

Shades of Mississippi: The Nation of Islam and the Prisoners' Rights Movement

Adapted from Garrett Felber's
Those Who Know Don't Say,
featuring new previously unpublished
material on Malcolm X's prison years.
Cover art by Cory Lewis

“We just can’t allow [a Muslim] to parade around the prison yard carrying a prayer rug and kneeling on it at least seven times a day, facing Mecca, to say his prayers. We haven’t got a muezzin in a minaret to call the faithful to prayers. Some prisons have towers, with guards in them, and calling those of Islamic faith to prayer isn’t included in their duties.”

—New York State Prison Commissioner Paul McGinnis, 1960

It was 1961 at Attica Prison and nearly thirty Muslims were in solitary confinement. They refused to leave. Martin Sostre, a Black Puerto Rican who had joined the Nation of Islam in the late 1950s, wrote a letter of encouragement to other Muslim brothers: “The warden became afraid of putting any more dead brothers in the box for fear that they would be raised upon coming in contact with us. So his whole security system broke down. As you know brother the box is the only weapon that the wardens have to maintain discipline in prison. When the box ceases to work, the entire disciplinary and security system breaks down.”

Muslims had filled solitary confinement in New York prisons until the box no longer became an effective form of punishment. Wardens had to decide whether to create hotbeds of activism in segregation or undermine the arbitrary rules they had worked so hard to justify and enforce—such as rejecting religious literature and Black newspapers, and banning the preparation of legal materials for someone else. Meanwhile, Sostre

and others were suing wardens and state prison commissioner Paul McGinnis over their constitutionally-protected right to religious freedom. Deputy Attorney General William Bresinhan captured the magnitude of these cases: “The whole prison system of the State of New York is on trial here.”

This strategy of filling solitary confinement coincided with a similar strategy developed in the southern civil rights movement, known as “Jail, No Bail.” In January 1961, a group of college students who had been staging sit-ins at department stores in South Carolina for a year refused to accept a bond and be released from jail. Instead, the nine students from Friendship Junior College served thirty-day sentences on a chain gang. SNCC, the SCLC, and the NAACP soon joined a local desegregation effort, which targeted transportation, libraries, and lunch counters in Albany, Georgia. One of the defining characteristics of the Albany movement was its strategy of filling the jails, as organizers reasoned that overtaxing the jail system made more sense than overtaxing their budgets by posting costly bail fees.

Both civil rights organizers in Georgia and incarcerated Muslims in New York appropriated the mechanisms of local control—jails and solitary confinement—as tools of organized protest. But despite their similarities, the “Jail, No Bail” strategy has its place in the annals of civil rights history as a heroic confrontation with southern Jim Crow through nonviolent direct action. Meanwhile, the takeover of solitary confinement by Muslims at Attica has previously remained undocumented.

Where do such stories fit within our narrative of the civil rights era? The struggle at Attica demonstrates that challenges to policing and prisons were central to the postwar Black Freedom Movement, and the Nation of Islam was at the forefront of that struggle. Popular understandings of the prisoners' rights movement often start at Attica: a decade later. In 1971, when incarcerated people made D-yard a people's commune and issued 27 demands to the state, both their demands—and the activism itself—built on over a decade of political organizing by Muslims in the Nation of Islam. The NOI has been characterized as insular, violent, apolitical, and religious heretical. It is for these reasons, we are told, that Malcolm X left the NOI to join the civil rights struggle and practice Sunni Islam. What happens when we put the Nation of Islam at the center, rather than the margins, of the civil rights era? What happens when we take the organizing of those incarcerated as seriously as the state did?

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During the summer of 1942, after the forced removals and mass imprisonment of Japanese Americans in the western United States, the FBI and police arrested eighty African American “admirers” of Japan in Chicago. Among them was Elijah Muhammad, who had already been arrested once that summer for draft evasion. He was held for over a month on a \$5,000 bond before thirty Muslims wearing “red buttons showing a ‘mystical’ white crescent . . . [with] turbans of varying colors worn by the women and crescent rings on the hands of the men” surrounded

the jail for fourteen hours, demanding that they, too, be put in prison for draft evasion.

World War II was a particularly difficult time to be Black and against the so-called “Good War.” The strategy of seeking fuller citizenship through military service held widespread appeal for many African Americans. Black enlistment rose from 5,000 on the eve of Pearl Harbor to 900,000 by 1945, and a Negro Digest poll revealed that 59 percent of African Americans believed that the war would aid the fight for democracy at home. Fighting for victory against fascism abroad and racism at home became the foundation of the popular “Double V” campaign.

But Muslims in the Nation of Islam did not believe themselves to be citizens of the United States. As one newspaper noted, the group “does not call itself an organization or a religion, but a nation.” When asked in court why they had not registered for the draft, Muslims answered: “I have registered with Allah.” John Miller and Harry Craighead both testified that they joined the “Islam Nation” in 1940. Frank Eskridge responded, “Allah is my keeper and Allah has my [registration] card.” By the end of 1943, fewer than two hundred Black men in the entire country had been convicted of draft violations. The majority were Muslims in the Nation of Islam. By 1945, as NOI membership dipped below one thousand, nearly two hundred Muslim men had served time in federal prison for draft evasion, constituting the largest group of Black conscientious objectors (COs) during the War.

While the NOI made up the largest group of Black war resisters, they were a relatively small part of a massive wave of conscientious objectors who remade federal prisons during WWII. Over twelve thousand COs served in what was known as the Civilian Public Service (CPS), and another six thousand were incarcerated in federal prisons. While 4,300 or more were Jehovah's Witnesses, the remaining 1,700 represented what historian James Tracy called the "most militant distinct group of pacifists in the country." These radical COs staged hunger strikes over racial segregation, challenged prison censorship, and began to theorize the connections between war, imprisonment, racial justice, and private property. A young Bayard Rustin, who served two years in federal prison and would eventually become a key figure in the civil rights movement, wrote that "we must see the connection between our use of the atomic bomb in international war and our mistreatment of the offender against society internally."

In this context, the dozens of incarcerated Muslims spread across several federal institutions were described by prison officials as "model prisoners." But by 1964, as James Bennett was serving in his 37th and final year as director of federal prisons he compared incarcerated Muslims to the pacifists of WWII in a panel discussion concerning brainwashing and behavior modification of politicized prisoners. What bridged the gap between the so-called model prisoners of World War II and the politicized Muslims whom Bennett and other prison officials were considering brainwashing by the 1960s was a small group of

Muslims at Norfolk Prison led by Malcolm X and his co-defendant, Malcolm “Shorty” Jarvis.

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COPY OF A LETTER TO ONE "ABDUL HAMEED OF 56 Windsor St., Boston, Mass., from inmate -
Malcolm L. JARVIS, dated 7-31-49.

Music

Music is not created -- It is always here ---- surrounding us --- like the infinite particles that constitute life, it cannot be seen but can only be felt --- Like Allah ---- like life. No tis not created, but like the never dying soul, permeates the air with its presence --- ever waiting for its Master --- The Lordly Musician ---- The Wielder of the souls ---- to come and give it an earthly body --- making it into a song. Music with out the Musician is like life with out Allah ---- both in desperate need of a home --- a body ---- the completed song and it creator.

By Red Little.

Malcolm L. Jarvis
Box 43,
Norfolk, Mass.
7-31-49

Dear Brother Abdul:

“Music,” by Red Little. In Letter from Malcolm Jarvis to Abdul Hamid, July 31, 1949.

In 1949, a prisoner at Norfolk Prison Colony wrote his friend and spiritual advisor, Abdul Hameed, with a poem by “Red Little.” It read: “Music without the Musician is like life without Allah – both in desperate need of a home – a body – the completed song and it[s] creator.” Red Little would soon go by the name Malcolm X. The author of the letter was Malcolm Jarvis, the character referred to as “Shorty” in Malcolm X’s Autobiography.

Malcolm X's hustling sidekick and co-defendant is entirely missing from Malcolm's prison years in his Autobiography. In the book, Shorty emerges after his release from prison and is skeptical of Malcolm's religious conversion. But in reality, Shorty played a key role in Malcolm's conversion to Islam, participated in calls for religious rights at the prison, and maintained connection to a broader Muslim community while the two were incarcerated through his career as a jazz trumpeter.

We can only speculate the reasons for Malcolm's omission of the "other Malcolm" in his autobiography. But a closer look at the experiences of Muslims at Norfolk reveals a rich, heterodox religious community whose conversions were facilitated by the shared experience of incarceration and continued connections to a Muslim community outside, rather than the introspective solitude described in the Autobiography. As Shorty recedes in the book, so too does the jazz that animated Malcolm's early life in Roxbury. Malcolm's new pious life, which eschewed the drugs, alcohol, and hustling of his "Detroit Red" persona, left no room for the musical backdrop to his lindy-hopping, zoot-suit wearing days. But Malcolm Jarvis's story reveals a network of Islam and jazz that traveled between Norfolk Prison to Boston, connected by faith and music, as Malcolm X articulated in his poem.

Jarvis, who studied jazz composition in prison with an appetite that rivaled Malcolm's for reading and debating, was visited by a host of jazz musicians, many of whom were Muslim. Some, like brothers Ray and "Bey" Perry were credited with introducing other jazz

musicians to Islam. Other swing legends such as Lucky Millinder, Lionel Hampton, and even Duke Ellington also visited Jarvis at Norfolk. Malcolm X was also visited by Hampton's trombonist Al Hayse. He wrote to his brother Philbert that he eventually planned to "introduce him to some real Muslims (be it the will of Allah). Hamp [Lionel Hampton], too? But Hameed was the figure most influential in introducing both Malcolms to Islam. Malcolm X later named him in his Autobiography, and Jarvis remembered Hameed sending them prayer books in Arabic. Hameed visited Jarvis several times a month in late 1949 and early 1950.

Around this time, Malcolm X began a vigorous writing campaign to the prison commissioner. In his letters, he identified many of the key aspects of racial and religious discrimination that the organized prison litigation movement of Muslims such as Martin Sostre would challenge a decade later. "Can the 'laws of this state' deprive one from one's God-given Rights? . . . Is there a monopoly on Truth?" he asked. Elsewhere, he decried the fact that he and other Black prisoners could not access their own history after requesting books by the pioneering Black historian J. A. Rogers and being told they could not read "things of that nature."

Local Criminals, in Prison, Claim Moslem Faith Now

Grow Beards, Won't Eat Pork; Demand East-Facing Cells to Facilitate 'Prayers to Allah'

The two bearded Springfield brothers, and a pair of equally hairy convicts from Boston continue peacefully pursuing the dictates of the Moslem faith from their cells at the Massachusetts State Prison, but have made no further requests, Warden John J. O'Brien told The Union yesterday afternoon.

Warden O'Brien said that he had absolutely no idea who or what converted the quartet, pointing out that they first announced their decision to pray to Allah at the Norfolk Prison Colony.

The warden pooh-poohed reports that the four, who hold the distinction of being the first Islam adherents at the prison, have been granted any special privileges by him. He admitted they do have cells that face eastward, but declared that they are "just regular cells." Furthermore, he said that it was the job of the deputy warden to assign quarters.

The four are Osborne Thaxton, 26, and Leroy Thaxton, 23, both of

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"Local Criminals, in Prison, Claim Moslem Faith Now," *Springfield Union*, April 21, 1950.

Soon, Malcolm, "Shorty," and other Muslims captured public attention for refusing typhoid inoculations. They grew out their beards, refused to eat pork, and demanded cells facing east toward Mecca (threatening to contact the Egyptian consul if that right were denied). They even secured transfer from the foundry after complaining that it was too loud for meditation. The warden at Charlestown "had absolutely no idea who or what converted the quartet" but "pooh-poohed" reports that they were being granted extra religious privileges, noting that the cells facing east were "just regular cells." As one newspaper article concluded: "the four new Moslems enjoyed complete religious freedom—and constant surveillance."

This paradox of freedom and surveillance came to define the relationship between incarcerated Muslims and prison officials over the next several decades. As Malcolm remarked just days after leaving Norfolk, “all of the opposition was, after all, helpful toward the spread of Islam there, because the opposition made Islam heard of by many who other wise wouldn’t have paid it the second thought.” The relationship between prison repression and prisoner resistance grew from the demands of the four men at Norfolk into the vanguard of the prisoners’ rights movement a decade later. As Malcolm wrote to his brother, “the more the devil openly opposed it, the more it spread.”

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In October 1962, a newspaper ran a shocking photograph of a Black man carrying a stack of books into a courtroom with his arms and legs in shackles. The headline read: “Shades of Mississippi!” A press release with a similar title denounced the hypocrisy of Nelson Rockefeller and northern white liberals for publicly criticizing Mississippi Governor Ross Barnett while silently condoning the chaining of prisoners in New York. The man in chains was a plaintiff in *SaMarion v. McGinnis*, a case filed by five Muslim prisoners at Attica Prison. The choice of Mississippi for this southern analogy was deliberate. The previous year, Black and white Freedom Riders were held in the notoriously abusive Mississippi State Penitentiary, better known as Parchman Farm. The utility of the phrase “Shades of Mississippi” to northern Black activists was its suggestion that the struggles against

incarceration in New York under Rockefeller and in Mississippi under Ross Barnett were more similar than distinct

NEW YORK
Amsterdam News
SATURDAY, OCTOBER 27, 1962

Shades of Mississippi!

Muslims Chained In N.Y. Courtroom

*Judge Ignores
Their Protests*

BUFFALO—Five Black Muslim prisoners who are entering their second week of a Federal District Court trial here seeking the right to practice their religion at the Attica State Prison, are being led back and forth to the courtroom bound in chains and are forced to wear handcuffs in the courtroom until they are ready to testify.

The Amsterdam News learned that the meager treatment of the plaintiffs in the courtroom fight for religious freedom had been presented to Federal Judge John G. Henderson in discussions by the lawyers for the plaintiffs, but the discussions in chambers were kept secret, and neither side would comment on them.

The five prisoners are being held in the Erie County Jail here and are chained at their hands and feet and then brought to the U.S. Marshal's office and the chains removed, but they remain handcuffed in the courtroom until they have gone on the witness stand.



THIS IS NEW YORK . . . NOT MISSISSIPPI !

Where does Rockefeller stand on the inhuman religious persecution of Negro inmates in the penal institutions of New York State? Why are Negroes under Rockefeller's jurisdiction being held in solitary confinement because of their religious beliefs?

How can Rockefeller and these phony white liberals really be for Civil Rights in the Deep South when they are denying underfoot the HUMAN RIGHTS of Negroes here in the North . . . in New York State? If Ross Barnett is to be blamed for civil rights violations in Mississippi, NELSON ROCKEFELLER MUST TAKE THE BLAME FOR HUMAN RIGHTS VIOLATIONS IN NEW YORK !

Flyer based on October 27, 1962 article in the *Amsterdam News*, from Malcolm X's papers

The early 1960s witnessed a significant transformation in the rights of prisoners and their visibility, largely due to the prison litigation and organizing of incarcerated Muslims in the Nation of Islam. For almost a century, incarcerated people had no legal claims to constitutional rights. The 1871 ruling in *Ruffin v. Commonwealth* unequivocally stated that the prisoner had “not only forfeited his liberty, but all his personal rights except those which the law in its humanity accords to him.” In the eyes of the law, an incarcerated person was considered “the slave of the State.”

During this period, known as the “hands-off” era, the courts were guided by a dual logic of separating powers of government and the fear that judicial review might intervene in prison security. In 1951, a federal circuit judge reaffirmed that it “is not the function of the courts to superintend the treatment and discipline of persons in penitentiaries.” Muslim prison litigation put this question of the constitutionally protected religious rights of prisoners on one hand and the so-called security of the prison on the other into stark relief. The courts were forced to decide, in the words of *Shaw v. McGinnis*: “Does the *practice* of the petitioners’ religion (Black Muslimism) pose a threat to the security of the prison system of the State?”

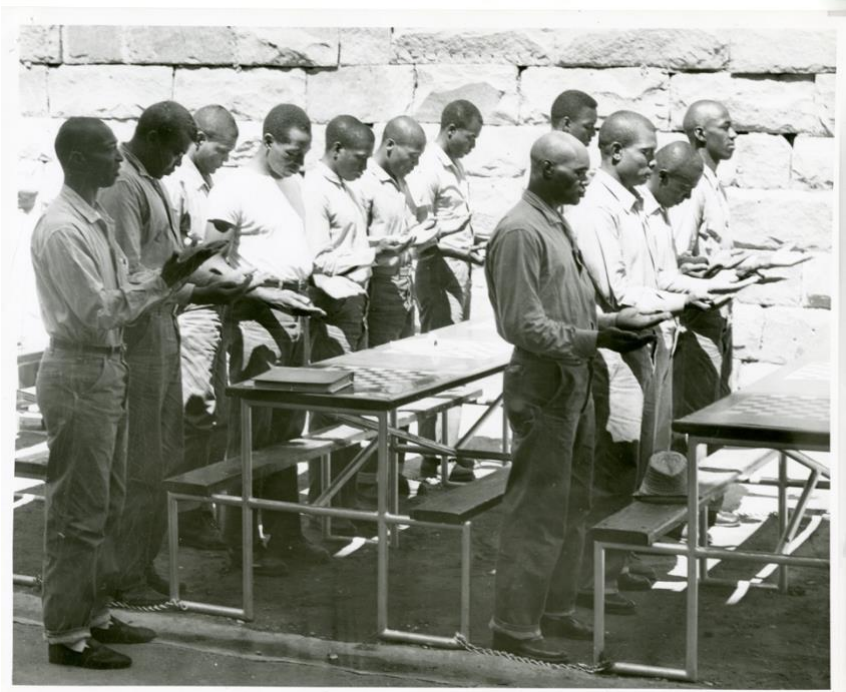
The wall between the constitution and incarcerated people held firm until 1961, when Muslim prisoners at Lorton Reformatory in Washington, D.C. and Clinton Prison in New York cited section 1983 of the Civil Rights Act of 1871 (also known as the Second Enforcement Act and the Ku Klux Klan Act) as a means of breaching this barrier. Originally meant to protect freed Black

people from the vigilante violence of white supremacists in the South by allowing legal compensation from those acting under state authority through federal court (rather than unsympathetic state courts), the act was rescued from a century of obscurity in *Monroe v. Pape*, a case of a Black family beaten and held during a warrantless raid by Chicago police. Throughout the 1960s, Muslim prisoners used section 1983 as a way to challenge prison official's broad discretionary powers and decisively bring these issues before the judiciary.

But litigation was just one tool in an arsenal of strategies employed by Muslim prisoners during the late 1950s and early 1960s. They used direct action tactics such as sit-ins, hunger strikes, and occupations of solitary confinement. These tactics were in constant dialogue with state methods of control, such as prison transfers, confiscation of religious literature, solitary confinement, the loss of good time credit, and various ways of curbing legal access to the courts (long before the Prison Litigation Reform Act [1996], which resulted in a roll back of many gains made by this Muslim prison litigation movement decades earlier).

Muslim religious practices were also deeply surveilled. The politicization and radicalization of prisoners took place in response to these forms of prison discipline, as an emerging web of state surveillance monitored Muslim rituals and daily life. Prison discipline was met with resistance by Muslim prisoners who refused pork, communicated secretly in Arabic, and even performed prayer under surveillance as an act of protest.

For example, in 1962 at Folsom Prison, over a dozen Muslim men were holding a meeting in the prison yard when a sergeant began snapping photographs of the gathering. As the officer approached, one of the men proclaimed, “They want to take our picture, so let’s give them a good one.” Another suggested that they “face the east and pray to Allah.” The group lined up with their hands raised waist high, palms facing up, and prayed.



Muslims at Folsom Prison in California pray under surveillance as an act of defiance on August 26, 1962.

In examples like this one, Muslims in the Nation of Islam confronted with state surveillance, responded with protest in the form of prayer. Where do such images fit in the stories we tell about the Black Freedom Movement?

Such prison monitoring did more than respond to activism of the Nation of Islam with new modes of repression. It became a central motor for perpetuating a religio-racial formation that justified the suppression of Islam in prisons. Because the state's argument against the NOI in prisons hinged on undermining its religious legitimacy, prison officials emerged as arbiters of religious orthodoxy, determining who was considered authentically Muslim and what constituted legitimate Muslim practice. Throughout the early 1960s, prison workers ranging from guards, wardens, and superintendents to chaplains and psychologists read widely about the growing Muslim movement and presented their thoughts both through monthly internal bulletins and at national meetings. The academic communities of penology and criminology emerged as an additional arm of the state's developing knowledge production about the so-called "Black Muslims."

Litigation hit a nerve among prison officials as the NOI flooded courts across the country with writs. Between 1961 and 1978, there were 66 reported federal court decisions on suits filed by Muslim prisoners. In California, the number of habeas corpus petitions rose from a mere 814 in 1957 to nearly 5,000 by 1965. At San Quentin in 1965, prisoners were churning out almost 300 petitions a month. As one judge realized, these were not "cases where uneducated,

inexperienced and helpless plaintiffs are involved. . .
These applications are part of a movement.”

Prison litigation brought the hidden struggles of prisoners to national attention and catalyzed public support for their cause. The waves of writs coming from incarcerated Muslims moved the courts away from a system of arbitrary and discretionary control by prison officials. As James Jacobs argues, the NOI “provided an example for using law to challenge officialdom.” The 1964 verdict in *Cooper v. Pate* in favor of an incarcerated Muslim plaintiff in Illinois, Thomas Cooper, brought the resolute “determination that prisoners have constitutional rights.” Jacobs analogized *Cooper’s* role in the prisoners’ rights movement to that of *Brown v. Board of Education* in the civil rights movement. By 1974, the Supreme Court declared that no longer was an “iron curtain drawn between the Constitution and the prisons of this country.”

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**When over one thousand prisoners took over D-
yard at Attica Prison on September 9, 1971, the
prisoners’ rights movement and the carceral state
both decisively entered a new period of struggle. The
years 1968-1972 have been called the “prison
rebellion years” by Chicano poet Raúl R. Salinas,
himself formerly-incarcerated. As Dan Berger and
Toussant Losier write, “During the rebellion years,
prisoner uprisings linked their conditions with
critiques of American capitalism, racism, and
imperialism. As they did so, dissident**

prisoners enjoyed an unprecedented amount of support from people who were not incarcerated. For some, it seemed that prisoners were leading radical challenges to the global political order.”

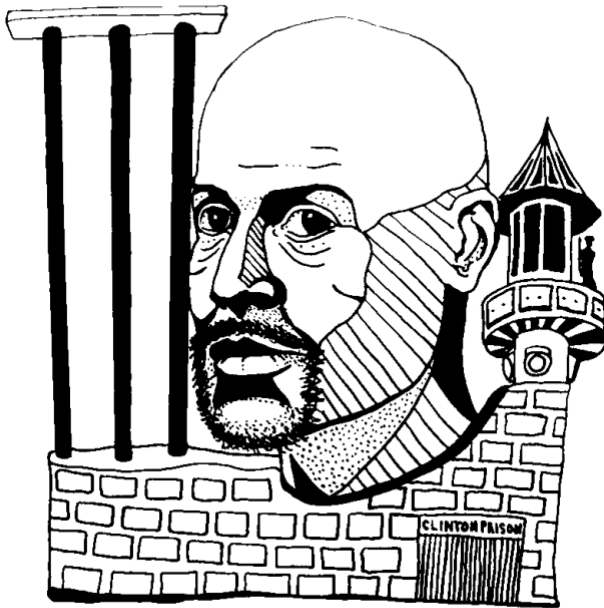
Whereas there were five recorded rebellions in prisons in 1967, by 1972, there were at least 48—the most in U.S. history in a single year.

During the Attica rebellion, Martin Sostre was back in extended solitary confinement, this time at Auburn prison. Having briefly been out of prison between 1964-1967, he was framed by police during the Buffalo rebellion of 1967 while running a radical Black bookstore and sentenced by an all-white jury to 31-41 years. He had left the Nation of Islam and would soon identify as a revolutionary anarchist.

In his essay “The New Prisoner,” written soon after Attica, Sostre reflected on the legacies of organizing by incarcerated Muslims and others like himself who had used litigation to challenge the state. “The struggle to exercise a First Amendment ‘preferred’ right (freedom of religion) took from 1958 till 1971, thirteen years of torture, suffering and death at the hands of racist outlaw savages who recognize no law except that of force, violence, and murder.” According to Sostre, the time for the litigation strategies he and others trailblazed in the 1960s had passed. He now described prisons as training grounds for revolutionary cadres. “Prisons have become ideological crucibles and battle grounds, he wrote. “Soon you shall reap the harvest.” Sostre was an example of how both people and times had changed. One on hand, he represented the

experiences of those he called *politicized* prisoners, who had developed radical consciousness through their experiences of criminalization and incarceration as well as their repression by the state when they fought back. On the other, his new revolutionary position and thinking signaled the shifting tide of prison radicalism which the carceral state would seek to diminish and extinguish through new modes of repression and never-before-seen levels of punishment and incarceration.

“The New Prisoner”



by Martin Sostre

Cover of “The New Prisoner,” illustration by Vincent Cerullo

Notes