

360 DEGREES: PERSPECTIVES ON THE U.S. CRIMINAL JUSTICE SYSTEM Documentary, Method & the Law

By Ashley Hunt

Formerly, architects were mainly concerned with solving the problem of how to make the spectacle of an event, an action, of a single individual accessible to the greatest possible number of people...Currently, the fundamental problem confronting modern architecture is the opposite. What is wanted is to arrange that the greatest possible number of persons is offered as a spectacle to a single individual charged with their surveillance.

Nicolaus Heinrich Julius, *Lessons on the Prisons* (1828)

[The prison conveys] "This is what society is. You can't criticize me since I only do what you do every day...So I am innocent. I'm only the expression of a social consensus."

Michel Foucault, "Truth and Juridical Forms"¹

WHAT CAN DOCUMENTARY HAVE TO DO WITH CRIMINAL JUSTICE?

Much has been made of the 360 DEGREES website previously, as an innovative example of new documentary that exploits emerging technology while telling the stories of a range of U.S. prisoners. But aside from its ability to show what a documentary might look like on the web or how much it might captivate viewers with portraits of individuals, how does it succeed in relation to its avowed purpose: by making visible the condition of *over-incarceration* in the U.S. today, *to stimulate, through the use of media, social change?* And in order to frame that question, I will present another to which we'll return throughout this article: *what does documentary have to do with (criminal) justice?*

This last question will color our insights into the 360 DEGREES website, but moreover, enable us to move outward from its example; to agitate our assumptions and expectations of documentary, documentary forms, and question what type of knowledge they give us; not only in what they convey but how they *demand* us as viewers. And by comparing the methods that both documentary and criminal prosecution use to organize their subjects and their claims to "truth" — identification, examination, interpreting the relationships between "individuals" and "systems" — how then can documentary intervene in a system like criminal justice? Can it distinguish itself from the varied and dispersed technologies of the criminal justice system? Does documentary merely reflect or can it *take place*, be an action?

Today's cable television and "reality-based" programs make it abundantly clear that documentary is not simply "non-fiction film." The main engine of this new body of non-fiction work features our society's favorite spectacle: the spectacle of criminal justice, the exercise of the authority of law. But this is only 'new' to television, as shows like COPS are part of a long lineage of spectacles that convert criminal justice functions into spectacle in order to extend legitimacy and social control further into society, and only recently have they begun to look like documentaries.

I would argue that 360 DEGREES marks an important departure from the bulk of such work, distinguishing itself as documentary not because of its formal appearance or its non-fiction content, but because of its methodology: the *methods* it employs for generating and organizing its content into a representation of the world, one that claims knowledge of the world. The internet allowed 360 DEGREES to employ formal strategies which challenge that methodology. Its architecture privileges space over time in a way that demands a different kind of viewer and privileges context over characters so as to present a more complex, constructed and ultimately *changeable* face of the reality it claims to represent.

SITE

360 DEGREES: PERSPECTIVES OF THE U.S. CRIMINAL JUSTICE SYSTEM is a web-based documentary project that, in its critique of the U.S. Criminal Justice System, points us as well to our fundamental understandings of what documentary is. Created by artists Alison Cornyn and Sue Johnson, co-directors of Picture Projects in New York, the website works through a combination of informational approaches.

Officially released in January 2001, the response to the project has been successful and

varied, from both documentary communities to criminal justice communities, experts and students. They have tried hard to work it into actual grassroots and activism work and are continually developing it further — adding new portraits of prisoners, posting new information, studies, and developing new types of interactions.

The project was inspired by the 1997 book, *The Real War on Crime*,² which revealed the growing contradictions between the realities of prison, crime and criminal justice and their representations by government and the media. Wanting to counter such misrepresentation, the website addresses a state of massive incarceration in the U.S., an unprecedented period of growth (700%) over the past thirty years, and aims to clarify the public perception that has both produced it and has been induced to support it.

Cornyn comes from a background in interdisciplinary art practice and Johnson from documentary photography. Having met during their graduate studies in New York University's Interactive Telecommunications Program, this is the third in a body of successful on-line documentaries addressing issues of social and political justice.

Johnson and Cornyn highlight a few qualities of the internet which were instrumental for such a counter-representation, primarily those of *networking* and *feedback*, as they've tried to formulate their representation within what they call a "transactional space." They also emphasize the web's potential for a non-hierarchical organization of information, which they exploit through the website's architecture.

Largely, this latter is due to the *spatial* organization of the web, as opposed to the *temporal* organization of cinema.³ As well, it allows their project to appear more than a simple lens onto reality, addressing instead a wide range of information and knowledge that together produce and seduce public opinion.

For within documentary, as in all representations, meaning is always contingent upon a broader field of media and information that exists outside of itself — rich in struggle, mediations and influence, including the viewer's own position and interpretation. Unquestioned, this field is reinforced, appears self-evident, natural or invisible. This problem is acute within the current bulk of work addressing criminal justice, which, as common to the fields of criminal justice and law, fascinates itself with spectacle and polemics of guilt and innocence, virtue and vice, legal and illegal; but rarely do they question the construction and politics of such concepts as law, justice or criminality — which will ultimately determine all of our outcomes.

METHOD: SPACE & INTERACTIVITY

Spatial Architecture: Resisting Polemics

The space of a polemic often leaves this broader field of information ignored, repressed or oversimplified. Much as the lens of a camera can hide what lies just outside of its frame as if it had never been there — including the presence and choices of the photographer — the polemic limits our possibilities to the narrow discursive pathway between its two poles. A polemic can serve as a strategy, an entry point or example; and although traditional structures of storytelling often rely upon them — orchestrating conflict between characters, choices and events — an object that claims knowledge of reality such as documentary, has a responsibility to exceed the limits of its own frame or individual "story."

360 DEGREES resists dwelling within this type of polemic through its own structural innovation, by exploiting the spatial qualities of the internet and bringing a challenge to our general sense of documentary form (cinematic).

The website is divided into five main sections: *Stories*, *Dynamic Data*, *Timeline*, *Resources* and *Dialogue*. This form incorporates the visitor into a different time-space than cinema: one of *juxtaposition* rather than montage, of *interface* rather than exposition, of *user* rather than viewer; the narrative 'becoming' rather than 'being,' tracing out a map of the user's own interaction and navigation rather than strict identification—conflict—resolution.

Each section provides different information, builds upon that of the other spaces and encourages different interaction; no one section appears comprehensive or complete by itself.

Often, the primary attention paid to the project focuses on one of its five main sections, the *Stories* section. Because it presents portraits of people, the Stories section comes closest to what we generally think of as documentary: portraits, comprised of audio interviews with prisoners, victims, family members and prison workers, accompanied by images of the spaces the interviewees occupy

daily. But we must not mistaken this section to be the “documentary part” of the site, as if the other sections were merely support for it, like footnotes or appendices that may matter or not.

Instead, Cornyn acknowledges that the stories are in part an entry point to the rest of the site for those who might otherwise not be interested. Similarly, I would argue that the remaining sections and the structure that holds them in tension give the site its true strength, the depth of its representation and its character as documentary.

The *Timeline* section is a history of criminal justice systems and the prison in western culture, reaching back to the seventh century, AD. With paragraph-long essays and thumbnail size images of period illustrations, paintings or photographs which can be moved between interactively. Its construction and mere presence reveal what the logic of criminal justice and law try most desperately to conceal: that they are constructed, not natural; that they are rooted in questions of power, class struggle and identity (racial difference).

The *Dynamic Data* section brings the visitor’s own “self” further into the site, allowing them to plug their own statistics into quizzes and their opinions into questionnaires. “Have you ever committed a felony or a misdemeanor: Find out if you’re a criminal”; “What’s your theory: Why do people break the law? How should we punish them?” Although the latter two questions already make “punishment” and the “law” seem natural and maintain the “us and them” opposition upon which criminal justice thrives, facilitating such responses from the viewer can still shift that viewer’s relationship to the material actively.

The *Resources* section grows the information of the site out into the world, offering connections and hyperlinks to other websites, reference materials and archived radio shows, a corresponding teaching curriculum and a glossary of criminal justice terms. It is currently being enhanced to include a database of organizations doing criminal justice and prison work, as well as chartings of recent prison related census data.

The *Dialogue* section is considered by Cornyn to be the site’s most important part. A virtual-forum, facilitating discussion and debate between visitors, it performs that space in society where public opinion is formed. It includes an on-line panel discussion between criminal justice experts, a chat-based forum for all visitors, and a third element, the Social Action Network. The Social Action Network has so far featured a four way, on-line conversation which took place over two months, between college and GED students, community residents, gang members, and former prisoners to discuss and critique the state of the U.S. criminal justice system today and its impacts on communities and lives, both inside and outside the prison.

It is spatially, across these varied sections that a complex understanding is built, defying simplistic reductions, resisting stereotypes and challenging pre-conceived ideas.

From Viewer to Participant, from Story to Discourse

Spatial organization and interactivity exploit one of the main potentials of the internet and documentary alike: to *activate* the viewer and convert them into a participant, a “user.” The project can avoid simply presenting a document of the world that washes over its viewers, presenting instead, a *discourse* to which they too are a part.

This strategy exceeds the demands of typical non-fiction storytelling, of “narrativizing reality.” Merely narrativizing the appearances that cameras and microphones capture can limit the story’s meaning to the individual instances which appear before that frame, often leaving them beholden to our typical expectations and interpretations. Activating the viewer and framing stories as part of a larger discourse, as *one way* of knowing among others requires interpretation, allows information to escape being codified by the strict confines of narrative events, where they might be subordinated to the demands of storytelling.

STORY AGAINST THE ARCHIVE

Knowledge is always the historical and circumstantial result of conditions outside the domain of knowledge...Knowledge is always a misconstruction.

Michel Foucault, *Truth and Juridical Forms*

While it’s important not to focus on the *Stories* section as central or primary to the site, it is useful to

consider how the stories are set against the rest of the site in order to think more deeply about method. As with polemics, how does the *individual story* relate to what is outside the frame of that immediate representation? And what does the form of the individual story have to do with documentary and criminal justice alike? One way to approach this relationship might be to consider the stories as examples of individual experience set against an “archive.”

We typically consider archives to be a physical store of information or knowledge — historical documents, artifacts, scholarly work, letters, papers, images — upon which the meaning of the events and cultural forms of today are based. Yet we can also consider an archive to be that range of information, assumptions, images and impressions that is our personal knowledge, which influences us from outside the immediate “frame” of a representation, whether their presence is acknowledged or forgotten, visible to us or hidden, conscious or unconscious.

If the purpose of a project is to create a counter-representation — one which is trying to present a critical knowledge that is typically unavailable, in hopes that it will stimulate social change — then are stories constructed to confirm, contradict or reveal that archive? Do they remain within the logic of that archive or can they step outside it? What will our method be and how do we engage that archive?

The Stories

Each story in 360 DEGREES functions as a portrait of one prisoner, presenting an interview with the given prisoner and four or five people who surround them in their life and punishment.

The most recent portrait they’ve added is of Ronald Frye, a man executed by the State of North Carolina on August 31st, 2001. Frye’s portrait contains his own interview, surrounded by interviews with his brother, his defense attorney, the sister of his victim, the warden of the prison that houses North Carolina’s death row, and another prisoner of that same death row.

The interviews are not integrated or montaged together but exist in simple juxtaposition: upon entering a subject’s portrait, the viewer is presented a small constellation of icons — circular thumbnail photos of each interviewee arranged in a larger circle. These thumbnails are the only images you will see of the subjects.

When you click on a face, their thumbnail floats to the middle of the circle and their audio interview begins, accompanied by a QuickTime VR⁴ of their daily space: a prison cell, an attorney’s office, a living room, a warden’s office, etcetera. Although they use the stories of individual people for a traditional reason — to create an identification between the viewer and the character represented — Cornyn insists they intend to be deliberately non-sensational, unlike the bulk of reality TV work, attempting to foster what she terms an “ethical identification.”

Johnson and Cornyn selected subjects who could paint a complex image of prison, wanting to interview all that occupy that space and are affected by it. Therefore, they create an ethical space for subjects to speak from, while letting contradictions between them emerge: primarily that of a citizen of a “free society” being denied their freedom, and the contradictions which then inevitably ripple outward into the personal relations which surround them.

But while such intense contradiction is the stuff great stories are made of, the authors knew better than to simply exploit them for entertainment value. Confronted with contradiction alone, we might remain distracted by these individuals, by their tragedy, folly or impossibility, the seeming inevitability of these contradictions, and not consider the social and political forces at work or, importantly, *a possibility of things being otherwise*. In such cases, that which is a problem of social and political systems becomes *individualized*: a matter of contradictions between individual subjects and their good or bad personal choices. We may think the range of voices gives us enough complexity to derive informed opinions, but ultimately we remain locked inside the prison. We may be entertained, saddened, compassionate and angered even, but politically, we become indifferent and resign ourselves to ambivalence, unable to act.

Ironically, this individualization of systemic social problems is common to much social-issue based documentary today, especially work on criminal justice which intends to be progressive. It is here we will return to our initial question, *what has documentary to do with criminal justice?*

Stories, Testimony and Law

If we ask the question, “how does a documentary come to know its subjects?” we see that it relies largely on a journalistic model: a perceived objectivity, evidence, and testimony. Importantly, we can also recognize an affinity between this documentary model and the model of a trial and criminal prosecution.

Both assuming recourse to an idea of “truth,” they call upon testimony: the testimony of the suspect, the victim and eye-witnesses as primary evidence (in journalistic terms, *primary sources*); the testimony of family, friends, co-workers or experts as character witnesses (*secondary sources*); all to support the prosecutor’s case (*story* or *thesis*). The similarity between these models reveals a fine line between narrative identification and the state’s administering of criminal justice: its own methods of “identification.”

In considering documentary’s claim to truth however, we remember that the trial is not by itself a means to achieve “justice.” The trial is merely a procedure, an act of interpretation, contingent upon a previously established body of knowledge — an archive of philosophies and beliefs about individual and collective rights, the role of the state, and who will be the arbiters of justice. It is interpreted by a judge, who, like the viewer of documentary, interprets between the evidence allowed, their knowledge of the law and their own biases. In extreme cases we can focus on the validity or logic of a single statute or legal code, but the archive remains locked away, seemingly manifest in the word of the law which maintains that it is self-evident, natural and unquestionable. We can identify the accused, we can identify the victim, we can identify the judge. But systems of power cannot be uttered; we have only the individual to examine.

Certainly, the documentary which does not break the limits of this same discourse of individualization, repressing what we are calling here “the archive” — this *method* of examining individuals and reifying the law as merely objective, a given — can find itself an extension of the criminal justice system rather than struggling to make it accountable, democratic or to change it.

For an example, we can turn to today’s context, where prisons are surging with individuals whose individual punishment stands in as proxy for attending to and resolving our larger, systemic social and political contradictions, wherein the courtroom and the spectacle of the media perform symbiotically. The War on Crime, the War on Drugs, the War on Immigrants as we know them today are each media-driven political movements that perform precisely this individualization of social problems — whether blaming addicts for the conditions that create mass addiction, blaming thieves for their need to steal or the immigrant for bankrupt public education and health systems. And even when instances of police brutality or murder are exposed, we see their very departments sacrifice those one or two “bad apple” cops who’ve gotten caught, accompanied by a vigorous and indignant denial of any systemic conditions or contradictions.

We are presented with a hallow cast of politicized media-icons, appearances to blame as the “bad people” from whom bad things come. Any critical knowledge of systems is denied, and our social, political and economic contradictions are freed from any culpability and responsibility. No matter how progressive a documentary intends to be, if it does not exceed such methodological confinement it may simply reproduce and reinforce this state of affairs.

Archive

It is this underlying discourse, the archive of a given subject of representation, which we must have available to us and which is the burden of documentary. And if the challenge is to avoid this process of individualization which is both a problem of journalism and of criminal justice alike, then documentary must challenge and struggle with the archive itself.

To further understand the relation of the archive to the law, and its representation in documentary, we’ll detour briefly to the introduction of a 1994 lecture by Jacques Derrida,⁵ where he begins by excavating the word *archive* itself (“the *archive* of the archive”, he states).

Derrida points out that the word’s root, *arkhé*, means at once “commencement” and “commandment.” While commencement has the connotation of origin, a “natural” emergence or the *ontological*, commandment connotes the law, the *nomological*, the power to interpret and name.

Why confuse the *natural* with the *named* (constructed)?

He traces this word to its Greek root, *arkheion*, which means a house, “...the residence of the superior magistrates, the *archons*, those who commanded.” He continues, “The citizens who thus held and signified political power were considered to possess the right to make or to represent the law...It is at their home, in that *place* which is their house...that official documents are filed...They are ensured hermeneutic right and competence. *They have the power to interpret the archives.*” (italics added)

We see here that the archives have to do with the power of interpretation, moving from the documents of history and culture into the word of law. This confusion of the natural and the named intends to *naturalize the law*, to keep the interpreted from seeming interpreted; eliminating

contradiction, questioning, or the suggestion of other possibilities. In short, it enables power to force an interpretation of the world which makes their own authority appear legitimate, and anyone else's power illegitimate.

This understanding of the archive, interpretation and its relationship to power is essential to documentary. Especially in its relationship to work on criminal justice, it has great implications for how *documentary sees itself*; note that Derrida continues, "It is thus, in this *domiciliation*, in this house arrest, that archives *take place*."

Why does he say "archives *take place*" instead of "archives *are kept*"? While the pieces of the archives exist materially fixed, there is not an objective meaning to the archive — accessing them is always and only an act of interpretation. Documentary too takes place and interprets, intentionally or accidentally accessing archives all along.

In other words, if we were to say that representation is an act that stands at the mouth of Plato's cave and interprets for the others the shadows they see playing upon the wall, then documentary must strive not to simply interpret the shadows, but bring the others to the mouth of the cave — to get the hell out of the cave.

What Cornyn and Johnson bring to a knowledge of the U.S. criminal justice system through 360 DEGREES can certainly work toward this goal, by activating the viewer into a participant, not just in the project itself but in politics. It is essential that knowledge not only be offered to us, but that we gain a more critical and active sense of how to interpret that knowledge for ourselves, in relation to ourselves, in a way which allows us and requires us to act.

360 DEGREES

If we look at the choice of names, "360 DEGREES" could mean a few things, and Cornyn and Johnson don't insist on any particular one.

The most obvious reference is to the QuickTime VR technology which provides the formal motif of the Stories section — the interactive, 360 degree, photographic panoramas of various spaces, which the viewer can move through with their computer mouse. It could also reveal an unspoken desire for the project to affect a "360 degree turn" in the policies which have generated the U.S. prison boom, ending its condition of massive incarceration. Some also say it recalls the physical view from the central tower of Jeremy Bentham's Panopticon⁶ model of architecture, its circularity mirrored within the QuickTime VR's.

But perhaps Bentham's Panopticon can be applied less literally if we look back at the quote by Nicolaus Heinrich Julius which begins this article, whose own work anticipated Bentham's model. He describes that the function of modern architecture is "...to arrange that the greatest possible number of persons is offered as a spectacle to a single individual charged with their surveillance." Let us reverse this statement, whereas 360 DEGREES can contribute to a model which makes the "greatest amount of the criminal justice system and its archive available to the greatest number of people in charge with the surveillance of that system."

This would require critical representations constructed by artists and activists free of personal or institutional investment in such systems, equipped with a knowledge of history and a healthy skepticism. It would require the implementing of incentives for all citizens participate actively, urgently and meaningfully, and bring us closer to a more complex understanding of the relationship between systems and individuals.

In the end, an assessment of a project like 360 DEGREES that a reviewer would expect to give could only fall short. What I have attempted here is more of a critical engagement with the site, working outward from it. The possibilities I've played with from the 360 DEGREES: PERSPECTIVES OF THE U.S. CRIMINAL JUSTICE SYSTEM website are not of course limited to works which deal with the historical or with archival material, nor to projects which deal with criminal justice, which are documentary or base themselves on the internet. It is a way of thinking for documentarians, storytellers and audiences alike; a method of approach to any subject, re-presented through any medium. The archive not need always appear overtly, so long we don't forget that it is there.

¹ Michel Foucault, "Truth and Juridical Forms", A series of lectures originally given at the Pontifical Catholic University of Rio de Janeiro, 1973, published in *Power: Vol. 3 of The Essential Works of Michel Foucault* (The New Press, 2000)

² Steven Donziger Ed., *The Real War on Crime* (Harper Perennial, 1996)

³ This is not to suggest that cinema is not also spatial and the internet is not also temporal, but to emphasize the dominant structural logic of each.

⁴ A QuickTime VR is an interactive photograph, a 360 degree panorama of a given space which a viewer can interact with, panning throughout it in a circular motion. For instance, if first shown the wall of a room, the viewer can then click in the image with their mouse and "spin" the room around them, a full 360 degrees, as if they were standing in the room themselves and turning.

⁵ Jacques Derrida, *Archive Fever: A Freudian Impression* (Johns Hopkins Press, 1995)

⁶ Jeremy Bentham's Panopticon model of architecture featured well lit prison cells, arranged in a circle around a central surveillance tower, from which every cell was entirely visible, but into which no inhabitant of any cell could see. The logic was that the prisoners wouldn't know when they were or weren't being watched, and would effectively police themselves at all times. Although rarely implemented in prison architecture, this model was more commonly applied to schools and factories. The formal circularity of the model is less important for us than the desire for total surveillance and a complete and efficient rationalization of every aspect of operation, both in terms of architecture and labor. See Michel Foucault's *Discipline and Punish: The Birth of the Prison* (Vintage Books, 1977), and Jacques Alain Miller, "Jeremy Bentham's Panoptic Device", *October 41* (MIT Press, 1987).