

May 13, 2013, Washington, D.C.

Letter from America (#2) by Chris Innes<sup>1</sup>

### **How Many Tragic Ironies Are Too Many?**

On March 19, 2013, Tom Clements, the affable and compassionate Director of the Colorado Department of Corrections was assassinated at the front door of his home. In a statement to the Department staff the day after Clements was killed, Colorado Governor John Hickenlooper said of him, “He was unfailingly kind and thoughtful, and sought the ‘good’ in any situation. As you all know, in corrections that is not easy...I am so sad. I have never worked with a better person than Tom...”<sup>2</sup>. A couple of months before his death, Tom had run into Frank Bruni, a journalist who writes a blog for the New York Times, in a Colorado diner and struck up a conversation<sup>3</sup>. Of him, Bruni wrote shortly after his death, “...Clements knew his business, cared about it and was someone to whom we owed a debt of gratitude. He wanted us safe. And in the service of that, he worked in a byway of the government that a great many of us pay insufficient heed to”.

During his conversation with Bruni, Clements talked mostly about “administrative segregation,” the high security units that most American prisons have and use to isolate from the general inmate population people who are especially difficult to manage, even in a prison setting. Clements told Bruni that he believed administrative segregation was overused, and unwisely so, because it is an easy (but by no means cheap) way to deal with difficult inmates who are repeatedly disruptive. For his article, Bruni also interviewed Governor Hickenlooper, who he described as “...one of Clements’ biggest fans,” and who said that Clements had been working toward a “transformation within the culture of the entire prison system away from solitary confinement into actual preparation for reentry into society.” During his two-year tenure as Director in Colorado, Clements had reduced the number of inmates in administrative segregation by 50 percent.

The last conversation I had with Tom Clements was in Houston, Texas, a few weeks before he was killed. We were both attending the semi-annual, combined meetings of Association of State Correctional Administrators and the American Correctional Association. The major topic at both meetings was the issue of the use, and sometimes the abuse, of administrative segregation as a way of managing troublesome inmates. Clements played a central role in those meetings as an articulate, reasoned, and principled voice in the discussions and formal presentations<sup>4</sup>. Colorado had also been involved in a very ambitious attempt to transform its community corrections operations that had, Tom admitted, failed. I was especially interesting in talking to Tom about the work underway in creating Healing Environments and using Dialogue Practices to make that work. Although he was busy preparing for a presentation that afternoon, he took the time to talk about my ideas. When I described the pitfalls of trying to transform an organization without engaging all staff to lay

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the foundation for changes and how it so often led to failure, he told me, "That's what happened to us". We agreed to continue the conversation about working together on a Healing Environment initiative on Colorado and wished each other safe travels back home. That was January 28<sup>th</sup>, 2013.

On that very same day, Evan Ebel, age 28, was released on mandatory parole from custody after serving an eight-year sentence for robbery and assault. Ebel had also been involved in a white supremacist prison gang called the 211 Crew<sup>5</sup>. He had spent most of the last several years in administrative segregation and was released directly from there "to the street". Ebel is suspected of having first killed Nathan Leon, a father of three who worked weekends delivering pizzas, on March 17 in order to get his Domino's Pizza Jacket. Two days later, he is suspected of being the person who shot and killed Clements, who may have thought he was opening his door to a lost pizza delivery man. Ebel himself died in a shootout with police in Texas three days later. When Ebel was pulled over in Texas, he first shot and wounded the police officer, then led other officers on Hollywood-style chase in which he peppered them with shots before he crashed his car and emerged from the wreck, shooting. Media reports quoted Decatur Police Chief Rex Hoskins, who intoned, "He wasn't planning on being taken alive."

As it later turned out, Evan Ebel was not even supposed to be on the streets. He had been released four years too early because a 2007 addition to his sentence for assaulting a correctional officer had not been properly recorded. And, as a convicted felon he was not supposed to have a gun either, but a suburban Denver woman was subsequently arrested for allegedly buying one legally then giving it to him<sup>6</sup>. During all this time, Ebel was also under strict parole supervision, including daily check-ins and electronic monitoring. He had been compliant with the conditions of his parole from the day he was released up until March 14. On that day, his ankle bracelet sent a tamper alert and he stopped checking in. On March 17<sup>th</sup>, the day Nathan Leon was found dead, a parole officer visited Ebel's residence and decided he had absconded. A warrant was issued for his arrest on March 20, one day after Tom Clements was shot and the day before Ebel was killed by police in Texas<sup>7</sup>.

Evan Ebel did not have the history most would associate with a career criminal<sup>8</sup>. The son of a Denver oil and gas lawyer, he grew up in a middle class suburb. When he started engaging in threatening and violent behavior as a teen, his parents sent him to special camps in Utah, Jamaica, and Samoa for children with behavioral problems. His mother once wrote about him, "Some people may blame us for what has happened to Evan. I can only say that his dad and I had to make hard decisions when he was younger hoping to avoid where he is now." His father, Jack Ebel, once testified before a legislative committee hearing on administrative segregation and said then, "He'll rant a little bit. He'll stammer. He'll be frustrated that he can't find the words. And I let him get it out, and eventually, because I'm his father, he will talk to me".

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One of Clements signature initiatives was to develop step-down units to ease the transition of inmates who had spent long periods of time in administrative segregation back to the general prison population or into the community.

Evan Ebel was just as concerned as Tom Clements about what would happen to him if he were released directly from segregation. "Do you have an obligation to the public to acclimatize 'dangerous' inmates to being around other human beings prior to releasing them into society after they have spent years in solitary confinement and if not why?" Ebel asked in one of the many grievances he had filed while in custody. Clements had asked a similar question during an interview in 2012, saying, "You have to ask yourself the question – How does holding inmates in administrative segregation and then putting them out on a bus into the public, [how does that] square up?...We have to think about how what we do in prisons impacts the community when [prisoners] leave. It's not just about running the prison safely and securely"<sup>9</sup>.

What is our answer to these questions? The Colorado system was operating normally, even well by most standards. Evan Ebel was one of about 800 people being released each month from the system and he was being monitored closely. As an inmate, Ebel had been difficult to work with. He was associated with a gang, had a history of assaulting staff, and was disruptive. Tom Clements was doing the right thing and for the right reasons. Many things could have changed the course of events and stopped Evan Ebel; if the programs he had been sent to as a teenager had worked; his sentence computation had been done right; if a step-down program had been available; if he had not been able to get a gun; if the tamper alert on his electronic monitoring bracelet had been responded to more quickly; even if there were better ways to deal with difficult inmates, or the attempts to change the way parole was done in Colorado been more successful. But both men are dead.

When we stop and think about how our society could respond to the Evan Ebels in our world, is there anything that comes to mind that we have not already tried with mixed results? Each of these tragic ironies begs the larger question of what we can really do with people who we do not know what to do with. Even those who advocate against mass incarceration and propose dramatic cuts in prison populations, acknowledge that some people will still be imprisoned. In the United States, a 50 percent reduction in the number of prisoners would still leave hundreds of thousands of people incarcerated. Who will be left when all of the people who, "should not be in prison" are gone and only the people who, "*should* be in prison" remain? The end of mass incarceration, when it comes, will create a future for imprisonment vastly different from the one we now know.

Whatever form the future takes, corrections professionals can and should prepare ourselves for a much different role. This is not because we have failed, we may have succeeded too well, but because the time has come to redefine

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our mission and remake ourselves in the service of a new vision. What we were called upon to do during a period of rising crime rates and an expanding system, is not what we must do in an era of falling crime rates and system contraction. To meet this challenge, something more is needed than tweaking sentencing laws (but not making the changes retroactive), slightly adjusting good time or earned time, yet another behavior change or resettlement program, or ever more refined techniques to “manage offenders more effectively”.

Instead, corrections must transform its culture from the inside out and, in so doing, change the dynamic of the criminal justice system and our culture. To do that, corrections must heal itself and in the process become both a healing profession and a healing force in society. Transforming correctional cultures will mean fundamentally changing how people in corrections talk and think together. There is no better way I know of to do that than by the use of Dialogue at every level of every organization. Out of this process, an environment develops within correctional facilities and community corrections agencies that generates a different future for all of those who work for and live within corrections.

This future would be defined not by endless tragic ironies piled one upon another, but by the vision of people like Tom Clements, who saw so clearly that we must stop our easy (but by no means cheap) ways of responding to people like Evan Ebel.

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<sup>2</sup>Text of Hickenlooper's letter to DOC on killing of Tom Clements, *The Denver Post* *The Denver Post*, retrieved March 22, 2013 from; [http://www.denverpost.com/breakingnews/ci\\_22830292/text-hickenlooper-doc-killing-tom-clements?source=pkg](http://www.denverpost.com/breakingnews/ci_22830292/text-hickenlooper-doc-killing-tom-clements?source=pkg)

<sup>3</sup> Bruni, F. (2013), “Redemption’s Advocate”, retrieved March 22, 2013 from; <http://bruni.blogs.nytimes.com/2013/03/21/redemptions-advocate/>.

<sup>4</sup> The Colorado Department of Corrections had actually conducted a very well designed study of the effects on inmates of confinement in segregation that found more inmates showed improvements in their level of functions that had adverse effects (20% versus 7%) and that most remained stable during their confinement. See O’Keefe, M., Klebe, K., Stucker, A., Sturm, K., and Leggett, W. (2010). *One year longitudinal study of the psychological effects of administrative segregation*. Colorado Springs, CO: Colorado Department of Corrections. ( For full report, see [http://www.doc.state.co.us/sites/default/files/opa/AdSegReport\\_2010.pdf](http://www.doc.state.co.us/sites/default/files/opa/AdSegReport_2010.pdf)); Metzner J., and O’Keefe, M. (2011), “Psychological effects of administrative segregation: The

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Colorado study”, *Corrections Mental Health Report*, 13, 1-2, 13-14. Also see Grassian, S. (2010). “Fatal flaws in the Colorado solitary confinement study” at; <http://solitarywatch.com/2010/11/15/fatal-flaws-in-the-colorado-solitary-confinementstudy/>

<sup>5</sup> Ebel’s association with 211 Crew and led to speculation that he had carried out the murder on orders from gang leaders. For a time, he was also suspected of having been involved in the assassinations of two county prosecutors in Texas who had prosecuted members of a different white supremacist gang. The Texas murders were soon found to have nothing to do with the gang prosecutions, although the involvement of the 211 Crew continued to be investigated.

<sup>6</sup> The day after Clements death, Governor Hickenlooper signed into law new gun control legislation designed to expand background checks on gun purchases make such “straw” purchases harder. The legislation had been in the works since a number of mass shootings had occurred, including one at an Aurora, Colorado theater in 2012 that killed 12 people and left 58 others injured. See: DeLuca, M, (2013), “Colorado Gov. Hickenlooper signs landmark gun-control bills”, NBC News. Retrived May 2, 2013 from <http://usnews.nbcnews.com/news/2013/03/20/17387348-colorado-gov-hickenlooper-signs-landmark-gun-control-bills?lite>; Brown, J, (2012). "12 shot dead, 58 wounded in Aurora movie theater during Batman premier", *The Denver Post*. Retrieved May 2, 2013 from: [http://www.denverpost.com/news/ci\\_21124893/12-shot-dead-58-wounded-aurora-movie-theater](http://www.denverpost.com/news/ci_21124893/12-shot-dead-58-wounded-aurora-movie-theater).

<sup>7</sup> Sandell, C, (2013), “Evan Ebel's Ankle Bracelet Failed Days Before Colorado Killings”, *ABC News*. Retrived May 2, 2013 from <http://abcnews.go.com/US/evan-ebels-ankle-bracelet-failed-days-colorado-killings/story?id=18865250>

<sup>8</sup> Banda, P. S. and RICCARDI, N. (2013, “From a young age, no one could tame Evan Ebel,” *Associated Press*, Retrieved March 28, 2013 from, <http://news.yahoo.com/young-age-no-one-could-tame-evan-ebel-081218146.html>

<sup>9</sup> Both quotes, as well as the one from the Decatur Police Chief come from, Greene, S. (2013), “Evan Ebel, Suspect in Tom Clements Murder, Was Concerned About Transition Back Into Society,” *The Colorado Independent*, April 28, 2013, Retrieved May 1, 2013 from <http://coloradoindependent.com/127596/clements-murder-suspect-ebel-was-anxious-about-walking-free-documents-show>