



Just Mercy

August 6 – October 2, 2016

NASHER
MUSEUM OF ART AT DUKE UNIVERSITY

nasher.duke.edu/justmercy

Copies of *Just Mercy* are available for purchase in the Nasher Museum Store.

COVER IMAGE: Samuel Norbert Reese, *Cell with Mirror* (detail), 1973. Linocut on paper, edition 6/14, 10 x 8 inches (25.4 x 20.3 cm). Collection of the Nasher Museum of Art at Duke University. Museum purchase. ©Estate of Samuel Norbert Reese.

Caption information about artworks featured in this booklet may be found in the installation checklist on pages 40-44.

**Race, Justice, and Empathy:
A Conversation Inspired by *Just Mercy***

Friday, September 9, 2016, 1 PM

Lecture Hall, Nasher Museum of Art

Free and open to the public

The Nasher Museum of Art hosts an interdisciplinary conversation about race, justice, and empathy with:

Kathryn Webb Bradley, Professor of the Practice of Law, Director of Legal Ethics

Christena Cleveland, Associate Professor of the Practice of Reconciliation, The Divinity School

James E. Coleman, Jr., John S. Bradway Professor of the Practice of Law, Director of the Center for Criminal Justice and Professional Responsibility, and Co-Director of the Wrongful Convictions Clinic

William Darity, Jr., Samuel DuBois Cook Professor of Public Policy, African and African American Studies, and Economics, and Director of the Samuel DuBois Cook Center on Social Equity

Charles D. Thompson, Jr., Professor of the Practice, Cultural Anthropology and Documentary Studies

Read their responses to the installation and book in the following pages.

This installation was inspired by Bryan Stevenson’s memoir, *Just Mercy: A Story of Justice and Redemption* (2014), the 2016 Common Experience summer reading book for incoming first-year students at Duke. The works on display come from the Nasher Museum of Art’s collection. They broadly reflect themes found throughout *Just Mercy*, including the law, the criminal justice system, imprisonment, and racial and socio-economic injustices.

The Nasher Museum asked members of the Duke community, from a variety of departments, to offer their personal responses to the artworks and to Stevenson’s book. Their thoughts are shared in the following pages. The installation checklist can be found at the end of this booklet.

Just Mercy is Bryan Stevenson’s personal account of fighting for justice in the U.S. legal system at a time when “one in every fifteen people born in the United States in 2001 is expected to go to jail [and] one in every three black male babies born in this century is expected to be incarcerated” (*Just Mercy*, 15). While a student at Harvard Law School, Stevenson interned at the Southern Prisoners Defense Committee in Atlanta, Georgia, representing poor clients on death row. This experience inspired him to later co-found the Equal Justice Initiative (EJI) in Montgomery, Alabama. The non-profit organization represents indigent defendants and prisoners who have been denied fair and just treatment in the legal system, most often due to racial and socio-economic biases. EJI also advocates for reforming the criminal justice system. In *Just Mercy*, Stevenson details several of the cases he has taken on as a defense attorney—individuals wrongly convicted of crimes and sentenced to death, children prosecuted as adults and placed in prisons where they were abused, and mentally disabled people, convicted and sent to jail, their special needs ignored. Working closely with the poor, the accused, the incarcerated, and the condemned has taught Stevenson—and Stevenson, in turn, teaches us—that everyone deserves justice and mercy.

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Music Playlist by William Darity, Jr.*:

1. Sam Cooke, *Chain Gang*
2. Mose Allison, *Parchman Farm*
3. Johnny Cash, *Folsom Prison Blues*
4. Kenny Clarke-Francy Boland Big Band, *Pentonville*
5. Bob Dylan, *Maggie's Farm*
6. Peg Leg Howell, *New Prison Blues*
7. Loretta Lynn, *Women's Prison*
8. Lady Lifers, *This Is Not Our Home*
9. Tail Dragger, *New Prison Blues*
10. James Carter and fellow prisoners, *Po' Lazarus*
11. Public Enemy, *Black Steel in the Hour of Chaos*
12. The Pretenders, *Back on the Chain Gang* (explicit nod to Sam Cooke's *Chain Gang*)
13. Snoop Dogg, *Murder Was the Case*
14. Tom Waits, *Fish in the Jailhouse*
15. Elvis Presley, *Jailhouse Rock*
16. Lead Belly, *Midnight Special*
17. Anonymous vocalists, *Angola Bound*
18. Robert "Guitar" Welch, *Electric Chair Blues*
19. Blind Lemon Jefferson, *'Lectric Chair Blues*
20. Lightnin' Hopkins, *Penitentiary Blues*
21. Big Mama Thornton, *Ball and Chain*
22. Otis Webster, *Ball and Chain for Me*
23. Hogman Maxey, *Duckin' and Dodgin'*
24. Albert King, *Bad Luck Blues*
25. Robert "Guitar" Welch, *Lonesome Blues*
26. Robert Pete Williams, *Pardon Denied Again*

* Listen to the songs on the iPad in the Academic Focus Gallery.

My initial reaction to Bryan Stevenson's *Just Mercy* was that each of the stories has a Kafkaesque quality. So I felt a sense of confirmation when I saw Carl Otto Bartning's lithograph, *Abgeführt* (Taken away in handcuffs) from the series *Kafkas "Prozess"* (Kafka's "The Trial"), in the installation inspired by Stevenson's book. Bartning's image depicts Kafka's fictional character Josef K. being led to his doom by two outsized, presumably, law enforcement officers. But "the law" in *The Trial* is a dangerously elusive and capricious thing. Josef K. is confronted with unspecified charges for an unspecified deed from an unspecified authority. The law enforcement system operates with both anonymity and absolute power.

But, as I reflected further about the real life stories of victims of the American criminal justice system—especially in the South—I sensed important departures from the anonymous totalitarianism of Kafka's world. In Alabama, the accused know the nature of the charges and who their accusers are. Yet, it is the defendant who progressively is rendered invisible rather than the system of punishment.

In so many cases elaborated in *Just Mercy*, the charges are so patently false or contrived that the defendant should be the plaintiff bringing a case against the state. The trial moves to make the defendant—now the convict—the one who vanishes. The falsely convicted or excessively punished simply would have disappeared if not for the persistence of family members or friends and the intervention of Stevenson and the Equal Justice Initiative (EJI).

Unlike the intimation of Reynaldo Olivares' *Fisgonas* (Snoopers) and the message of Leonid Lamm's ferocious Gulag images, the black victims of Alabama "justice" are not pursued and imprisoned because of their individual political beliefs or activities. Nonetheless, they can be viewed as political prisoners because the racialized structure of the society in which they live is stacked against them; it is designed to incarcerate them at the highest rates.

The specificity of southern "justice" to the stories in *Just Mercy* may not be captured adequately in the exhibit. George Bellows' ironic drawing *Benediction in Georgia* comes closest to evoking the black prison experience in the south. Margaret Law's *The Roadmenders* is suggestive of the chain gang, but these are day

laborers. They are not dressed in prison garb nor are they chained together. Law, the daughter of a Confederate chaplain, perhaps is the most truly southern of the artists in the exhibit. But, there are no works from black artists nor black artists who have experienced the southern prison. The exhibit does not include a piece of art that helps us grasp the ominous feeling Bryan Stevenson must have had when he learned that one of the first cases he would bring to establish that a client had been convicted falsely would be before Judge Robert E. Lee Key.

To complement the exhibit—to infuse it with the specificity of southern “justice” and racialized “justice”—I assembled a musical playlist. The playlist ranges in genres from acoustic blues to rock’n’roll to jazz to electric blues and includes some of the greatest artists performing pieces themed on crime, punishment, and imprisonment. Many of the acoustic pieces were created and performed by musicians on the various southern “farms”—human farms—or imprisonment camps.

Haunting flows both in the music and in the exhibit, especially in Samuel Norbert Reese’s linocuts that seem to be taken from a dream—a dream that is a quiet nightmare. Tom Phillips’s etchings—resembling account pages of those who have been eliminated by the system of justice and who never will experience release—seem to be drawn from an equally bleak sleep.

We now see routine references to the “carceral state,” turning the phrase almost into as much of a cliché as “neoliberalism.” The phrase tends to mask the critical presence of racism, distancing American and southern American prisons from the unique structural role they play in this country. The rise of “big data” is moving us closer and closer to Philip Dick’s world of *The Minority Report* where our criminal justice officials will seek to predict and preempt presumed criminality. Predictive policing can lead to predictive incarceration. In an environment infused with racism, this can only lead justice to be unjust, and justice to be without mercy. Stevenson discusses this phenomenon explicitly on pages 159-160 and describes the attendant brutal consequences for young people.

Still the cruelest paradox of all, given the increasingly visible propensity of the police to execute black people disproportionately, incarceration may be preferable to immediate death.

– **William Darity, Jr.**, Samuel DuBois Cook Professor of Public Policy, African and African American Studies, and Economics, and Director of the Samuel DuBois Cook Center on Social Equity at Duke University



During 2008 and 2012 the Obama presidential campaign organization asked various artists to create and donate limited-edition prints in support of his presidential campaign. For the 2012 campaign, artist Ed Ruscha, created the lithograph *We the People*. The phrase “We the People” continues to be as relevant today, if not more so, than when it was introduced as the first line of the preamble to the United States Constitution. “We the People” reflects the make-up of the United States of America as diverse in race, religion, ethnicity and gender identification.

“We the People” seems to be lost when considering the United States justice system. It is an unfortunate reality that persons of low economic means, the mentally ill and persons of color continue to have less access to justice than the wealthy. In *Just Mercy* Bryan Stevenson, a man of color born into poverty, shares the unique prospective of his fight to help the poor and mentally ill men, women and children of this nation navigate a justice system that has been structured to oppress their very existence.

Throughout *Just Mercy* Stevenson details two decades of his fight for legal justice for these individuals. Even though this book details cases on which he worked in the 1980s and ‘90s, these same injustices continue to exist in today’s judicial system. Mr. Stevenson’s inspiring life’s work and his book reflect that “We the People” who make up these United States are not all treated equally but that we do all deserve a fighting chance.

– **Kim D. Burrucker**, Director of Public Interest and Pro Bono, Duke Law School



We the People of the United States, in Order to form a more perfect Union, establish Justice, insure domestic Tranquility, provide for the common defence, promote the general Welfare, and secure the Blessings of Liberty to ourselves and our Posterity, do ordain and establish this Constitution for the United States of America.

— THE PREAMBLE TO THE CONSTITUTION OF THE UNITED STATES

Ed Ruscha's lithograph troubles the original symmetry of the PREAMBLE's iconic calligraphy and introductory clause. In contrast with the original, Ruscha's is distended but seemingly forward looking and resilient. This makes sense to me as an artistic rendering of the clause's evolution and present state.

We like to teach the Founders' language as encompassing the better part of that evolution, so that, of course, *We the People* means *all of us*. But the historical truth is that the Founders' *We* was not so inclusive. Their more *perfect Union* was originally designed for an exclusive and—from the modern perspective—relatively homogeneous club. In the legal jargon, their "original intent" was to secure *Justice*, *Welfare*, and *Liberty* for *themselves* and *their* Posterity: white, property-owing (including other people-owning) Protestant men. These men imagined themselves as owners or caretakers of the others who were not members, others who might have interests but mostly not Rights. Once the Colonists achieved the *Equality* at issue in the DECLARATION OF INDEPENDENCE from England, there was no more need for it in the original CONSTITUTION.

This design has been challenged over the years by others who have sought either a wider entry into the exclusive club, or its outright dismantling and replacement by presumptions of inclusivity. (The tent metaphor is over-wrought.) In the process, even as they have become incrementally diverse, the included have continued to fight both legally and extra-judicially to retain their hold on *Justice*, *Welfare*, and *Liberty*, as though these were necessarily scarce resources. They have mostly lost this cause as a constitutional matter: with a few important qualifications, *We the People* now formally includes all adults regardless of their race, ethnicity, gender, religion, or socio-economic status; and to some extent it also now includes children. But as Bryan Stevenson describes in his wrenching memoir *JUST MERCY*, the reality on the ground is troubled, asymmetrical, diffuse. For the “unwanted” and the “broken”—who remain a subset of the original others: poor people, people of color, women, and children—the CONSTITUTION’s promises are both differently alienable and often alienated.

Still Stevenson has hope, and I like to think Ruscha does too. Although many amongst of us are “broken and brokenhearted” by their alienations, like Ruscha’s *We the People* they are also resilient across time, resilient and ultimately dedicated to the moral primacy of *Equality* and inclusion. As Stevenson describes Mrs. Williams’ physically and emotionally courageous stand at Walter McMillan’s trial,

I may be old, I may be poor, I may be black, but I am here. I’m here because I’ve got this vision of justice that compels me to be a witness. I’m here because I’m supposed to be here. I’m here because you can’t keep me away.
(p. 181)

– **Doriane Lambelet Coleman**, Professor of Law, Duke Law School



BLACK LIVES MATTER?

Elie Wiesel said, “The opposite of love is not hate, it’s indifference.” In July 2016, after so many homicides of black boys and men at the hands of the police and in the wake of the deranged massacre of police officers in Dallas, there is a raging political debate over whether the ubiquitous “black lives matter” is a call to kill police officers or a plaintive cry for the kind of humane treatment that the police accord other people whose lives matter. *Just Mercy* suggests that the lives of black boys and black men do not always matter and that the American criminal justice often is indifferent to that fact. When Bryan Stevenson fought to free Walter McMillian, who was wrongfully convicted of murder and sentenced to death, many in the criminal justice system were indifferent to whether McMillian was innocent; he was freed only because Stevenson thought his life mattered. Each of us has to decide what it means to say, “Black Lives Matter.” I suggest it is not a proclamation but a question.

– **James E. Coleman, Jr.**, John S. Bradway Professor of the Practice of Law, Director of the Center for Criminal Justice and Professional Responsibility, and Co-Director of the Wrongful Convictions Clinic, Duke Law School



U.S. society is fractured by what sociologist Shamus Khan calls *democratic inequality*: our cultural commitment to the idea of democracy is actually met with increasing levels of inequality. On the one hand, we are deeply devoted to the idea of democracy—in which society is open to and embraces all individuals. But on the other hand, we have created and sustained a society that is anything but democratic. Indeed, as Bryan Stevenson has beautifully illustrated, the firmly entrenched democratic ideals of equality, individualism, and meritocracy are not offered equally to all citizens; people of color and/or people who are socio-economically oppressed are less likely to benefit from such ideals. How can a nation that was founded on the principles of democracy be so rife with inequality? Research on the link between attitudes and behavior has consistently shown that beliefs often fail to predict people’s actions. However, beliefs are more likely to match actions when both the beliefs and actions are specifically spelled out. If we as a society hope to move our democratic ideals into alignment with our actions, we will need to critically examine the individual and collective actions that are contributing to inequality. Stevenson has offered us a profound step in the right direction.

— **Christena Cleveland**, Associate Professor of the Practice of Reconciliation, The Divinity School, Duke University



The depressing thing about Winslow Homer’s engraving, *Jurors Listening to Counsel, Supreme Court, New City Hall, New York*, is that what was an accurate representation of a jury in 1869 is not that far off from what many juries look like almost 150 years later, in 2016. True—juries today probably have fewer mustaches, and there are no top hats on the counsel table. Women now serve on juries. And people of color ostensibly do as well. In fact, in 1986, the Supreme Court even told us, in *Batson v. Kentucky*, that lawyers aren’t allowed to exclude people from juries solely on the basis of race. But we know from *Just Mercy* and from a 2010 Equal Justice Initiative report called *Illegal Racial Discrimination in Jury Selection: A Continuing Legacy* that “people of color continue to be excluded from jury service because of their race, especially in serious criminal trials and death penalty cases.”¹ *Just Mercy* is a moving, urgent reminder of the ways in which our criminal justice system sustains, reinforces, and extends racial inequality in the United States.

— **Rebecca Rich**, Assistant Director of Legal Writing and Lecturing Fellow, Duke Law School

¹ <http://eji.org/raceandpoverty/juryselection>



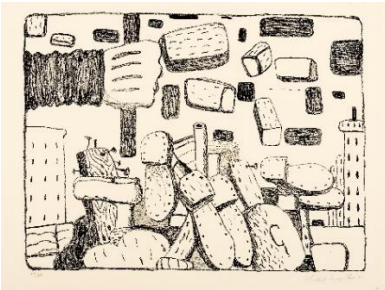
“Justice is blind,” goes the saying, and society nods in agreement although we know the statement is untrue. Total neutrality of our justice system is an aspiration, and one that frequently eludes minority populations: ineffective assistance of counsel and disproportionately harsh punishments often affect the non-white, the economically-disadvantaged, the mentally ill. Winslow Homer’s illustration of a starkly white courtroom in the Reconstruction Era reflects those historical inequalities of the American judicial system. In *Just Mercy*, Bryan Stevenson examines the modern ripple effects of racial and other socioeconomic barriers to justice, but Homer’s sea of impassive white, male faces reminds us of those barriers’ deep, entrenched history.

Homer’s *Jurors Listening to Counsel* appeared in *Harper’s Weekly* in 1869: the same year that George Lewis Ruffin became the first African-American graduate of Harvard Law School; the same year that Howard University Law Department (as its School of Law was then known) opened its doors to its inaugural class of six black students. Women, both white and black, began to graduate from law schools soon after, in the 1870s. Each new minority lawyer represented an opportunity to make American courtrooms and legislatures more reflective of the diverse population. But progress was slow—many law schools, including Duke, did not admit or graduate African-American law students until the 1960s, almost a century after Homer depicted the all-white courtroom in *Harper’s*.

Juries, too, remained stubbornly, predominantly white, despite the 1875 Civil Rights Act and occasional due process challenges which reached the U.S. Supreme Court.

Here, too, progress was slow: in 1880, *Strauder v. Virginia* invalidated a state law which limited jury service to only white males; in the same term, *Virginia v. Rives* allowed that while jurors could not be overtly excluded on the basis of race, the lack of African-Americans on a particular jury did not inherently violate a black defendant's equal protection rights. A century later, the Court rejected peremptory challenges to prospective jurors on the basis of race in *Batson v. Kentucky* (1986); but even today, African-Americans are challenged in jury pools more often than whites. Would an updated *Jurors Looking at Counsel* exhibit more diversity in its attorneys, judge, and jury box? Likely yes—but perhaps not to the degree we aspire.

– **Jennifer L. Behrens**, Head of Reference Services and Lecturing Fellow, Duke Law School



"[T]he opposite of poverty is not wealth; the opposite of poverty is justice."

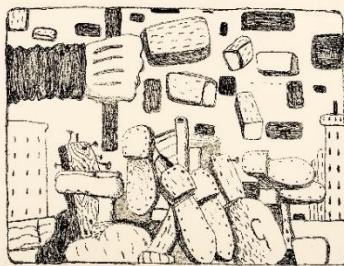
– *Just Mercy* (p. 18)

With these words Bryan Stevenson accurately focuses on what is arguably the most important challenge facing American society today. It is not to bring about equality of results, for people are inherently unequal in many different ways. Rather, it is to bring about equality of opportunity—a level playing field—whether in the realm of civil or criminal justice.

Philip Guston's lithograph, *The Street*, captures the concerns regarding lack of justice for the poor. We see the topsy-turvy boots of poor workers, their lives turned upside down and in turmoil by the bricks of poverty raining down on them. We see poorly built boards and nails, perhaps representing substandard and unsafe housing, juxtaposed against an urban area of tall, orderly buildings. And we see the strong arm of the law, club in hand, all too often presenting the threat of eviction or debt collection or imprisonment.

It is the duty of our society to provide to the poor fair access and hearing in our courts and government institutions, so as to allow them to receive justice, with human dignity. This does not mean that they are always right and should win all the time, or that the moneyed or entrenched power interests are evil and should lose, but rather that decisions be made on the merits of their cases and not on the basis of wealth or influence. Competent legal representation is a key component to bring about this result.

– **Charles Holton**, Director of the Civil Justice Clinic, Duke Law School

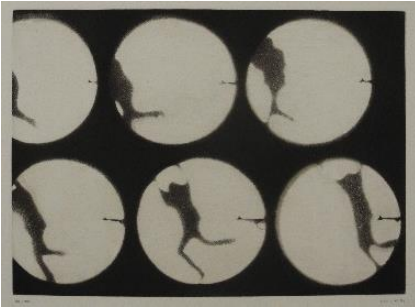


I am writing this from Cape Town, South Africa where I codirect a DukeEngage program on history and politics. The news from the US this morning is all about the shootings, murders it seems from the videos, of two black men by police officers—North and South, Minnesota and Louisiana. These could easily be incidents from the Apartheid era or from Bryan Stevenson’s haunting book *Just Mercy*.

The bodies keep piling up as the long arm of the law beats down black men, women, and children as if there were targets on a shooting range. A few of them have been named: Trayvon, Michael, Walter, Tanisha, Eric, Freddie, Tamir, and Sandra. But hundreds of others are known only to their families, friends, and medical examiners.

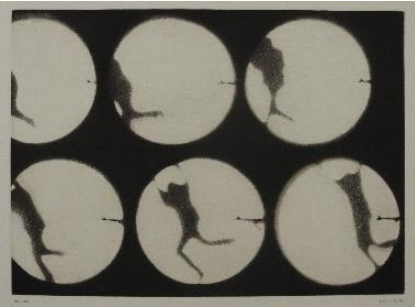
Journalist Nichols Kristol and Archbishop Desmond Tutu herald Stevenson as America’s Mandela. But it will take more than a few inspired leaders to bend the arc of the moral universe towards justice. Injustice is deeply embedded in the history and the psyche of both the United States and South Africa and it will take a revolution of values and institutions to create a more equitable society.

— **Robert Korstad**, Professor of Public Policy and History, Duke University



The image, *Seis segundos* (Six Seconds) from the portfolio *El Lugar y el Tiempo* (Time and Place), shows a flailing human figure, seemingly with no control over what is happening to his body. The figure appears to be falling through space, unable to catch and steady himself. Perhaps this is what Walter McMillian felt as he was ensnared by a racist and corrupt law enforcement system in Monroeville, Alabama. As we learn through Bryan Stevenson's accounting of Mr. McMillian's arrest, conviction, and imprisonment on death row in *Just Mercy*, Mr. McMillian was the victim of his time and place on earth. A black man in a small Southern town, his life had no value to the sheriff, the police officers, the judge, the jury, the prison guards, and the white community. Still tied to their racism, even in the 1980s and well beyond the end of the official Jim Crow era, they felt free to toss his body wherever they chose, leaving Mr. McMillian with no control or way to steady himself. In another time, in another place, Mr. McMillian might have had a very different life. But like the figure in the Genoves etching, his body was captured by a time and place that controlled his destiny.

– **Jane Wettach**, Clinical Professor of Law and Director, Children's Law Clinic, Duke Law School

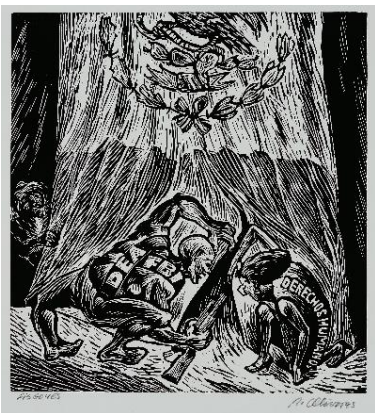


Sometimes, even though you are innocent, the criminal justice system can ensnare you, holding you fast in its sights and relentlessly pursuing you beyond all reason—until, as in Genovés’s *Seis segundos* (Six Seconds), you are within easy reach. The difference in power between the individual and the system is too great, our biases—even those of which we are unaware—too intractable, and the protections in the criminal justice system too inadequate to prevent the injustice.

In the Wrongful Convictions Clinic I co-direct at Duke Law School, every case we take forward proves this point. Our clients were identified as suspects in a crime, and then, passing through all of the protections our system provides, they were prosecuted, convicted, sentenced, and sent to live in prison for decades, sometimes even life. The six clients whose freedom we have helped obtain spent a collective 100 years in prison. While they were away, their parents died, their children grew up, and society—and some family members and friends—moved on without them. And yet they were all wholly innocent, with no involvement in the crime of which they were convicted.

The key to correct such injustice is not working harder to overturn convictions and gain release for the innocent more quickly, but to construct a criminal justice system in which reason has a chance to be heard early, before the focus draws too tightly around the wrong person.

— **Theresa A. Newman**, Clinical Professor of Law and Co-Director of the Wrongful Convictions Clinic, Duke Law School



In Reynaldo Olivares's *Fisgonas* (Snoopers) we see the masculinized image of the armed U.S. Drug Enforcement Agency and FBI, and the feminized image of Human Rights peeking under the Mexican flag curtain while the figure of the immigrant, here a dangerous panther, prepares to sneak around the curtain's edge.

The image reflects the theatricality of border policing. Particularly in election years, policing the border becomes a performance for a national audience more than an effective reality on the ground. The border patrol has grown exponentially in the past four decades; walls and fences cover many of the border's more accessible miles, and yet the only real reductions in migration happen when economic and physical well-being favors the home country. Mexican immigration, falling since the Great Recession began, is now in negative numbers.

The current mode of border policing comes from merging the 1970s "War on Drugs" with the nativist response to an economic downturn and fears of the 1994 North American Free Trade Agreement. That year California's Proposition 187 attempted to deny undocumented immigrants access to health care and education, and Operation Gatekeeper closed the border around San Diego, where it was most heavily crossed.

It was not always thus. Mexican migration across the border was prolific—Mexicans made up a third of the railroad track labor and a substantial proportion of mining

labor in the U.S. Southwest—but it was not a matter of concern. Only in 1924 did the United States create the Border Patrol. Even then, our laws exempted Western Hemisphere nations from quotas, and legal immigration required only crossing at an official border point, a literacy test, and a head tax.

The first mass deportations of Mexicans came with the Great Depression, when as many as one million “Mexicans” (the number also includes the U.S. citizens of Mexican descent caught up in the deportations) went from the U.S. to Mexico. Some went voluntarily. Some went forcibly, even those legally in the U.S. for decades, even those U.S. citizens of Mexican descent, rounded up and loaded on boxcars. A decade later, the U.S. approached the Mexican government to negotiate a wartime guest-worker agreement. Those deported were welcomed back. Mass deportations of undocumented immigrants returned in 1954, but the guest-worker program ended only amid civil rights mobilizing in 1964.

Many politicians frame themselves as “tough on crime,” and implicitly (or explicitly in this election cycle) cast Mexican immigrants as innately part of a criminal class in the same way that Bryan Stevenson along with black Americans for decades found themselves subject to suspicion of criminal intent solely on account of their color. The policing of brown and black bodies in the name of protecting the (implicitly white) nation is not new. White people lynched both Mexican Americans and African Americans from the 19th century forward. Like the border, lynching provided a theatrical spectacle that sent strong signals about who belonged where. And just as the mass incarceration of African Americans has eviscerated black families and torpedoed their possibility of economic success, mass deportation traumatizes immigrant families, fracturing them and rendering them vulnerable and impoverished.

– **Sarah Deutsch**, Professor of History, Duke University

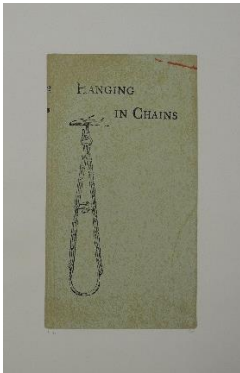


So much of what we recognize as our criminal justice system seems to be about erasure. Reading *Just Mercy* that word “erasure” kept needing its way into my thoughts, relentlessly. It’s not only the hollowing out of communities caused by mass incarceration, or the executions. Maybe just as disturbing is the civil erasure that comes after incarceration (or too often, between incarcerations). Tens of thousands of prisoners are released every week, and the vast majority will go back within a few years. Released, though, not freed; release seems a very different concept from freedom. Too often with little or no money, getting from outside the prison gates to their first stop can be itself a struggle. Reintegration efforts are actively disabled by our legislatures, our representatives. The American Bar Association reports that in North Carolina, an inmate upon release is burdened with over 1,000 statutory and regulatory limitations. These include exclusions from jobs in government departments, in certain employment sectors, from living in particular types of housing, from receiving subsidies for child care, from participation in certain abuse treatment programs; from essentially everything necessary to reintegrate into society. The legislatures often insulate themselves from this unwanted constituency by disenfranchising them for the period of their parole, parole and probation (during which they likely will return to prison), or in many states for life. Because we don’t care to have them back. They’ve been erased.

So many moments in *Just Mercy* call to this erasure. Stevenson's description of Herbert Richardson's last day before his execution, and the wonder he felt at how many people noticed him, asked after him. "More people have asked me what they can do to help in the last fourteen hours of my life than ever asked me in the years when I was coming up." (p. 89). The almost literal erasing and rewriting of the evidence used to convict Walter McMillian of murder. The letter Ian Manuel writes to Stevenson after being held, since childhood, for over 14 years in solitary confinement. Stevenson had arranged for a photo shoot with Ian for a story on the plight of children in the prison system. In the letter, in a short five paragraphs, Ian mentions the photos and the photo shoot a dozen times. Feeling "dead to the outside world," the photos are tangible proof not only of a short time in the outside world, but that in that time the outside world could actually see him—"I want to show the world that I'm alive!" (p. 162). And Mrs. Williams, watching Walter's case finally move forward, trying to communicate to Attorney Stevenson "I'm here," standing in the courtroom as the rest sat back and yelling "I'm here" to ensure that they would know; because for so long, they did not, and she was not.

Tom Phillips's print of 1,263 heads from the portfolio, *I had not known that death had undone so many*, captures the dimensions of this erasure. The tiny faces, crossed out, you have a feeling, one-by-one. Not all at once, but systematically. Every now and then, one is spared, or missed. If you get close enough, the erased fall into the background, and the remaining become more prominent; but if you back away, they all blend together anyway. It's a struggle to find any individuality in the neatly aligned, geometrically ordered heads. I'm inclined to believe that the intent is to suggest that struggle is necessary.

— **Wickliffe Shreve**, Reference Librarian and Lecturing Fellow, Duke Law School



The cases in *Just Mercy* are not aberrations. Trained as a social psychologist, my first experience with law involved a 1972 death penalty case (see Rokeach & Vidmar, "Testimony Concerning Possible Jury Bias in a Black Panther Murder Trial," *Journal of Applied Social Psychology* 3: 19-29 [1973]). Since joining Duke Law School in 1987, I have been involved in other death penalty cases, including two last year. For interested students, Duke Law School's Wrongful Conviction Clinic has successfully freed a number of inmates who were erroneously convicted of other types of crimes and were serving long sentences. Led by Professors James Coleman and Theresa Newman, our law students have played a critical role in gathering the evidence and finding legal errors that led to the exonerations, see www.law.duke.edu/wrongfulconvictions.

Police, prosecutors, and judges are absolutely necessary to protect members of society from petty theft to serious crimes such as robbery and murder. In the overwhelming number of instances these institutions and the actors in them, including members of juries, perform their tasks well. However, humans are subject to errors arising from personal, social, and institutional factors. The consequences for innocent persons convicted of serious crimes are devastating, and in particular when they are sentenced to death and executed. Bryan Stevenson's extremely engaging book documents these errors and raises questions about whether the U.S. should abolish this anachronistic punishment.

– **Neil Vidmar**, Russell M. Robinson II Professor of Law, Duke Law School



Changes in the law happen slowly, typically through the steady, tireless work of those with the tenacity to push them through, motion by motion, case by case. *The Roadmenders* shows three men chipping away on a road, strike by strike, with primitive tools. A structure, almost menacing, looms in the background, and their singular focus suggests urgency. *Just Mercy* lays out story after story after story of incomprehensible injustice, case by case, all urgent and painful to absorb. They are irreconcilable with the criminal justice system I studied. It was a hard book to finish. But every time I put it down, there was author Bryan Stevenson, tapping me on the shoulder— “There’s more.” In this book, there is always more. Regardless of the outcome, each case is immediately followed by another, more desperate, more urgent. His legal tools bear names as archaic as the system itself, and they become more cumbersome at each stage of the appeal process. How does one explain to a man on death row that he will die because of the failure of a petition for “certiorari” or “habeas corpus?” Even though you wield the slow, legal equivalent of a pick axe, justice is on a deadline. Keep your eyes forward.

I struggled to see justice in what happened to the men and women in this book, and with the exception of one anecdote about a milkshake, I saw little mercy. The author speaks briefly and almost in passing of his successes, which must often ring hollow when the situations he helped repair were an outrage to begin with. He also doesn’t give us much in the way of post-scripts to his stories, so perhaps the road has made more progress than this etching (or the book) shows. I sure hope so. This

searing indictment of our criminal justice system and the impact on the poor and on racial minorities is especially poignant this summer. I can't put this book down. Neither should you.

– **Jane Bahnson**, Reference Librarian and Senior Lecturing Fellow, Duke Law School



Steal Away

Sing and swing pickaxes,
 Careful to bust rock, not head.
Focus on song, men, the rhythm;
 Not body,
Not shotgun instead.

Steal away, steal away home.

Your work undergirds every going,
 Every road, anywhere gone.
Everywhere wheels glide or falter,
 Your sweat mixed in tar,
Blood red dawn.

Steal away, Lord, steal away.

Was it chain gang?
 Project not owned, no part?
“Finished” not ever once spoken,
 Not then, not now, tomorrow?
Not last chains, not start.

Steal away home.

What crimes accused then?
Words 'tween white lines hold sway.
Let back roads of history bring it.
Tell it before they pave over,
Else sinkholes will forever stay.

Steal away, Lord, steal away.

Worked lifelong till nightfall
Built roads, everything, all.
Swing again, exhume stories buried, call.
Dig them up, pry it up, plow.
Can you swing one more time for the children?
Time's only token is now.

Steal away, Lord, steal away.

Decades, centuries, eons driving...
Across roads you broke open that stayed.
Clatters truck of new workers, forever.
They pass over gravel you laid.
Stuck in frame, stuck on truck, ever arriving,
Will wages ever be paid?

– **Charles D. Thompson, Jr.**, Professor of the Practice, Cultural Anthropology and
Documentary Studies, Duke University



Stop. And look, really look. It's tempting to keep moving. This scene is so familiar, so mundane, so depressing. It would be easy to walk past these sleeping souls, even while lamenting the timeless plight of the homeless. This work was created in France in 1930, yet this scene could be downtown Durham today. Not much has changed.

Come closer. As Bryan Stevenson's grandmother constantly reminded him, "You can't understand most of the important things from a distance, Bryan. You have to get close." (*Just Mercy*, p. 14) Who are these two people? What is their age, race, gender? Are they together? Or are they strangers seeking shelter in a common space? Why does the person on the right have a palm open, turned upward? Why is the person on the left sitting up, even in sleep?

Yet merely *observing* these two is not enough to *understand* them. The distance remains. So wait a bit. When the two awaken, ask to join them. There is room to sit between them on the sidewalk, to extend a hand, to converse face to face, to share experiences of brokenness and loss. It is this shared brokenness, Stevenson says, that is "the source of our common humanity, the basis for our shared search for comfort, meaning, and healing." (*Just Mercy*, p. 289)

And when this encounter ends, recognize what a gift it has been. Ponder where it might lead. How might this chance meeting on a city sidewalk forge a new path toward justice and mercy?

— **Kathryn Webb Bradley**, Professor of the Practice of Law, Director of Legal Ethics, Duke Law School



In *Just Mercy*, Bryan Stevenson argues that “Each of us is more than the worst thing we’ve ever done” (p. 17). In the United States, many people are judged by the worst thing they’ve ever done, with striking differences by race, class, and income in who gets the benefit of the doubt. But other inequalities in the effects of more mundane, daily activities can also have lasting consequences for the poor and marginalized. One unpaid utility bill can lead to eviction and homelessness. Calling in sick can lead to the loss of a job. Among the poor, there is little margin for error. This notion is highlighted in the work *Two People Sleeping on the Street*, which makes me wonder what happened in the days or weeks before this moment. Are they on the street because of their “worst thing”? Or are they on the street because of some everyday activity that led to an unexpectedly severe outcome and subsequent deterioration? Just as Stevenson urges us to ensure that we are all judged by more than our “worst thing,” I encourage us to also work toward a day when the consequences of one mistake do not have outsized effects on the most vulnerable.

– **Anna Gassman-Pines**, Associate Professor of Public Policy & Psychology and Neuroscience, Duke University



Bryan Stevenson's *Just Mercy* raises important questions about how culpable for their actions adolescents who grow up in dire circumstances are and how such adolescents should be handled in the legal system. Developmental science documents how risk factors such as poverty, neighborhood danger, and exposure to toxic stress increase the chances that adolescents will commit crimes. Homelessness, as depicted in Auguste-Lucien Bognard's *Two People Sleeping on the Street*, constitutes one such risk factor. In addition, neuroscience research demonstrates that brain structure and function continue to develop into adulthood, with the prefrontal cortex (which controls planned behavior and higher order cognitive functions such as making complicated decisions) developing more slowly than the limbic system (which is the brain's reward processing center). Growing up in a disadvantaged environment does not destine someone to a life of crime but rather functions as a risk factor. Likewise, being an adolescent does not absolve individuals of responsibility for their actions but rather renders them less fully culpable than they will be as adults. Research about adolescent development has

informed Supreme Court cases such as those described in *Just Mercy*. Individuals develop in particular social contexts, which are illustrated in Winslow Homer's *Jurors Listening to Counsel* and George Bellows's *Benediction in Georgia*. Segregation, with positions of power more frequently occupied by White than minority adults, is not just a historical artifact but continues to affect what happens to adolescents who do break the law, with adolescents from minority groups more likely to be arrested, charged, and punished than White adolescents.

– **Jennifer E. Lansford**, Research Professor, Sanford School of Public Policy, Center for Child and Family Policy, Duke University



George Bellows's *Benediction in Georgia* captures the power dynamic so skillfully illuminated by Bryan Stevenson in his scathing indictment of America's criminal justice system. Created in 1915, *Benediction in Georgia* is set in a meeting hall, perhaps a chapel, in a prison. The person in charge, to my eyes, is a white man, well dressed, and totally sure of his role—to preach to the doomed and remind them of their sins that led them to this place. The prisoners show various emotions: despair, resignation, and contempt. No one appears to receive God's grace ostensibly being dispensed. Thus, Bellows's title, *Benediction*, is ironic.

Almost 100 years later, Bryan Stevenson, as author and litigator, has ventured into hell to learn the minds, emotions, dreams, and conditions of the thousands who have been doomed to spend their lives in the largest penal system in the world—in a country celebrated for being among the most enlightened.

The speaker portrayed in Bellows's drawing, secure in his power, does not doubt that the prisoners deserve their predicament. Likewise, most of us have turned our eyes and thoughts away from what has been done in our name. Stevenson does not allow us that. Through him, we see the humanity of his clients; the mistakes of a self-righteous system; the connections that the modern-day penal system still has to slavery; the hell that is being endured.

That the book, *Just Mercy*, is not one of total despair is a testament to how Stevenson has chosen to live his life. We see him work almost alone, in dangerous

and sometimes humiliating conditions; then build his staff, his audiences, and his successes that change laws, release some of the damned, and provide hope of reform to come.

– **Carol Spruill**, Senior Lecturing Fellow, Duke Law School



In 1973, after applying for an Israeli visa, Russian Jewish artist Leonid Lamm was arrested for hooliganism and sentenced to spend two years in Moscow's Butyrskaya Prison and one in a labor camp.¹ During his imprisonment, he was sent to a psychiatric hospital and forcibly placed on antipsychotic medication that left him with lasting health issues. He was also put to work drawing and decorating the facilities with Soviet slogans. Though distressed by his role in perpetuating Soviet propaganda, his work had the side benefit of allowing him to acquire the tools needed to depict his hellish experiences. In prison, he created watercolors and sketches that depicted his life; these formed the basis of larger works completed after his release in 1976.²

A Well-Guarded Hospital likely depicts Lamm's forced time receiving psychiatric treatment while he was imprisoned. The greyness, flatness, and starkness convey immobility, powerlessness and sadness. The perspective gives weight and heaviness to the shackled legs, while the length of the room and building above it convey a sense that they go on and on indefinitely, housing many "patients." The rows of

¹ "LAMM, Leonid Izrailevich," *Benezit Dictionary of Artists*, Oxford Art Online (Oxford University Press), http://www.oxfordartonline.com/public/page/Benezit_free_lamm.

² Malka Margolin Groden, "My Conversation with Artist Leonid Lamm," *Jewish Russian Telegraph* (July 22, 2013), <http://www.jrtelegraph.com/2013/07/my-conversation-with-artist-leonid-lamm.html>.

hospital beds and guards seem incongruous as we wish to think of hospitals as places of care and not of imprisonment.

Sadly, and stunningly to many, the images from Lamm's incarceration in a notorious Soviet prison from the 1970s are not unlike the conditions in many of our own prisons in the United States forty years later or the treatment of many of our incarcerated citizens. In *Just Mercy*, Bryan Stevenson details the life situations and circumstances surrounding the convictions of many mentally ill or disabled inmates and their treatment in our prison system. He notes that 50 percent of inmates have a diagnosed mental illness or neurological disorder that guards are not trained to understand and prisons not equipped to handle. These high percentages result from our lack of adequate treatment programs for those with mental disabilities, policies of mass imprisonment and harsh sentencing for drug crimes, and the massive failures of our criminal justice system when dealing with the poor.³ In the most serious instances, even after the U.S. Supreme Court has banned the execution of people with serious intellectual disabilities, many states refuse to assess whether the condemned are mentally disabled and unconstitutional executions continue.⁴

It is my belief that we can and should do better. We should not see our own system reflected in Leonid Lamm's works from his time in prison in the Soviet Union over forty years ago.

– **Stella Boswell**, Assistant Dean of Public Interest and Career Development, Duke Law School

³ Bryan Stevenson, *Just Mercy* (New York: Spiegel & Grau, 2014), 186-88.

⁴ *Ibid.*, 287.



Daybreak typically signifies a flickering moment of possibility. At the same time, the break of dawn illumines the darkness that surrounds us. A break more generally can be associated with pain and separation...a cut...a wound. It also signifies an opening, a potential passage, an escape from something undesirable. In addition, a break can be an interruption, a moment that stops the movement, or continuity, of some operation. To live “in the break” as Fred Moten suggests is to inhabit a site of ambivalence where anguish and possibility meet, where the tragic cuts and fissures of life induce moments of shared intimacy and vulnerability.

It is tempting, and convenient, to read Bryan Stevenson’s story as one of triumph and redemption. This reading would allow one important legal victory to overshadow and diminish the losses, erasures, and silences that mark the legal, and broader social, order. I suggest that we read his story as a break in the daily routine...a break that shows how possibility/hope is tethered to melancholy and a stubborn attunement to those bodies and struggles rendered invisible. Hope is opaque; it emerges in the break...and takes on a broken quality.

– **Joseph Winters**, Assistant Professor, Department of Religious Studies, Duke University



In his book, *Just Mercy*, Bryan Stevenson shares statistics about our country's incarceration rate. We learn that our country has the highest rate of incarceration in the world, and that this rate is growing exponentially. In 1970, we had 300,000 people in our prisons. Today, that number is closer to 2.3 million (p. 15). Teenagers born in 2001 have a 1 in 15 chance of being incarcerated, and if they were born black and male, their fate is even more dire—1 in 3 (p. 15).

As Mr. Stevenson laments, we find it acceptable in the U.S. to send our children to prison, some for the remainder of their lives. Nowhere is this more true than in North Carolina, where we are one of just two states that automatically prosecutes all 16 and 17 year olds as adults, no matter how minor their alleged offense.

Incarceration has become our default response, even to minor misbehavior. Police officers roam the halls of our public schools, sending students into the criminal justice system for infractions that used to be handled by the principal. A fight with no injuries no longer results in an afterschool detention, but is instead a Class 2 misdemeanor. Our students are being funneled from our schools to our prisons at huge costs to their futures and to our society.

Samuel Norbert Reese's linocuts depict views seen by millions of our citizens every day. In *Prison Corridor*, we see Mr. Reese's view outside of his cell, and in *Cell with Mirror*, he shows us the home he has made for himself within it. In viewing *Cell with Mirror*, I was struck by how deceptively lovely his cell appears—with makeshift

flowered curtains and the artist's most treasured possessions neatly displayed. It is clear that Mr. Reese struggled to make a beautiful life for himself within the harsh conditions of his confinement. Indeed, information available about him reveals this to be the case—he taught art classes to his fellow prisoners, was invited to show his work in galleries, and sold his art to collectors, including five pieces to Duke in 1974 (for \$72).

I cannot comment on whether Mr. Reese's crime warranted a life in prison. Regardless, his works stir in me some thoughts. First, why has our country turned its back so forcefully on the idea of rehabilitation in favor of incarceration? As a consequence, especially as it relates to our children (whose parents are incarcerated or who have been incarcerated themselves) what does this mean for the future of our country? Finally, in viewing these prints by the "murderer" who was prisoner 69652, I can't help but believe that it is the perfect illustration of Mr. Stevenson's profound observation that: *"Each of us is more than the worst thing we've ever done"* (pp. 17-18).

— **Brenda Berlin**, Supervising Attorney & Senior Lecturing Fellow, Children's Law Clinic, Duke Law School

Installation Checklist:

1. Ed Ruscha
Born in Omaha, Nebraska, 1937
We the People from the portfolio *Artists for Obama 2012*, 2012
Printed by Gemini G.E.L., LLC, Los Angeles, California
Lithograph on paper
Edition 76/150
Anonymous gift in honor of Julie Mehretu
2013.4.1.16
2. Ralph Gibson
Born in Los Angeles, California, 1939
American Gothic from the portfolio *America: Now and Here*, 2009
Chromogenic print
Gift of Dr. and Mrs. Ronald Francesco
2013.15.1.2
3. Winslow Homer
American, 1836 – 1910
Station-House Lodgers, 1874
Wood engraving on paper
Museum purchase with funds provided by the Elizabeth Von Canon Foundation
1974.2.173
4. Winslow Homer
American, 1836 – 1910
Jurors Listening to Counsel, Supreme Court, New City Hall, New York, 1869
Wood engraving on paper
Museum purchase with funds provided by the Elizabeth Von Canon Foundation
1974.2.119
5. Philip Guston
American, born in Montreal, Canada, 1913 – 1980
The Street, 1971
Lithograph on paper
Gift of Mr. and Mrs. Samuel Dorsky
1973.24.1

6. Juan Genovés
Born in Valencia, Spain, 1930
Seis segundos (Six Seconds) from the portfolio *El Lugar y el Tiempo* (Time and Place), 1970
Etching on paper
Edition 64/92
Gift of Dr. Milton F. Campbell
1979.37.10
7. Carl Otto Bartning
Born in Berlin, Germany, 1909 – 1983
Abgeführt (Taken away in handcuffs) from the series *Kafkas "Prozess"* (Kafka's "The Trial"), 1970
Lithograph on paper
Gift of the artist
1973.43.1
8. Reynaldo Olivares
Born in Mexico, 1947
Fisgones (Snoopers), n.d.
Linocut on paper
Gift of Robert Rosenthal, J.D. and Beth R. Friedland, M.D., HS '80
2015.14.5
- 9-10. Tom Phillips
Born in London, England, 1937
Dante, I had not known that death had undone so many from the portfolio *I had not known that death had undone so many*, 1976
Published by Talfourd Press, London, England
Printed by Nick Tite, London, England
Etching on wove paper
Edition 15/110
Gift of Dr. Mavin A. Sackner
1980.100.5.7, 1980.100.5.9

11. R.B. Kitaj
Born in Cleveland, Ohio, 1932 – 2007
Hanging in Chains from the portfolio *In Our Time: Covers for a Small Library After the Life for the Most Part*, 1969
Published by Marlborough AG, Schellenberg, Florida
Printed by Kelpra Studio, London, England
Screenprint on paper
Edition 61/150
Gift of Robert Anthoine
1999.7.1.FF
12. Margaret M. Law
American, 1871 – 1958
The Roadmenders, 20th century
Etching on paper
Gift of the Southern States Art League
1985.24.1
13. Marianne Manasse
Born in Breslau, Germany, 1911 – 1984
Farm Workers on the Back of a Truck, 20th century
Oil on Masonite
Gift of Mr. and Mrs. Jan G. Milner
1997.3.1
14. Honoré Daumier
French, 1808 – 1879
Un logement provisoire (A Temporary Lodging) from the series *Locataires et Propriétaires* (Tenants and Landlords), 1854
Lithograph on newsprint
Bequest of Sara Lichtenstein, in memory of her parents, Joseph and Esther Lichtenstein
1977.59.57
15. Auguste-Lucien Bognard
Born in Paris, France, 1900 – 1990
Two People Sleeping on the Street, 1930
Wash, brush, and crayon on paper
Museum purchase
1968.3.1

16. George Bellows
American, 1882 – 1925
Benediction in Georgia, c. 1915
Pencil on paper
Gift of Mr. and Mrs. Harry L. Dalton
1976.46.1
17. Leonid Lamm
Born in Moscow, Russia, 1928, active in the United States since 1982
Chief-Guard from the series *Illustrations to the notes from THE HOUSE OF DEATH* by F. Dostoevsky, 1978 – 1981
Tempera, pencil, and India ink on paper
Gift of Dr. Boris Lipovsky
1995.13.5.2
18. Leonid Lamm
Born in Moscow, Russia, 1928, active in the United States since 1982
Inmate Orloff from the series *Illustrations to the notes from THE HOUSE OF DEATH* by F. Dostoevsky, 1978 – 1981
Tempera, pencil, and India ink on paper
Gift of Dr. Boris Lipovsky
1995.13.5.4
19. Leonid Lamm
Born in Moscow, Russia, 1928, active in the United States since 1982
A Well-Guarded Hospital from the series *Illustrations to the notes from THE HOUSE OF DEATH* by F. Dostoevsky, 1978 – 1981
Tempera, pencil, and India ink on paper
Gift of Dr. Boris Lipovsky
1995.13.5.12
20. Samuel Norbert Reese
Birth place unknown (American), 1934 – 1990
Cell with Mirror, 1973
Linocut on paper
Edition 6/14
Museum purchase
1974.15.5

21. Samuel Norbert Reese
Birth place unknown (American), 1934 – 1990
Daybreak, 1974
Linocut on paper
Edition 1/12
Museum purchase
1974.15.1
22. Samuel Norbert Reese
Birth place unknown (American), 1934 – 1990
Prison Corridor, 1970
Linocut on paper
Edition 1/14
Museum purchase
1974.15.2
23. Samuel Norbert Reese
Birth place unknown (American), 1934 – 1990
Winter Moon, 1971
Linocut on paper
Edition 1/12
Museum purchase
1974.15.3
24. Samuel Norbert Reese
Birth place unknown (American), 1934 – 1990
On the Yard, 1969
Linocut on paper
Edition 3/14
Museum purchase
1974.15.4