbourhood, does not get any better.⁵⁹

There is a limit to the physical confining of a body, but these systems and procedures of judging and shaping the Self, or the soul, of the delinquent literally have no end, just as Michel Foucault suggested. So, after having judged where the prisoner is situated in the hierarchical ranking system of the differing accommodations, the second element of the LMP that comes into play is the "Access Plan" which is designed to address issues arising from access to certain areas by prisoners with a disability, or if there are particular safety or security risks or needs as in the case of a prisoner who has an escape history or who is particularly vulnerable.⁶⁰ All of this seemingly beneficial concern and management and the institutional-ease is overwhelming just to read. The prisoner however, is confined to a very small ontological space by all of this, he is reduced to a precise genotype by this matrix of process and specialised knowledge. For it is a "technique" of disciplinary power to section off and distribute space and the individuals in that space. As Michel Foucault found, and it is worth quoting at length, for disciplinary power to be effective it

must eliminate the effects of imprecise distributions, the uncontrolled disappearance of individuals, the diffuse circulation... establish presences and absences, to know where and how to locate individuals... to be able at each moment to supervise the conduct of each individual...

served to economize the time of life, to accumulate it in a useful form and to exercise power over men through the mediation of time arranged in this way.⁶¹

The newly arrived prisoner at Marngoneet is only in his second week at this point and there is more to do yet. And I am sorry, but we have not yet left the elements in the LMP, for the third element in the LMP is the "Vocational Services" element which details how educational and training needs will be met to aid with employment prospects after release.⁶² A fourth element in the LMP is the "Clinical Services" which details the "programs designed to reduce re-offending" which the prisoner has been assessed as needing to complete.⁶³

All of these classifications, categorisations, assessments, treatment and vocational obligations placed on prisoners need, first, to be documented and then, secondly, to be managed. A document trail is created at every stage of these many processes. Almost every interaction is documented both electronically and in hard copy on the prisoner's "Individual Management Plan File," the "Clinical File," the "Psychometric Assessment Register," the "Clinical Services Register," "Service Reports" and in many other "reports," "case notes," "case review

⁵⁹ Ibid.

⁶⁰ Cassar, OP. 3.01, 15.

⁶¹ Foucault, 143, 162.

⁶² Cassar, OP. 3.01, 7.

⁶³ Morison, OP. 6.07, 1-9.

entries," and "file notes."⁶⁴ The uninterrupted work of writing, the living biography of the prisoner which establishes "a psychological causality" of Clinical Assessment and Treatment which duplicates "the judicial attribution of responsibility" – the judgement of disciplinary power never ends.⁶⁵ In official practice, the burnt, dismembered and branded body of the offender who was the subject of the *infinite power* of the sovereign to punish the *finite body* has disappeared. There is nothing now that officially resembles that "former excess of sovereign power" in Australia at least, but in its place is a disciplinary subject who is subjected to the limitless power as an object of knowledge; the soul, the Self, the mind, has a limitless depth; and there always remains room for one more entry in the file; one new psychometric test, one more entry in a register.⁶⁶ Recall that the Custodial Case Manager meets formally with the prisoner "at least once a fortnight to discuss the prisoner's progress in working towards the identified goals on the [LMP]" and a list of sixteen other suggested subjects.⁶⁷ It is worth repeating, that Michel Foucault finds that in "the harshest of prisons" the disciplinary discourse holds over the prisoner the inescapable reality that the prison officer and the psychologist will "note the slightest irregularity in your conduct."⁶⁸ And so is the harsh praxis at Marngoneet Correctional Centre. Michel Foucault argues for a reading of history that at the birth of the modern prison, it was planned that

work on the prisoner's soul must be carried *out* as often as possible. The prison, though an administrative apparatus, will at the same time be a machine for altering minds.⁶⁹

And that disciplinary power

must include the procedures of writing that [make] it possible to integrate individual data into cumulative systems in such a way that they were not lost; so to arrange things that an individual could be located in the general register and that, conversely, each datum of the individual examination might affect the overall calculations.⁷⁰

This could be taken directly from the Marngoneet *Operating Procedures*.

The management of prisoner compliance to the behaviour- and mind-altering machine is implemented by a policy called "The Structured Day," and the enforcement tool is called the "W-IVPrisoner Activity Timetable."⁷¹ The Structured Day policy requires that "a minimum of 30 hours per week of constructive activity is scheduled for each prisoner."⁷² This policy is aimed at the normalisation of a prisoner's behaviour and it is an attempt, according to the prison, to "model the community's expectations of law abiding citizens, through the requirement

⁶⁴ Cassar, OP. 3.01, 12. Morison, OP. 6.01, 11; OP. 6.08, 4; OP. 6.04, 3-4. Norman, OP. 3.02, 7.

⁶⁵ Foucault, 252.

⁶⁶ *Ibid.*, 302.

⁶⁷ Norman, OP. 3.02, 5.

⁶⁸ Foucault, 299.

⁶⁹ *Ibid.*, 125.

⁷⁰ *Ibid.*, 190.

⁷¹ Morison, OP. 3.05, 1. Norman, OP. 3.04, 1.

⁷² Norman, OP. 3.04, 1.

that prisoner participate in work, programs, learning, recreation and other pro-social activity."⁷³ The "W-IV Prisoner Activity Timetable coordinates the elements of Who (Prisoner), What (Activity), Where (Venue) and When (Prisoner Day timeslots)," hence "W-IV."⁷⁴ The W-IV Timetable locks in every hour of a prisoner's day to enforce non-idleness through a mix of therapeutic treatment, education/training, work and recreation. Attendance at each allocated session is validated on the W-IV database by a member of the custodial, clinical, educational or health care staff. If attendance is not validated, then the small weekly gratuity a prisoner receives can be reduced as a penalty. The prisoner is not responsible, but rather obligated, and that obligation is validated as having been met by members of staff twice a day. All activity is logged: Case Management sessions; Education sessions; Work sessions; Neighbourhood sessions; Clinical services/health sessions; Clinical services/psych well-being sessions; Neighbourhood clinical sessions for programs, and so on.⁷⁵ If a prisoner does not attend or demonstrates "reportable lateness," the particular "Activity Facilitator" is required to "generate an Exception Report" that will "be viewable against the prisoner's attendance records and details the nature of the Exception."⁷⁶ The Case Manager or Unit Supervisor then decides if any action should be taken against the prisoner.

At this point some comparisons need to be considered from the history in *Discipline and Punish* to the specific examples at Marngoneet that I have explored here. Disciplinary power starts with an "objectification of the crime and of the criminal;" the criminal is "abnormal" and is best managed if he or she is thought to belong "to a scientific objectification," that is one which is amenable to "'treatment that is correlative to it."⁷⁷ With all scientific objectification comes classification and "the criminal as an individual [needs] to be known according to specific criteria," and the "'scientific interrogation [is aimed at discovering] what this [person] that one is punishing really is."⁷⁸ Once established as a type of "enemy" of society and a pathology, the offender can be treated so as to be "re-educated into social life."⁷⁹ So once classified as a type according to specific criteria, but while still remaining an individual, the re-educational treatment can be applied. The way to achieve such a project is instrumentally through the schedule, regulation and control. And of course, "work is a cornerstone of control. To this end:

Work was obligatory... and for the work done, the prisoners received wages. A strict timetable, a system of prohibitions and obligations, continual supervision, exhortations, religious readings, a whole complex of methods 'to draw towards good' and 'to tum away from evil' held the prisoners in its grip from day to day.⁸⁰

⁷³ Ibid.

⁷⁴ Morison, OP. 3.05, 1.

⁷⁵ Ibid., 7.

⁷⁶ Morison, OP. 3.05, 6.

⁷⁷ Foucault, 101.

⁷⁸ Ibid., 102.

⁷⁹ Ibid., 112.

⁸⁰ Ibid., 121.

This policy objective is taken from the theory of the Rasphuis of Amsterdam, which was opened in 1596. Michel Foucault says that Rasphuis of Amsterdam is a “basic figure” that “forms a link between the theory, so characteristic of the sixteenth century, of a pedagogical and spiritual transformation of individuals brought about by continuous exercise, and the penitentiary techniques conceived in the second half of the eighteenth century.”⁸¹ I would add to this “and which is explicitly and faithfully manifested in the twenty-first century praxis at Marnegoneet.” The “useful pedagogy” of the prison

would revive for the lazy individual a liking for work, force him back into a system of interests in which labour would be more advantageous than laziness, form around him a small, miniature, simplified, coercive society in which the maxim, ‘he who wants to live must work’, would be clearly revealed. Work would be compulsory, but so too would remuneration, which enables the prisoner to improve his lot during and after detention.⁸²

The so called “Philadelphia model” followed suit with the very same ideas with the opening of the Walnut Street Prison in 1790; “life was partitioned, therefore, according to an absolutely strict time-table, under constant supervision; each moment of the day was devoted to a particular type of activity, and brought with it its own obligations and prohibitions;” for the underlying principle of the timetable is “non-idleness; it is forbidden to waste time” as that would be “a moral offence and economic dishonesty.”⁸³ Describing the arrangements for employing and remunerating the prisoners at Walnut Street, they would be “constantly employed on productive works... they were not left idle and they were able to save a little money for the time their captivity would cease.”⁸⁴ The evidence demonstrates that there are direct correlations between these well-known early examples and theories shaping the development of disciplinary power that Michel Foucault reveals, and the contemporary praxis at Marnegoneet confirms.

So, is the Foucauldian conception of disciplinary power still at work in contemporary forms of imprisonment? Fred Alford said that he cannot find any of the main elements of disciplinary power as Michel Foucault frames it in omnipresent “surveillance, categorisation, classification, the time-table, [and] non-idleness.”⁸⁵ Despite Fred Alford’s claim, the policies of the Rasphuis’ of Amsterdam, which was opened in 1596 and the Walnut Street Prison of 1790, are indistinguishable on every level from Marnegoneet in relation to:

the establishment of a discourse of specific norms;

the biographical fixing of the offender in the sentencing comments;

the examination, classification and the categorization;

⁸¹ Ibid.

⁸² Ibid., 122.

⁸³ Foucault, 123, 124, 154.

⁸⁴ G. de La Rochefoucauld-Liancourt, *Des prisons de Philadelphie*, 1784, 1796, 9, quoted in Foucault, 124.

⁸⁵ Alford, 126.

the registration and the extensive documentation which establishes the individual person as a 'case';

individualizing treatment and training which relies on the most sound and recent

theoretical/scientific knowledge; and

the role of work, the gratuity received and the compulsory savings to aid the prisoner on release.

All of these points are explicitly manifested in the operation of the Marngoneet Correctional Centre from its opening in March 2006 to the present. Michel Foucault's conception of disciplinary power provides a concise model for the operational philosophy of Marngoneet. At Marngoneet, what is wrong in behaviour is now firmly conceptualised as a pathology, a thing to be addressed by people trained in health and behaviour sciences. The Self has become mediated by health professionals just as Michel Foucault conceived of in *Discipline and Punish*. The mediating role that was once filled by the church in relation to a sense of Self (the soul) and Other, has been taken over by a professional class of administrators of human behaviour who have the knowledge and the management techniques to guide and mediate a re-conceptualising of Self through the therapeutic culture of the criminal justice system. In other words, the prison, as it is represented at Marngoneet, has unambiguously become "a machine for altering minds."⁸⁶ Punishment is now a system that is aimed at addressing "the emotionally laden Self," as Charles Sykes puts this shift from the spiritual to the secular in defining right and wrong in his *A Nation of Victims: The Decay of the American Character*.⁸⁷ The Case and Treatment Managers who "treat" the prisoners, have, as James Nolan and Sandra Davis Westervelt put it, become a new "priestly" like class.⁸⁸

The Foucauldian conception of disciplinary power is sometimes seen as a dry instrument, a flowchart and a timetable on a parched document found in an archive.⁸⁹ I argue that the sense of Self which emerges from disciplinary power is not in the least bit desiccated, for what disciplinary power operates on is the wet centre of Self, the mind. And what is given effect to at Marngoneet is a changing conception of Self. Even in resisting disciplinary power, the delinquents at Marngoneet have taken on judgment about Others and subverted the inclusive and common ground of "Neighbourhoods" to become sites of differentiation of their Self from that Other. This oppositional ontology of a carceral subjectivity can be manifested in violent crimes, thus the need to "protect" those delinquents in the sex offender treatment Neighbourhood from the other, less abnormal delinquents.

The situation as it can be found at Marngoneet Correctional Centre bears all the physiological and administrative characteristics of disciplinary power which were predicted by

⁸⁶ Foucault, 125.

⁸⁷ Charles J. Sykes, *A Nation of Victims: The Decay of American Character* (New York: St. Martin's Press, 1992), 33-52.

⁸⁸ James L. Nolan and Sandra D. Westervelt, "Justifying Justice: Therapeutic Law and the Victimization Defense Strategy," *Social Forums*, vol. 15, no. 4. (2000), 620. Sykes, 88.

⁸⁹ Philip Smith, *Punishment and Culture* (Chicago: The University of Chicago Press, 2008), 11.

Michel Foucault. Every managerial aspect of the prison, and the mind of the delinquent, is targeted for a controlled animation by a specialised staff that carries out an endless examination and accumulation of knowledge, all so the prison can function as “a social and medico-psychological service” just as Michel Foucault claimed.⁹⁰ So, from the Rasphuis of Amsterdam in 1596 to the Walnut Street Prison in 1790 and finally to Marngoneet, Michel Foucault has shown how this present came to be in relationship to the military/medical disciplinary management of the town or city under plague. The operational philosophy of Marngoneet confirms without any doubt, that “word for word, from one century to the Other, the same fundamental propositions are repeated.”⁹¹ The Foucauldian conception of disciplinary power is still at work in contemporary forms of imprisonment, at least at Marngoneet. And importantly, the subjectivity of the person who offended against the will of the sovereign in pre-modern times is so very different from the sense of Self of the criminal/offender/delinquent as he is presently found at Mamgoneet. There is no element of the pre-modern in conception of the offender and incarnation of “Marngoneet Man.” Michel Foucault suggested that disciplinary power would lead to a line of descent which would eventually lead to “*homo criminalis* becom[ing] a definite object in the field of knowledge,” but he said we would “have to wait a long time” for this genotype to appear; of course we wait no longer.⁹²

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⁹⁰ Foucault, 270.

⁹¹ Ibid.

⁹² Ibid., 102.

⁹³ The image shows the mixed-media work *Marngoneet Man* by Craig W. J. Minogue which is mounted on the programs area of the violence intervention Neighbourhood at Marngoneet. *Marngoneet Man* represents the making anew project of Marngoneet Correctional Centre whose operational philosophy is represented in the various Marngoneet Operating Procedures. The “man” is covered in a collage of texts from the Operating Procedures that represents a new suit made in the style of a specific cut of cloth. The train represents a journey, and a person stepping off the train represents the coming to an end of a journey.