REPLACING DESTRUCTION WITH LIFE

"Weighing Inmate Organ Donation"

by Bob Simon & Michael Flinner

AS DONORS

State prison administrations typically DO NOT permit prisoners to donate LIVING vital organs and tissues to anyone. The Federal Bureau of Prisons however, permit organ donation by inmates ONLY when the intended recipient is a member of the inmate donor's immediate family (parent, siblings, and biological children). There are NO laws against prisoner organ donation; only a lack thereof, due in-part to certain influences amid transplant experts discouraging the use of prisoner's organs since the early 1990's due to concerns over prison's high-risk environment for infectious diseases.

Physicians and ethicists have criticized the idea for myriad reasons, the least of which today can be argues effectively against -- consent to said procedures in a free an non-coercive environment, especially if/when given inducements for participation. However, with modern testing advances, those routinely used to safely rule out infectious disease, it seems entirely plausible in fact, that voluntarily consenting to organ donation is and should be recognized as no different than consenting to medical procedures in general. With careful safeguards in place, the 2 ½ million prisoners in the United States can certainly dispel the myth that prisoners are without redeeming value -- an humble solution for reducing organ shortages in the U.S. while more than ample resources exist.

While some have argued that prisoner participation would likely be too low to make a difference, one Arizona program started by Maricopa County Sheriff Joe Arpaio, encourages inmates to voluntarily sign up as potential organ donors. As of mid-2012, some 10.000+ inmates had signed up in that one county alone.

Prisoners are routinely required to "rehabilitate" themselves as sure as government maintains an absolute duty to protect its citizens. This requirement is part of a much greater picture, one which includes repaying one's debt to society with restitution and punishment for transgression, a set of sentiments that in many cases is welcomed by prisoners across the nation – a rationale for their respective incarcerations and the promise of profound potential associated with replacing destruction with life.

The tolerant humanity we ordinary folk all share, routinely bears witness to unbridled degrees of mass incarceration, untold whispers of sacrifice, and prudently concealed prison regime agendas built from wealth, power, and privilege, the likes of which remain overshadowed by ill-intentioned avaricious corporate gluttony so gross in appetite, that the greed, tyranny, and immoral milking of government cash cows with impunity and conspicuous consumption itself, knows absolutely nothing about benevolence and goodwill. A cursory peek inside the lurid aftermath of judicial fallibility, we discover a feral environment where prisoners are mentally-menaced into rehabilitating themselves alongsids problematic priorities laced with contradiction belonging to apathetic bureaucrats at state prison levels across this great nation. Proponents of reform aim to shed fiery light upon what really occurs when bureaucracy and its many puppets intentionally forego the will, best interest, and genuine needs of the people it purports to serve.

Some 130.000+ garden-variety men and women remain forsaken within the existential crisis amid their peers – people languishing in numbers that far-outstrip national supply for matchworthy donors, and those whose wayward lives intersect at an ugly status quo – the current scarcity of suitable organs for transplantation on a national level. The ugly status quo wears the scars of an even uglier irony, one where

an entire segment of the nation's population remains methodically precluded (by design) from the roles of the willing.

Understandably so, found buried within the DNA of anecdotal evidence where growth and virtus meet, it turns out that combining civic responsibility with innovative frontline health care services may actually obligate certain government and civilian agencies and contractors to develop respectable life-extending options. Society must deliver when called upon to demonstrate for law makers with sheer weight in numbers. That prisoners undeniably represent viable contributions to those whose bravery and dignity inspire them.

While many state prisons [sic] take life, labor, income, and time from the imprisoned, they've intentionally neglected inventing any legitimate protocol like that otherwise made available to Federal prisoners (living donations to immediate family).

Instead, most prisons administrations have perfected the art of cutting corners with regard to matters like this. They do so by presenting an ambiguous (at-best) consent formula for the would-be prisoner to make his or her anatomical gift as otherwise prescribed within the reckless parameters of obscurity. The State of California prison system (CDCR) produces a series of documents known to most as the CDCR 7421 (Advance Directive for Health Care) and makes them available to prisoners upon request. This cozy array of assorted information and optional forms includes a prehospital Do Not Resuscitate (DNR) document, a durable power of attorney and living will for purposes of and-of-life decisions, and options related to donating ones vital organs and tissues. The organ donation section of CDCR's 7421 is found in Part 3. It simply authorizes a would-be donor in CDCR's custody to provide their anatomical gift. The caveat is found in the smallest of print – a provision made available to said prisoners, but ONLY in the event of their DEATH while in custody.

At first glance, this in-house permission slip may appear acceptable to some. But, taking a closer look at the solid form and functionality of the Federal Bureau of Prisons policy, procedures, and protocol in-place for Federal prisoners, it stands to reason why their tiny 13% of the national prison population contain images of man and women in custody — lives with some degree of peace of mind, the knowledge that they have the tools to immediately improve a lived-one's quality of life without stumbling at every crossroads in search of authorization (state) that today need not come to the rescue obligatorily.

As for the remaining 87% of the nation's prison population who agree with the shift in narratives — one innocent mile marker at a time, change even if decidedly disadvantaged, can prove itself while recognizing state prisoners who've watched helplessly as a biological matchworthy loved-one in their immediate family met their potentially preventable demise, a plight so grim without even the slightest hint of administrative regard for human life, one absent the legal fundamentals that should comfort and unburden the ill in their hour of need.

We all must question why a single person would ever be denied the opportunity to live if they themself have a biological matchworthy loved-one behind a prison wall or fence in America?

California's Health & Safety Code dies not provide alternatives for would-be voluntary prison organ and tissue donations during an inmate's term of incarceration, that is unless and until he or she specifically agrees to the terms and conditions set forth in Part 3 of the CDCR 7421 Advance Directive for Health Care (outline above). Further, there are no procedures in place for prisoners to "register" as a LIVING organ donor. The statue quo found in posthumous organ and tissue donation's policy provides little confidence for prisoners who've chosen to male "The Ultimate Restitution" for one reason or another. As outlined in The Uniform Anatomical Gift Act

(revised ‘08), California’s Health & Safety Code §7150 et seq — “a minimum of legal characteristics provide for things like voluntary donations, inducement-free protocols absent repercussions for either agreeing or declining, among others.” These particular studies and reports are at the core of the industry’s conflict.

Due in large part to years of extensive bookworming and research done by Michael Flinner, a condemned prisoner at the nation’s largest and most notorious Death Row (California), a comprehensive evaluation of existing CDCR medical practices at San Quentin as well as select other facilities, led him to a unique collaboration with two (2) Senators in the Bay Area. Both Senators, Cathleen Galgiani and Loni Hancock were asked to “poke around” into Flinner’s contention which illustrated contradicting priorities within CDCR’s administrative chain of command as it related to meeting the needs of the people, registered California voters, and state residents who demand to have their voice(s) heard. Both Galgiani and Hancock heeded multiple pleas for common ground and common good. Soon after, they chose to task themselves as Champions of our Cause. Their ambition readily evolved into a tenacious crusade amid many of their (sic) colleagues in The California Senate.

Enter: Senate Bill (SB1419), a push in the right direction for all concerned, an a Bill that climbed from infancy through three consecutive Senate Committees, passing unanimously amongst majority Senate floor members. Forced to chart new water, SB1419 nearly capsized during funding consideration at The Senate Appropriation Committee, what promises to be nothing more than a momentary setback — an unexpected move on the part of prison administrators an the Prison Industrial Complex, the very same administration whose budget ax always swings in concert with corporate gluttony as previously mentioned.

SB1419 will be reintroduced in an upcoming Senate session. Intended for California to stage itself at the helm of a crucial pilot program and launchpad from which others may mold their policies (in other states). Flinner and his adult son Jon are plugging law maker lingo loopholes, yet anticipating positive results from SB1419's next round with legislators. The Bill is slated for remodel. The plan according to Flinner, is to emulate the existing Federal Bureau of Prisons LIVING inmate organ donor protocol as referenced herein. The Feds have a working model that has proven its functionality time and again.

Jonathan (Flinner’s son) spearheads a complimentary social media venue while sponsoring SB1419. Their digital horse in the race can be used to further acquaint yourselves with continued developments at the Senate level as it relates to SB1419 as well as its corresponding petition, and more at: www.inmateorgans.org

Enacting legislative protocol designed to increase the national consent and conversion rates transplantable organs from prisoners, can only be as a humble solution to an epic health care crisis that so few know exists — a profound calling and timeless culmination which began beyond prison walls as a subject both ethically and judicially replete with dissention in every level — one such level recently brought the folks at 60 Minutes into our crosshairs. A series of thought-provoking, every-complex interviews where Flinner (on a death row recreation yard), his son Jonathan, a Yeshiva University Rabbi and anonymous kidney donor, a 40-something Arizona State firefighter in dialysis, yet in search of a kidney, and a select few others shared in our internationally-televised segment, proving my late father right — a man can preach a better sermon with his life than with his lips.

SB1419 and those fostering its evolution, share a simply message. For all of the evil that lurks behind prison walls today, an even greater evil would be standing idly by while another intended organ / tissue recipient surrenders his or her life to bipartisan neutrality.

If we've learned anything remotely sure during these efforts, it's "that the closer one is to death, the harder they cling to life."

AS RECIPIENTS

Here in the "land of the free & home of the brave", prisoners are not (usually) discriminated against as would-be organ / tissue RECIPIENTS and as such, are equally eligible for transplants along with the general population. In Estelle v. Gamble (decided in 1976). The U.S. Supreme Court ruled that withholding health care from prisoners constitutes "cruel and unusual punishment". As such, United Network for Organ Sharing (UNOS.org), the organization that coordinates available organs with recipients, does NOT factor a patient's prison status when determining suitability for a transplant. An organ transplant and required follow-up care can cost the prison system upwards of one million dollars. If a prisoner qualifies, a state may allow compassionate early release to avoid high costs associated with organ transplants. On the reverse side of that concept, an organ transplant may otherwise save the prison system substantial costs associated with dialysis and various other life-extending treatments required by the prisoner with the failing organ(s). For example, the estimated cost of a kidney transplant is commonly found in the neighborhood of $120.000±. A prisoner's dialysis treatments alone are annually slated to cost a prison the same $120.000. Measure twice and cut once.

Because donor organs are in short supply, there are more people waiting for a transplant than there are available organs. When a prisoner receives an organ, there's a high probability that someone else will die while awaiting the next available organ.

A cynical response to this ethical dilemma suggests that felons who have a history of violent criminal behavior, those who've violated other's basic rights, have for all intents and purposes lost the right (in society's eyes) to receive a life-saving transplant. As such, Estelle v. Gamble (above) might actually comport the "necessity to reform our justice system in order to minimize the chance of an innocent person being wrongly convicted of a violent crime, and later being denied an organ transplant as a matter or principle".

DEATH ROW INMATES

The intended practice of condemned inmates donating organs while alive closely mirrors that of their more general inmate counterparts. Where they differ however is in their virtual inability to provide organs following their respective executions. Although we know of no law which specifically forbids death row inmates from donating organs postmortem, as of mid-2013, each and every request by death row inmates and/or their attorneys of record across this nation to donate their organs to an immediate family member in need, pre and post-execution, have been DENIED by their state of incarceration in question.

Despite thins on the biomedical front having evolved immensely over the past few decades, there appears at-issue, an outward desire for clarification regarding whether current organ donation guidelines as outlined in the National Organ Transplant

Act of 1984, along with the Uniform Anatomical Gift Act (2008), implicitly prohibit death row inmates from being organ donors. While in times where emotions often act without the benefit of intellect, we'd submit that there are far more progressive times ahead.

Questions regarding the benefits, practicality, morality, and ethics of allowing condemned prisoners to donate their organs postmortem (posthumously) have garnered notable attention following two highly publicized events: an editorial by death row inmate Christian Longo published in The New York Times, advocation for the right of fellow condemned inmates to donate their organs, and the request by death row prisoner Gregory Scott Johnson to have his execution stayed until such time as required to enable the donation of a portion of his (then) hepatitis-infected liver to his debilitated sister. Until Michael Flinner's vocal and visible resolve found fresh and wide open ears in California, but for negligible media coverage (at best), all national efforts brought by STATE prisoners as it relates to this controversial and seemingly irresolute subject matter, continue to be met with indifference.

The very nature of these questions have been met by discord during public debate. A limited number of opinion polls have indicated broad favor the practice amongst the general public, as well as would-be organ recipients. In contrast however, a select few bioethicists and their respective medical society colleagues have displayed outwardly cohesive fellowship, yet when tasked with shouldering the consequences of their opinions — professional or otherwise, suddenly, bulletproof secretaries appear out of thin air, employed within a capacity which has but one objective — holding down the proverbial fort right up until the storm blows over.

California Death Row inmate Michael Flinner proffers a rather profound rationale favoring reform — a process which mitigates prior legislative catastrophes while assuaging any and all guilt related to early expectations associated with enacting innovative form and function, getting ourselves back to the drawing board an simplifying that which law markers have been over-thinking as far back as 2010 by California standards.

There is no plausible scenario that provides for explaining away why STATE prison systems across this nation remain eclipsed beyond the darkest shrouds of inequality. Unlike the State of California's prison system (CDC-R) where no inducement-free protocol exists for LIVING inmate organ donation, Flinner's drawing board displays a select few words scratched upon it in bold — ADOPT/REPLICATE the FEDERAL BUREAU of PRISON'S INMATE ORGAN DONOR POLICY!

On its face, legislators will be hard-pressed to dismiss a blueprint as fundamentally-sound as one which purports to emulate a program designed by government officials, one routinely utilized as a life-saving instrument whose methods and manners replace destruction with life daily.

BENEFITS

Organ donation has the potential to greatly improve quality of life as well as prevent death in patients with end-stage organ failure. There is an endemic result in an immediate and persistent need for additional, suitable organ donor candidates. Death Row inmates ARE an obvious viable outlet and source of additional organs. However, critics suggest that the quality and amount of organs that the roughly 3500 death row inmates across America can potentially contribute, furnishes fuel for the heated mental masturbation that are debates, but may ultimately fall short of removing

even a negligible share by percentage of people on transplant waiting lists. “That might be so”, says Flinner, who contends that prisoners like himself, regardless of criminal conviction (in his case, murder-for-hire) whose broad commitment to family, community, tradition, and the common good are far from lost when faced with the ability to make better life choices — “it’s about growth and healing while giving back to the communities we one imparted havoc and in some cases, violence upon in our youth, picking ourselves up, shaking free from the debris, and making something great come from our future plans, althewhile remembering our fragmented pasts”.

Practical Barriers & Suitability

The same rationale that applies across the board for general prison populations being equally or less suitable as potential organ donors — poor health and increased chance of infectious diseases, are also very real in the realm of concern to death row inmates. However, due to the preplanned nature of each and every execution in this country as well as the lengthy period of time before such an execution is carried out (if at all), death row inmates actually have a much greater potential to be have been thoroughly vetted and medically-screened beforehand. Notably, most death row inmates are kept in extreme isolation and housed far from the general population for years on end, effectively reducing their chances of having contracted communicable diseases. Computer-managed prison medical records are routinely updated with critical real time data, results from exams, blood work, procedures, prescriptions, etc. As a whole, Flinner states that he continues to receive above average medical care while at San Quentin, and believes that CDCR will eventually embrace the common sense wherein the LIVING inmate organ donor concept if/when modeled properly after the Federal Bureau of Prisons protocol/policy, could work.

Other factors invariably decrease the likelihood of suitability for select death row inmates as organ donors. The average age of people found on death rows in the United States, are fifty (50) and beyond, ages where medical conditions such as diabetes and hypertension are common. Experts suggest that potentially half of would-be death row donors might actually be unsuitable. The potential for eligible state prisoners to provide inducement-free organ and/or tissue donations to matchworthy biological immediate family members in need, is not something that our 21st century society should choose to ignore, especially since someone is added to one of the national donor registries, every ten minutes. Conversely, some 20+ Americans die each day while waiting for the gift of a life-saving organ or tissue transplant. The math is rudimentary at best.

While in the midst of this critical shortage, fewer than 10% of eligible donors make the conscious decision to donate – ever. As a logistics problem that shares the stage with an even greater problem of supply, we might simply be faced with our troublesome decisions being left in the hands of legislators and elected officials. Flinner states, “ideally, our ultimate goal should comport with the creation of a forecasting model, one capable predicting specific types of shortages while simultaneously preventing further states of mismanaged emergencies.” This concept my very well become instrumental in terms of identifying, and gathering organs, tissues, marrow, blood, and related anatomical items before they become unusable due to hypoxia and various other time-sensitive risks.

Our modern-day method of execution is lethal injection; a process which involves the administration of three drugs; sodium thiopental (a sedative to induce

unconsciousness), pancuronium bromide / Pavulon (a muscle relaxant to cause respiratory arrest), and potassium chloride (to trigger cardiac arrest). Organ donation following this method faced many challenges. Both the American Medical Association and the American Society of Anesthesiology vehemently oppose their members from participating in executions, although to be frank, have little in the way of ability to sanction members for doing so. In order to avoid the transplanting physician's involvement in the death of the inmate/decedent, cause of death (COD) must be determined as lethal injection, and not from removal of the patient's organs.

So, as it relates to the "process", after lethal injection, the medical examiner must wait approximately 15 minutes to test for signs of cardiac activity before pronouncing death. During this time, hypoxia destroying the organs becomes a serious issue, but removal of any organs prior to pronouncing death due to lethal injection, makes the removal of said organs the actual cause of death (COD), and not the lethal injection itself.

Additionally, the facilities that generally oversee executions are not nearly equipped to handle an organ removal surgery. Revamping these facilities in such a way that could enable organ removal surgeries would no-doubt come at enormous costs to tax payers, many of whom struggle to simply eat from McDonald's Dollar Menu. This leaves two other options; changing the location of the execution from a prison to a hospital, or moving the inmate to the hospital immediately following their execution.

Intemperate dispositions from myriad hospital officials proves option one being fundamentally complicated, and the second option, well... it risks further hypoxia of the transplantable during the time it takes to transport the inmate from the execution facility to the transplant center or hospital. Seems fitting to reiterate how pragmatic the fix-it treatise really is — scrubbing the current ambiguous POSTHUMOUS prison donor policy, and modifying California Health & Safety Code §7150 et seq to comport with the existing functionality of the Federal Bureau of Prisons regulations and standards of practice associated with LIVING inmate organ donation — an opportunity for each and every state to provide meaningful avenues of personal sacrifice for would-be inmate donors to save a loved one's life.

Moral & Ethical Considerations

For those who remain conflicted by this 21st century progressive grassroots stream of action and consciousness, curiosity may hold one of many ingredients necessary for such innovative thinking. It's relevant, even important as we carve a path through the what if'‘s, cross the t's, and dot the i's, to remind oneself of the promise our trusty government has made the American people in writing — protecting its citizenry. Even in time of epic misfortune across the globe, there's tremendous power and principle shared across the board when helping shape positive outcomes in so many incarcerated lives.

Indirect coercion and mental stress might possibly impair the ability of some prisoners to make a fully informed or educated decision. Fortunately as previously mentioned, multiple safeguards have been employed legislatively. Transparency suggests that becoming an inmate organ donor might influence ones appeal process, perhaps where sympathy or the chance of another individual benefitting from the death of the inmate, later surfaces for consideration. There may also come fear associated

that an organ donation could potentially influence a perspective juror's judgement — weighing the life of another at the expense of the accused when deciding their verdict.

Thus, whatever or not the controversy stems from depriving United States prisoners (citizens) the legal means and authority to donate their LIVING vital organs and tissues on an inducement and coercive-free basis is protecting their rights, or if in fact, the contrary is found to be true, continues at best to be debated. Perhaps the more we learn, the more we realize just how little we actually know about the human spirit and its purpose.

The philosophy behind this article is simple; socially educate / promote awareness of real-world issues facing bioethicists, and the medical communities we all turn to with unbiased curiosity and goodwill as a means of exercising our respective right to be (and stay) informed.

Replacing Destruction With Life