

# THE MOVEMENT

SPRING 2013

Issue #18

The Official Newsletter of the  
Human Rights Coalition for the union of  
Prisoners' Families

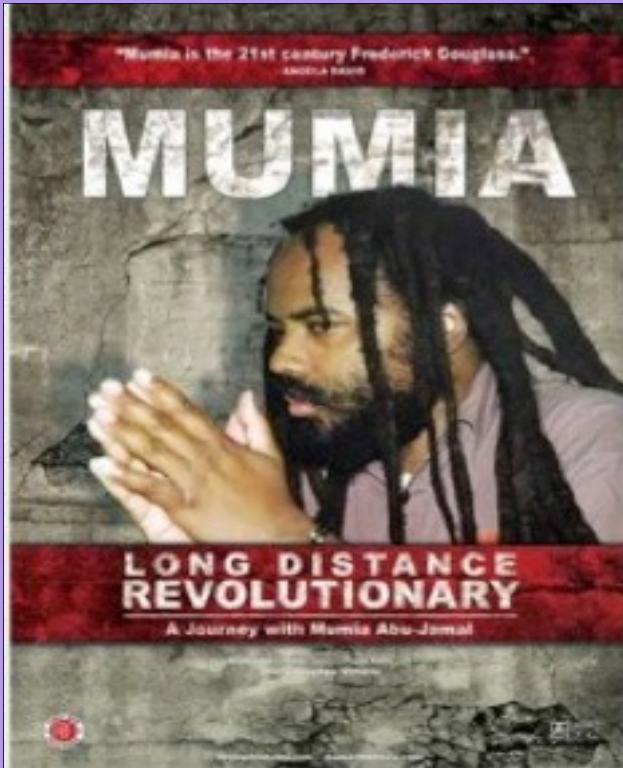
**Human Rights Coalition**  
**Dedicated to Protecting the**  
**HUMAN RIGHTS of All!**



## US Immigrants treated cold as ICE

See Human Rights Report beginning on page 23

**Norwegian prison treats convicts like  
people, see page 39**



## **NEWARK & PHILLY Here Comes Mumia**

**Newark opens April 26**  
(ticket link coming soon)

**Philly opens May 3**  
**Landmark Ritz at the Bourse**

**Santa Monica, March 16**  
**Monica 4-Plex**

**COMING TO EUROPE THIS SPRING**

Before he was convicted of murdering a policeman in 1981 and sentenced to die, Mumia Abu-Jamal was a gifted journalist and brilliant writer. Now after more than 30 years in prison and despite attempts to silence him, Mumia is not only still alive but continuing to report, educate, provoke and inspire. The film features the voices of Cornell West, James Cone, Dick Gregory, Angela Davis, Alice Walker, and others. In the film, Dick Gregory says that Abu-Jamal has single-handedly brought "dignity to the hole death row."

Go to: <http://www.mumia-themovie.com/>

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# From The Desk of The Editor

*Welcome to The Movement,*

*Since the re-election of President Barack Hussein Obama to the White House, I have observed his gearing up to introduce an Immigration Reform bill to congress for its enactment into statutory law, but what says he of the mass incarceration—pardon me, mass “detention”—of immigrants? Not a word. Nada!*

*Why is that, one may ask? It is because from the beginning it has been President Obama’s Immigration Policy—under I.C.E.’s “Secure Communities” program—to detain undocumented immigrants for-profit corporate-owned and operated Immigration Detention Centers (IDCs) for deportation. Yes, Wall Street keeps its hands in everything!*

*In the attempt to camouflage its mass round-ups and incarceration of immigrants, the U.S. government prefer to use the word “detention” in place of “incarceration” when applied to Immigration policy, because immigration is statutorily rooted in Civil Law, and therefore, it constitutes a civil violation. Hence, undocumented immigrants whom are held in custody are said to be “detainees” and not “prisoners” (i.e. “criminals”). So despite all the smoke’n mirrors and fancy play on words the government like to do, the U.S. Immigration Policy, in scope and character, functions as a federal criminal law enforcement operation.*

*President Barack Obama, taking a page from former President Bill “Slick Willie” Clinton’s political play-book of his War on Drugs Policy, is using Immigration Enforcement—under the guise of Immigration Reform—for the mass incarceration of South American, African, and Asian immigrant communities. WE are witnessing and experiencing *The New Jim Crow of Immigrant Communities!**

*Don’t believe it? Well, the U.S. had its Immigration agencies (INS,ICE,CBP, and US-VISIT) under the Department of Homeland Security (DHS) now define their goals in terms of “national security” and “public safety” to place it as a criminal law enforcement priority.*

*Through the Secure Communities Program, ICE has conducted mass raids of immigrant communities, mass round-ups and arrests, and mass incarceration of immigrants at Immigration Detention Centers. There are about 110 privately-owned and operated IDCs (and growing) contracted with DHS throughout the U.S.’s southwest states bordering Mexico, that are receiving tens of billions of federal dollars (citizens’ tax dollars) annually, to detain and warehouse entire immigrant families. Currently, more people are “detained” annually in the Immigration Detention System than there are people “incarcerated” in the Federal Bureau of Prisons system!*

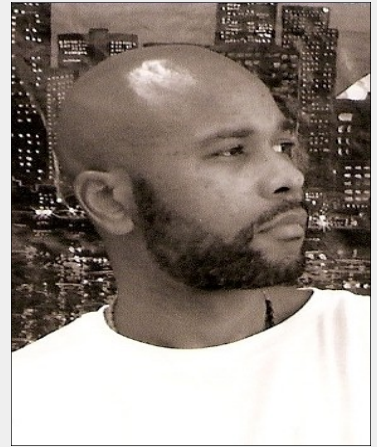
*Wall Street (Bankers, Investment Firms, and Corporations) are getting paid for carrying on Immigration Enforcement in the U.S. In two decades the U.S. spent \$187 billion of citizens’ tax dollars on Immigration Enforcement. In 2012, the U.S. spending for ICE,CBP, and US-VISIT reached an astounding \$18 billion! It is obvious that the Prison Industrial Complex has now penetrated the Immigration Detention market and plan to milk that cow for all she is worth. That’s the capitalists’ way—profit-maximization irregardless of human and earth desecration and desolation!*

*The U.S. Immigration Policy is being used as yet another tool for the mass incarceration of the poor and people of color in America. Immigration Enforcement is *The New Jim Crow*. Wake up.*

*Let’s Struggle to Win!*

*Bro. Shakaboona, Co-Editor and HRC Organizer*

*Shakaboona41@gmail.com*







**“NO EFFORT TOWARD SELF-DETERMINATION (FREEDOM) IS FUTILE; IT IS ONE OF THE THINGS THAT MEN CANNOT DO WITHOUT. WITHOUT IT LIFE LOSES ITS VALUE.” - OCTOBER 1969**

**Comrade George L. Jackson 9/23/1941-8/21/1971**

**Writing one of his many letters which transformed prisoners throughout America**

**Editors' Note:** Attention Pennsylvania prisoners. Due to the overwhelmingly censorship and banning of issues of THE MOVEMENT by the Pennsylvania Department of Corrections (PADOC) and its State Correctional Institutions (SCI) the Human Rights Coalition (HRC) will be seeking legal redress for the violations of its First and Fourteenth Amendments rights. To that end the HRC is asking that PA inmates to do the following: 1.) Notify the HRC when their incoming publication of THE MOVEMENT is censored by IPRC, 2.) Appeal the IPRC decision to the Superintendent and to Final Appeal Review, and 3.) Mail the HRC a copy of your final appeal and the PADOC's "Final Appeal Determination" to:

Human Rights Coalition  
Attention: Newsletter Committee  
4134 Lancaster Avenue  
Philadelphia, PA 19104

**THE MOVEMENT** is mailed quarterly to all prisoners who've requested a copy in the following manner:

Winter Issue - mailed first week of January

Spring Issue - mailed first week of April

Summer Issue - mailed first week of July

Fall Issue - mailed first week of October

**THE MOVEMENT**

[www.hrcalition.org](http://www.hrcalition.org)

Massachusetts

## 2nd trial finds Charles Wilhite not guilty of murder in Springfield shooting death of Alberto Rodriguez

By Buffy Spencer, The Republican on January 17, 2013



Photos by Don Treeger, Republican staff photographer

SPRINGFIELD — A Hampden Superior Court jury on Thursday found Charles L. Wilhite not guilty of murder. Wilhite's family members and other supporters, dozens of whom have been in the courtroom every day of the trial, erupted in cheers and were quieted by court officers while still in the courtroom.

The jury deliberated for four hours.

This was Wilhite's second trial for the fatal shooting of Alberto Rodriguez in October 2008 in front of the Pine Street Market.

He and co-defendant Angel Hernandez were convicted of first degree murder in 2010 for Rodriguez's fatal shooting, but a judge in 2012 granted Wilhite a new trial in part because a key prosecution witness recanted his identification of Wilhite.

First degree murder carries a mandatory sentence of life in prison without the possibility of parole. The prosecution's theory in both the first trial and in Wilhite's retrial is that Hernandez, the owner of the Pine Street Market

who had a long running feud with Rodriguez, paid Wilhite to shoot Rodriguez and gave him a gun.

The trial began Jan. 7 with Assistant District Attorney Blake J. Rubin prosecuting. Outside the courtroom, supporters and family members crowded into the attorney's lounge to wait for Wilhite's release. When defense lawyer William J. O'Neil brought Wilhite into the room, Wilhite held his 5-year-old daughter Lesha Wilhite, and family members took turns hugging Wilhite and his daughter. Wilhite's other lawyer was David A.F. Lewis. Lewis, asked to comment on the verdict, referred to a quote he has heard: "Justice rides a slow horse but it always overtakes."

He said Wilhite has been incarcerated for 40 months since the day he was arrested in September 2009. CBS 3 Video: Charles Wilhite found not guilty of murder in Springfield shooting death of Alberto Rodriguez. Wilhite and co-defendant Angel Hernandez were convicted of first degree murder in 2010 for Rodriguez's fatal shooting, but in 2012, a judge granted Wilhite a new trial.

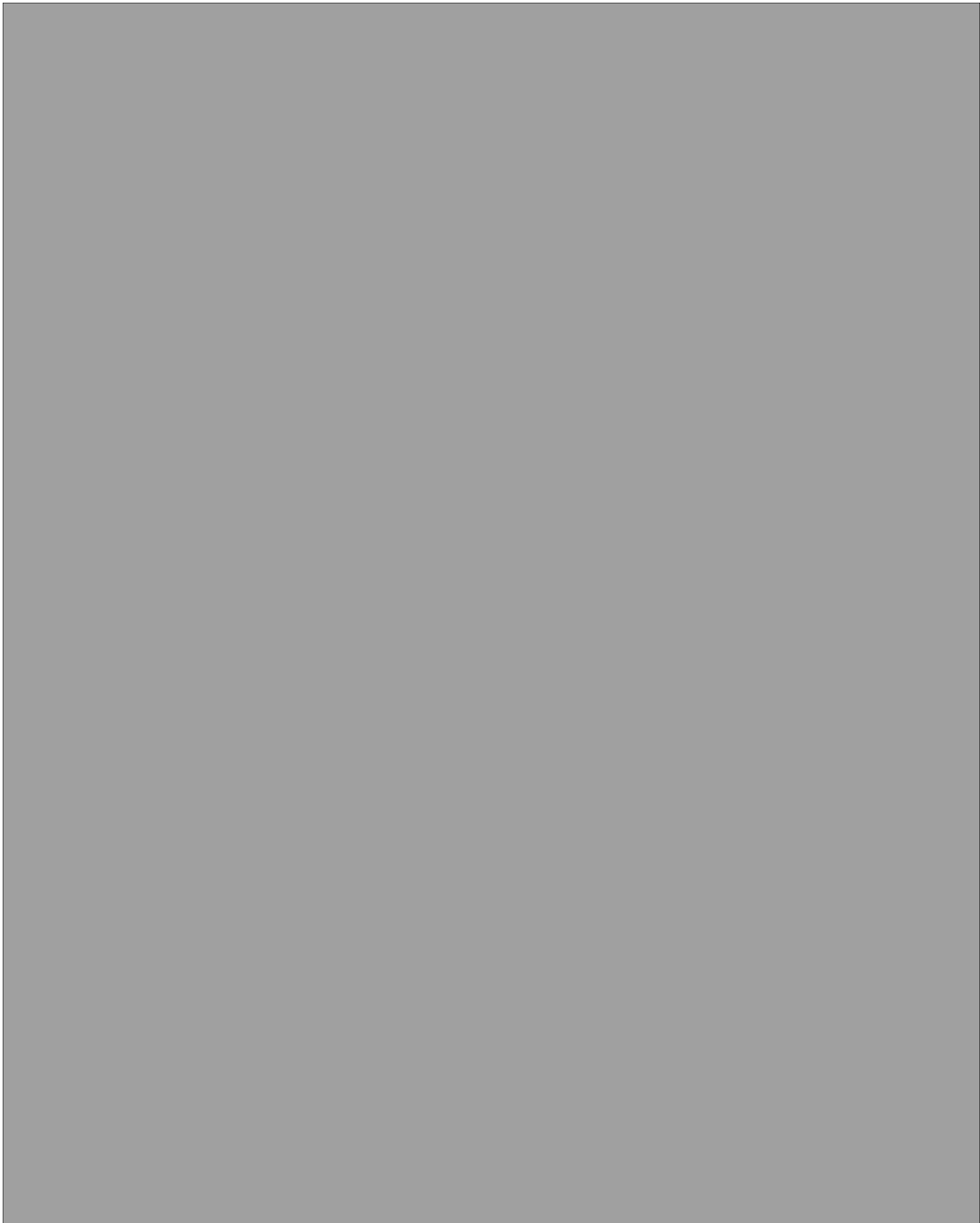
Victoria Hazel, Wilhite's girlfriend and Lesha's mother, has been at the trial every day and had just gone to pick up her daughter when it was announced there was a verdict. Vira Douangmany Cage, the aunt of Wilhite and one of the organizers behind the group Justice for Charles, thanked everyone who had stood beside her nephew. "Justice for Charles is justice for Springfield," Cage said. "We don't have deep pockets but we do have deep hearts," she said. "There was no crime. He shouldn't have served time." She asked Wilhite if he wanted to say anything, but he nodded no and just continued to hold his daughter and greet family and friends. Cage expressed gratitude to the jury, Judge Constance M. Sweeney and court officers. Wilhite's uncle, Edward L. Cage Jr., thanked Wilhite for not giving up while he was in prison.

Hampden District Attorney Mark G. Mastroianni said his office reviewed the case brought by his predecessor, William M. Bennett, and concluded the evidence was strong enough for a retrial.

The prosecution presented three witnesses who picked Wilhite out of an 8-person photo array, and a fourth who made a partial identification, according to Mastroianni, who added the decision to retry the defendant "was not made lightly."

"I understand, respect and will not criticize the jury's decision — keeping in mind that another jury found there was proof beyond a reasonable doubt," he said.

The case also illustrated the difficulty of prosecuting cases with reluctant witnesses, an increasingly common problem in Hampden County and beyond, Mastroianni said. "You have a crime committed and nobody who witnessed it will come forward. You have a whole culture of not cooperating with the police," he said.





## Families Dare To Speak, Dare to Resist

### *Argo – an opinion from an African American History Perspective* *By: Olympian—HRC Member*

African American history is hypnotic. If you're not convinced, look at the TV ratings for Roots episode I and II in the mid 1970's. You belong to the culture of non belief; glance at the telepathy between pitcher and catcher when Barry Bonds comes to bat. He won't mean a thing if we don't let him swing . . . which speaks to the very nucleus of the story, Argo.

Give credit to the movie makers. Ben Affleck comes from a fitness center of indestructible artist and activist. Paul Robeson, Harry Belafonte and Ed Asner the director and camera men for the 2013 Best Picture become transparent. They all drank from the African American history voyage cup. Tony Menendez the lead character in the trophy "getter" (grabber) phoned Washington to make certain the stall door flung open; for the horse to begin its run.

The starting gate stayed locked for African Americans until 1863. Forget about email blackmail telegram or telephone. Only endless reasons why the gate was stuck . . . to this day.

### **I want to support the Human Rights Coalition by giving a Donation!**

Name: \_\_\_\_\_

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City/State/Zip Code: \_\_\_\_\_

Phone: \_\_\_\_\_ Email Address: \_\_\_\_\_

Donation Amount:     \_\_\_\_\_ \$10.00 - \$25.00  
                                     \_\_\_\_\_ \$50.00  
                                     \_\_\_\_\_ \$100.00 or above

Families, we rely on member support, any gift you make above \$25.00 helps us a great deal.

Please make checks payable to the Human Rights Coalition and mail donations to HRC, 4134 Lancaster Ave., Phila., PA 19104, ATTENTION: Charitable Donations.

# LOVE KNOWS NO BARS

H.R.C.  
4134 Lancaster Ave.  
Philadelphia, PA 19104  
Attention: News Letter Committee  
c/o LAVA Space

Dannielle Hadley #OO-8494  
P.O. Box 180 Rt. 405  
Muncy, PA 17756

Dear HRC,

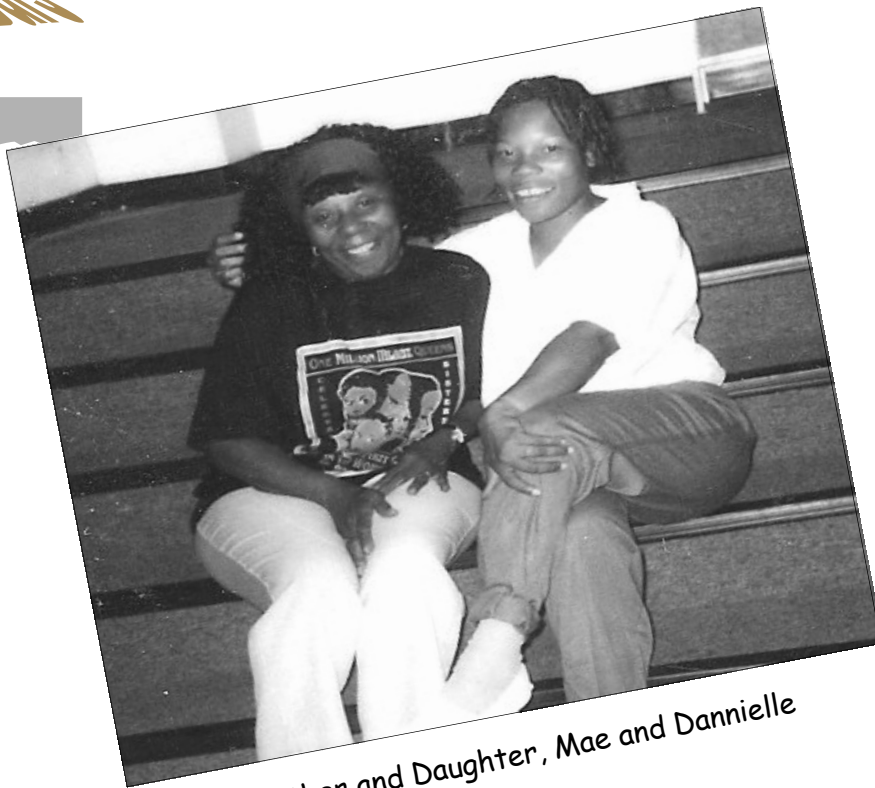
I would like very much to send a shout out to my mother in your "Love Knows No Bars" section of THE MOVEMENT.

Even though I do not have a subscription to THE MOVEMENT I read them all the time and pass on the information that I find there to my family and friends.

If my shout out is placed in an issue of your magazine, I humbly ask that the issue is sent to my mother, Mae E. Hadley, so that she can see it.

Respectfully,  
Dannielle Hadley

A little about me ... I am forty-eight years old, the mother of two boys and I have spent the last 26 years incarcerated here at Muncy serving a life sentence.



Mother and Daughter, Mae and Dannielle

Mommy,

There has never been a day in my whole entire life that my mother has not been by my side, and she has loved my children in same manner that she has loved me. I love you Mommy, Thank you.

Dannielle



## THE MOVEMENT

[www.hrccoalition.org](http://www.hrccoalition.org)



# The HomeFront: Serving Our Community!

## NYS Working Group Against Deportation

The New York State Working Group Against Deportation is a broad coalition of domestic violence, immigrant rights, family services, labor, faith-based, civil rights, and community-based organizations that aims to stop Secure Communities (S-Comm) as this program raises grave concerns for community safety, civil rights, due process and fiscal liability, among others.

Families for Freedom played an active role in this group to ask the NY State government to rescind the MOA and cease implementation of Secure Communities (S-Comm) as this program raises grave concerns for community safety, civil rights, due process and fiscal liability, among others.

We stand against S-COMM because under this program all law enforcement agencies in the state are required to automatically forward the fingerprints of every arrested person (including U.S. Citizens and lawful permanent residents or “green card holders”) to federal immigration databases. Based on unreliable and incomplete information, ICE then transfers people suspected of being deportable directly into the detention and deportation system, separating them from their families and communities. Locked up in detention centers in remote locations, immigrants have severely limited access to lawyers, medical care, family, witnesses, and evidence to defend against deportation.

We, along with more than 50 other organizations, strongly oppose S-Comm as we believe that the program is fundamentally flawed and will harm our communities. Our principal concerns are that S-Comm:

**\*Jeopardizes our safety:** S-Comm destroys law enforcement relationships with their communities. When community members are afraid that interaction with local police might lead to deportation, they are less likely to report crimes or cooperate as witnesses. **\*This makes it harder for police to investigate crimes and to keep our communities safe.**

**\*Offends values of liberty, due process and justice:** S-Comm subverts the core promise of our legal system to afford equal protection under the law by forcing immigrants to be treated differently than U.S. Citizens in their criminal proceedings. Immigrants tagged for deportation

are routinely denied bail, jailed for longer, and wrongfully disqualified from participating in alternative release programs. S-Comm also funnels people into an unjust immigration system where they are stripped of their right to a government-appointed lawyer and a “fair day in court.”

**\*Encourages racial profiling:** S-Comm gives the police incentives to make pretextual arrests based on race or ethnicity in order to jail people suspected of being undocumented and run their fingerprints in the hopes of turning them over to ICE for deportation. This Suspend S-Comm illegal pattern of targeting and profiling has already been well documented through studies of similar ICE-local enforcement programs.

**\*Imposes significant costs on our State and localities:** S-Comm forces states and localities to absorb the costs of mass incarcerations, as ICE promises that the program will “dramatically increase” the number of people held for additional time on civil immigration detainees while providing no additional federal funding to do so.

**\*Exposes New York State and localities to significant liability:** Because S-Comm does not afford sufficient protections or oversight, state and local officials, not ICE, face heavy liability for illegal detentions and deportations that occur. New York City recently paid \$145,000 to settle one such violation and will not be reimbursed by the federal government.

NYS



# The HomeFront: Serving Our Community!

## Making Miller meaningful in 2013

Tuesday, February 5, 2013

The Campaign for the Fair Sentencing of Youth

[fairsentencingofyouth.org](http://fairsentencingofyouth.org)

The new year is off to an exciting start as legislatures and courts throughout the country react to the U.S. Supreme Court's landmark ruling in *Miller v. Alabama* banning mandatory life without parole for youth. We are closely tracking these developments and working in partnership with attorneys, advocates and others in the states to advance meaningful legislation, defeat harmful bills and strategically use legal decisions to advance broader reforms. We are expanding the coalition of organizations partnering in our cause and are continuing to raise the profile of the issue through our communications work so that the movement to scale back extreme sentences for youth can move forward as cohesively and strategically as possible.

The *Miller* decision helped to establish a new era for the ways that we hold children accountable for the harm that they have caused. It is the fourth Supreme Court ruling in eight years that identifies youth status as a relevant factor when children face the justice system. But as we anticipated, some state policymakers have responded to the landmark opinion by introducing legislation that would ignore both the letter and spirit of *Miller*. A handful of state legislatures are considering more comprehensive approaches. As state advocates look to take the *Miller* decision from paper to practice, they look to us for guidance.

Only two states – Pennsylvania and North Carolina – have passed legislation post-*Miller*. The laws are a step forward but do not go far enough. Both have abolished life without parole for children convicted of some crimes but keep death-in-prison sentences on the books for others. We know it will be an uphill battle to convince legislators that they need to approach *Miller*-related sentencing reforms holistically and thoughtfully, rather than simply replacing mandatory life without parole with other harsh sentences. We will need to demonstrate to policymakers the broad support that exists for reform from partners like, the United States Conference of Catholic Bishops, which recently endorsed our principles as our newest official supporter. If your organization is interested in signing on to our statement of principles as an official supporter, please contact us at [info@fairsentencingofyouth.org](mailto:info@fairsentencingofyouth.org). If you want specific information regarding activity in your state, please contact LaShunda Hill at [Hill@fairsentencingofyouth.org](mailto:Hill@fairsentencingofyouth.org).

While the efforts to create real reform heat up in the state legislatures, lawyers are simultaneously working in courts to turn the words of both *Miller* and *Graham v. Florida* into concrete changes in the lives of people facing the possibility of spending the rest of their lives in prison for crimes that took place when they were children. Judges around the country are grappling with a variety of legal issues and are trying to figure out exactly how these decisions affect people already serving this sentence as well as the youth currently charged with crimes where the sentence is a possibility. Some judges have decided that the Supreme Court ruling is intended to be far-reaching, making young people who have previously received the sentence eligible for parole consideration. Meanwhile, lawyers are coordinating their litigation strategies and building their skills in advance of any resentencing opportunities created by *Miller*. We are working with attorneys to share information and ensure that litigation and legislative efforts are coordinated so that litigation-based reform efforts have the best possible chances for success.

We are pleased to announce that we will begin a series of webinars and other presentations by experts in fields that will be relevant to *Miller* resentencings, such as trauma, institutional disciplinary history, re-entry, and adolescent development. If you are an attorney representing someone potentially affected by the *Miller* decision and are interested in our litigators' calls or our webinar series, please contact our litigation specialist, John Hardenbergh, at [jhardenbergh@fairsentencingofyouth.org](mailto:jhardenbergh@fairsentencingofyouth.org). Finally, be sure to check out our new website. It is designed to be more user friendly while highlighting important news and information. In our resource section, you can find a map of state policies, tool kits, and state and national reports about life without parole for youth. The website offers many opportunities for engagement and provides a primer on the Supreme Court cases most relevant to our work.

This past year saw so much forward progress in our efforts to establish fair sentences for youth. Together, we will ensure that extreme sentences are replaced with age-appropriate laws and policies that focus on rehabilitation and reintegration into society. We look forward to working with you in 2013!

In solidarity,  
Jody Kent Lavy

**THE MOVEMENT**

[www.hrccoalition.org](http://www.hrccoalition.org)

# The HomeFront: Serving Our Community!

## Sacramento hearing exposes CDCR's hidden agenda

by Denise Mewbourne

*Almost two years later, the ripple effect of the 2011 hunger strike organized by the Short Corridor Collective in Pelican Bay prison continues to reverberate throughout California. In protest of solitary confinement torture in California's Security Housing Units (SHUs), 12,000 people in prisons throughout the state participated in the hunger strike.*

At the rally outside the Capitol in Sacramento before the Assembly Public Safety Committee's hearing on solitary confinement Feb. 25, Daletha Hayden, one of many prisoners' loved ones who came, spoke passionately about her son in the Tehachapi SHU. He has not been able to see or touch his 15-year-old son since he was 3. "This is painful, and it tears families apart," she said. "We have to fight so our loved ones can be treated as well as animals! My son needs medical treatment, and SHU officials refuse for him to have it." – Photo: Denise Mewbourne

California currently holds 12,000 people in some form of isolation and around 4,000 in long-term solitary confinement. Around 100 people have spent 20 years or more in these hellholes, including many who are activists against prison abuses, political thinkers and jailhouse lawyers. People imprisoned in the SHU have described it as "soul-crushing," "hellish," a "constant challenge to keep yourself from being broken" and "a concrete tomb."

As a result of the strike, the first legislative hearing in Sacramento occurred in August 2011, and at the grassroots level family members of those inside formed California Families to Abolish Solitary Confinement (CFASC) to continue the work they had done during the strike. The Prisoner Hunger Strike Solidarity Coalition (PHSS) began strategizing how best to provide support well in advance of the hunger strike and continues its mission of amplifying the voices of people in the SHUs.

The strikers' five core demands around abolishing group punishment, eliminating debriefing, ending long term solitary confinement, adequate and nutritious food, and constructive programming are still far from being met, although the California Department of Corrections and Rehabilitation (CDCR) claims to be implementing new policies on how people are sentenced to the SHU as well as how they can exit.

The hearing in Sacramento on Feb. 25, 2013, provided an opportunity for legislators in the Assembly's Public Safety Committee to hear representatives of CDCR present their new policies and weigh the truth of their claims. The occasion also featured a report back from the Office of the Inspector General about onsite inspections conducted at Pelican Bay, as well as a panel of advocates.

Chaired by Tom Ammiano, the committee had a chance to question the panelists, and at the end there was a scant 20 minutes for public input. Attendance of grassroots activists, including family members and formerly incarcerated people, was organized by California United for a Responsible Budget (CURB). The CURB coalition focuses on reducing the number of people in prison as well as the number of prisons throughout California.

### The rally

Beginning with a rally held on the capitol steps, it was an emotional day for many, especially for family members of those suffering in the SHUs and prison survivors. The voices of those in the SHU were powerfully present, both in stories told by family members as well as statements they had sent for the occasion.

The opening of the letter Gilbert Pacheco read from his brother Daniel in Corcoran Prison summed up the solidarity of the day: "Allow me to expend my utmost respects along with my utmost gratitude and appreciation to all of you who are out here supporting this struggle and allowing mine along with thousands of other voices to be heard! Gracias/Thank you."

Family members from all over California spoke about loved ones who were being unjustly held for 10, 15, even 25 years or more in solitary confinement, how they were entrapped into solitary and the conditions they face. Marilyn Austin-Smith of All of Us or

(Continued on page 12)



*(Continued from page 11)*

None, an organization working for human rights of formerly incarcerated people, read a statement from Hugo Pinell, surviving and resisting solitary confinement for 42 years.

Daletha Hayden from Victorville, Calif., spoke about her son who has been in SHU in Tehachapi for four years. He has missed 12 years of his 15-year-old son's life, having not been able to see or touch him since he was 3. She said, "This is painful, and it tears families apart. We have to fight so our loved ones can be treated as well as animals! My son needs medical treatment, and SHU officials refuse for him to have it."

Karen Mejia's fiancé has been in SHU for six years. She stated that to her knowledge, the CDCR never got input from anyone imprisoned in the SHUs regarding their new policies. She went on to say that "if they followed their own policies, the SHU would be half empty, and they don't want that because of their salaries and budget."

Recently, they subjected her fiancé to particularly humiliating treatment. After she visited him, they punished him for being "sexually disorderly" with her. She said, "They painted his cell yellow and forced him to wear a yellow suit, which they do for sex offenders. In general population, he could have been killed for that."

Looking at the hypocrisy in the U.S. around torture and human rights, Dolores Canales from CFASC angrily noted that in a recent case, "All it took was a federal order to stop chimpanzees from being held in solitary confinement. It has been determined it's detrimental to their mental and physical health, because they are social animals and have a need to see, hear and touch each other. Aren't humans also social beings?!"

**Luis "Bato" Talamantez, one of the San Quentin 6, said, "Sending your love to the people inside and helping them to stay connected and spiritually alive is the most important thing you can do with your life right now."**

The rally ended on a positive note with Luis "Bato" Talamantez, one of the San Quentin 6, saying, "Sending your love to the people inside and helping them to stay connected and spiritually alive is the most important thing you can do with your life right now."

The crowd then filed into the hearing room, which filled up quickly, so around 40 people viewed it in an overflow area. For the next three hours, a few of the legislators, the human rights-focused panelists and the public in attendance did their best to sort through the obfuscations, omissions, misrepresentations and outright lies told by the CDCR and colleagues.

## **The lies from CDCR**

One mistaken idea the hearing quickly cleared up was that any real oversight might come from the California Rehabilitation Oversight Board (CROB) in the Office of the Inspector General.

Speaking from CROB was Renee Hansen, who became executive director of the board in 2011, after 20 years of working for CDCR. Perhaps that explains the board's less than thorough attempt at a real investigation of conditions in the SHUs and the glowing report she gave. When asked by Ammiano if they had conducted any surprise visits, she replied they had not.

One of the myths the CDCR uses to justify SHUs is that they house the "worst of the worst," and this hearing was no exception. Michael Stainer, CDCR deputy director of facility operations, testified: "The offenders in the SHU are 3 percent of the entire population. They have an inability to be integrated because of violence, and are affiliates of dangerous prison gangs. It's necessary to isolate them to protect the other 97 percent."

But Canales said: "My son is in there, and he has certificates in paralegal studies and civil litigation. At Corcoran he was Men's Advisory Council representative, when one person from each ethnic group gets voted in by their peers, and others go to them for help with prison issues." And it's not just her son who doesn't fit the "ultra-violent" profile. "A lot of the guys in there have all kinds of education and are helping others with legal work. Many of them have been using their time to educate themselves."

Hansen testified they found no evidence of retaliation for the hunger strike. Yet Charles Carbone, a prisoner rights lawyer who testified on the panel, said, "Make no mistake about it: Participating in a hunger strike can get you in the SHU."

Assemblywoman Holly Mitchell asked, "How can participation in an act of peaceful civil disobedience like a hunger strike be construed as gang activity?" Ominously, Kelly Harrington, associate director of high security transitional programming (STP) for CDCR, said, "Hunger strikes can be viewed as violating institutional security."

*(Continued on page 13)*

# The HomeFront: Serving Our Community!

*(Continued from page 12)*

Marilyn McMahon with California Prison Focus reports letters from people in SHUs about food quality going down and portion sizes shrinking, especially after the administration heard of the potential resumption this summer of the hunger strike. “I suspect,” she said, “they may be trying to get them very hungry before the strike, so they will have less desire to do it.”

In another bold mockery, CDCR claimed their new policies include substantial changes in the process of “gang validations,” the categorizing of people as “gang members or associates,” resulting in SHU placement for indeterminate sentences. In the past, the validation process has been based on points given for tattoos, possession of books or articles the CDCR deems gang-related, having your name on a roster, and/or the confidential evidence of a “debrief,” another desperate soul who has identified you as a gang member to get out of the SHU himself. Three points is enough to send you to the SHU. According to many reports from SHUs around the state, it often happens that people get sent to there for things that are purely associational and in complete lack of any actual criminal behavior.



**Every seat was filled for the California Assembly Public Safety Committee’s historic hearing on SHUs Feb. 25, and dozens more watched on TV in an overflow area. Besides the legislators in the hearing room, many more watched in their offices and said they were aghast at what they heard. – Photo: Sheila Pinkel**

In point of fact, items given points toward validated gang status are often related to cultural identity and/or political beliefs. Some examples are books by George Jackson or Malcolm X, Black Panther Party books or articles, materials about Black August commemorations, the Mexican flag, the eagle of the United Farm Workers, articles on Black liberation, political cartoons critical of the prisons, Kwanzaa cards and Puerto Rican flags, just to name a few.

The CDCR gave a list of their own officials when asked who was doing the gang classifications, and Ammiano noted they were all internal to CDCR, with no independent verification.

Family members at the rally spoke of many unfair instances of gang validation points given to their family members. Irene Huerta’s husband was validated for a “gang memo” that was never found!

Carbone confirmed in his testimony that there was no real change in the source items given points, that still only one of your point items even needs to be recent and the other two can be 20 years old, and that “the new program actually expands rather than restricts who can be validated, by the addition of two categories. Initially we just had gang ‘members’ and ‘associates,’ but now we also have ‘suspects’ and ‘to be monitored.’” He went on to say “only the CDCR could call expansion reform.”

Charles Carbone, a prisoner rights lawyer who testified on the panel, said, “Make no mistake about it: Participating in a hunger strike can get you in the SHU.”

As Pacheco says from Corcoran Prison: “This validation process is not about evidence gathering that contains facts. It’s hearsay, corruption and punishment to the point of execution. It’s close to impossible to beat these false accusations on appeal. They know how to block every avenue. In other words, there is no pretense that rights are respected. Shackled and chained we remain.”

The centerpiece of the CDCR’s deceptive “reform” is the “Step Down Program,” in theory a phased program for people to get out of the SHU. The program would take four years to complete, although they said it could potentially be done in three. It involves journaling, self-reflection and, in years three and four, small group therapies.

In a statement issued for the event by the NARN (New Afrikan Revolutionary Nation) Collective Think Tank or NCTT at Corcoran SHU, the writers roundly condemned the program, saying that CDCR “has, in true Orwellian fashion, introduced a mandatory be-

*(Continued on page 14)*

(Continued from page 13)

havior modification and brainwashing process in the proposed step down program.” Abdul Shakur, who is at Pelican Bay and has been in solitary confinement for 30 years, calls it the “equivalent to scripting the demise of our humanity” in his article “Sensory Deprivation: An Unnatural Death.”

At the hearing, Laura Magnani from the Friends Service Committee strongly agreed. Magnani pointed out that only in the third and fourth year does very limited social interaction start to happen, that having contact with one’s family continuing to be seen as a privilege instead of a right is fundamentally wrong and that the curricula itself is “blame and shame” based, an approach proven to be damaging. To add insult to injury, she said that what you write in the notebooks can be used against you.



The passionate testimony of Marie Levin and Irene Huerta will help bring an end to the torturous entombment of their loved ones in the Pelican Bay SHU. – Photo: Becky Padi-Garcia

Marie Levin with the Pelican Bay Hunger Strike Solidarity Coalition spoke about her brother Sitawa N. Jamaa at Pelican Bay, a New Afrikan Short Corridor Collective representative and a political thinker. He told her his concerns about the step down program: “The workbooks are demeaning and inappropriate. No one with a gang label will be reviewed for two years of the program, and no phone calls for two more years is far too long.” He’s concerned about CDCR evaluative power over journals, fearing they won’t allow progression if they don’t like the answers, or that they will accuse people of insincerity.

Sundiata Tate, one of the San Quentin 6 and a member of All of Us or None, said: “In terms of CDC, it seems like they’re trying to put a cover on what they’re actually doing. If you take someone who’s been in the SHU for years or even decades and say they have to go into a step down program that will take four years, that’s really just adding cruelty to cruelty. It’s actually more torture.”

From: PRISONMOVEMENT’S WEBLOG  
[www.prisonmovement.wordpress.com/category/isolation/](http://www.prisonmovement.wordpress.com/category/isolation/)

Note from HRC - Article photos omitted due to space constraints.

(Continued from page 17)

The final worrying aspect of the case is the fact that the last member of the Fort Dix Five, Tatar, actually went to the police in Philadelphia to report his concerns that someone – likely either Omar or Shnewer – was pressuring him to get a Fort Dix map, and that he thought it might be linked to terrorism.

Tatar, via his father's pizza firm, had access to a simple road map of the base. But to critics of the case it seems perhaps unlikely that a dedicated terrorist would report his own plot to the authorities.

Not that any of this is comfort to Shain Duka. Three months ago he was moved out of the virtual 24-hour solitary confinement of a Supermax prison in Colorado to a less stringent regime in the same complex, but it left a toll on his mind. “These are places to silence us. To keep you controlled. They are places to strip you away from your family. I consider the Supermax as a psychological torture chamber. That’s what it is. It should be illegal that place,” he said.

Duka is now filing his case with the US supreme court, but the highest judicial authority in America has no obligation to hear his appeal. In the meantime he is busying himself reading books on Islam and attending a prison course on the history of American presidents.

“I spend the days reading and studying and working out. Just keeping your mind busy. You have to keep your mind working. You know, if you just fall back and you get depressed the world will fall in on you,” he said. Duka said that his Muslim faith was giving him comfort, though he worried about the impact on his family, bereft of a husband, father and breadwinner. “They are struggling,” he said.

Duka added that he thinks, maybe, justice will come not in this life, but the next. “The people who did this to us can be held accountable. If I do not get justice in this world, then I will get it on the Day of Judgment. My faith in God is what keeps me going. Me and my family,” he said.

There is little that Duka can do at the moment. He is filing his supreme court appeal, trying to pull together a legal complaint about his lawyers and seeking to have restrictions removed that might allow him to communicate with his imprisoned brothers. But he remains a convicted terrorist.

In fact, so dangerous does the prison that holds him believe Duka to be that it declined a request from the Guardian for a face-to-face interview, citing security fears. “(We) make every effort to accommodate requests... however, due to continued security concerns, granting your request at this time may disrupt the good order and security of the institution,” Governor Charles A Daniels wrote in a letter refusing access.

To Duka that was not much of a surprise. “They don’t want us to speak. They don’t want our message to get out. They don’t want our side, our view, our words,” Duka said.



# Cemetery For The Living Young

By: Nkeshi a.k.a. Clinton "CL" Walker

How can I dream  
when I can't bring myself  
out of a nightmare  
Even when I howl and scream  
behind hollow walls.  
It seems there's still no life here  
just the soft hum of ventilation  
that blows the cold soul of death air  
so even when I breathe  
my words suffocate  
and fall on death ears.

How can I dream  
when a dream is nothing but a fantasy of a life  
I am denied to live  
a life that was snatched away as a kid  
and forced to roam  
with the dead and forgotten  
if it's best to mold a child  
then I guess they figured  
my childhood was already rotten  
my heart was granite stone  
and it could never transcend  
to the touch of cotton  
why else would it be forever  
but to bury my flesh and bones  
in a grave below a tombstone engraved  
"Death By Broken Ties"



I can feel me fade into black  
in the deep back of my kinfolk cluttered minds  
I feel my rage answer they closed truth's  
an open lie  
this became my oath to God  
I swear to cease my cries  
and if I'm absent in they mind  
then they must get absent in mine

My nod of touché  
to that reflection from a mirror  
reflecting the grime and decay  
corroded in the cracks of cemented ground  
beneath steel gates  
bound in a grave yard  
amongst the sound of death rattle  
here I stand,  
a benignant soul  
the murderer is but my shadow  
relentless in its unforgiving quest  
to bury my flesh and bones  
in a grave  
below a tombstone engraved

"Death by Broken Ties"

## Is Innocence Irrelevant?

*As you read, ask yourself if justice is being served by the judicial system when it criminally tries and convicts individuals while knowing of their innocence, while prosecutors are not held accountable for their illegal misconduct at individuals trials, and while the courts and intentionally deny fair trials to others.*

# Fort Dix Five: 'They don't want our side, our view, our words'

**From super-maximum security prison, Shain Duka, one of the Fort Dix Five, maintains he was set up in a terrorism plot by the FBI, and is now appealing to the supreme court for help**

**by Paul Harris in New York, February 13, 2012**

[www.guardian.co.uk](http://www.guardian.co.uk)

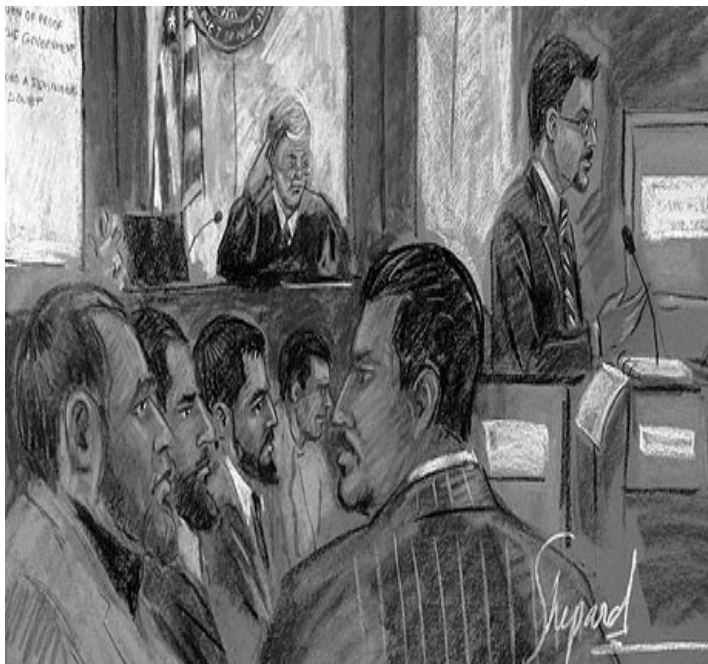
As a child Shain Duka often listened to his parents talk about living in fear of their government in communist Albania, before they moved to America and settled in New Jersey to raise their four sons. "I could not fathom or understand what were they talking about. We grew up having freedom. Where we could speak freely. We never lived in a time and place like that," Duka told the Guardian.

But Duka believes he understands now. Duka is one of the Fort Dix Five, a group of Muslims convicted in a terrorist plot to attack a US army base. But the case is far from straightforward and has become emblematic of some of the extreme law enforcement methods deployed in the fight against terrorism in the decade after 9/11. Along with his brothers, Dritan and Eljvir, Shain Duka has become a symbol of so-called "entrapment" techniques used by the FBI to lure, monitor, trap and convict Muslim suspects in plots driven often wholly, or in part, by undercover agents and their informants.

Duka, speaking by phone from inside a high-security prison in Colorado, insists he and his two brothers are innocent and were set up by their own government. "Now I understand what my parents were saying. No, we don't have freedom. When a group is targeted you don't have freedoms," he said in one of the few jailhouse media interviews to have been conducted with people convicted in such high profile "entrapment" cases.

Duka believes his family was simply caught up in a deliberate attempt to intimidate and silence the Muslim community. "This is all political. I am not going to say that every single case similar to mine is innocent. But the majority are innocent. This is a weapon that the government uses... to silence the Islamic community," he said.

But to the FBI, and to the US justice system, the Duka brothers were a serious Islamic terrorist threat: pure and simple. The investigation that ended in their arrest in 2007 lasted more than a year and involved the use of confidential informants who befriended the Dukas, and a young cab driver called Mohammed Shnewer and Serdar Tatar, whose father ran a New Jersey pizza company that delivered to the Fort Dix army base.



*In this courtroom sketch, judge Robert Kugler listens to closing arguments by attorney Michael Huff while defendants Shain Duka, from bottom left, Eljvir Duka, Dritan Duka, Mohamad Shnewer, and Serdar Tatar listen. Photograph: Shirley Shepard/AP*

(Continue on page 17)

*(Continued from page 16)*

Prosecutors used the informants' evidence to paint a picture of a group of men who had been watching bloody jihadi videos, and been recorded lambasting American policy in Iraq and discussing radical Islam, including the lectures of slain Yemeni-American cleric Anwar Al-Awlaki. Shnewer, the FBI said, had conducted surveillance of Fort Dix and the Dukas were picked up after they illegally bought powerful guns in a deal arranged by an informant who had also offered to get them RPGs. All the Dukas got life in jail. Their appeal was turned down late last year.

But that simple version of the trial is barely to scratch the surface of the full story of the Dukas or cases like it. Many entrapment cases have emerged in the past decade in which US law enforcement has sought to lure suspects seen as potential terrorist threats into fake plots or encourage them to formulate their own attacks under close supervision. In the most controversial case, known as the Newburgh Four, an FBI informant offered hundreds of thousands of dollars, a new car and even a paid-for holiday, to lure black American Muslim targets into agreeing to help carry out a terror plot.

Along with the Newburgh Four, the Fort Dix Five have emerged as one of the most high profile cases. Civil liberties lawyers and Muslim community groups have expressed deep concern at the tactics that swept through a typical slice of suburban New Jersey and ended with five men in jail.

The first is the way the men came to the attention of the FBI. They were reported by a clerk in a local branch of Circuit City after dropping off a video to be copied onto multiple DVDs. The video featured the Dukas – who wear Islamic beards – shooting weapons and shouting "Allahu Akbar". That was enough to unnerve the store's clerk, who reported it to the police. The video, which had been shot on a recent vacation in the nearby Pocono Mountains, also included more typical scenes of the men playing paintball, skiing and riding horses.

The shooting had actually occurred at a public shooting range with rented weapons, and even the most fervent law enforcement official might have wondered why a nascent Islamic terror cell would deliver its propaganda to be developed at Circuit City. "We were perfectly innocent, you understand? We didn't think nothing of it. This was supposed to be memorabilia [of the trip]," Duka said of the holiday video. But the incident sparked a sudden and massive FBI probe into the Dukas and their friends.

That investigation centered on the work of two FBI informants: Mahmoud Omar and Besnik Bakalli. Omar was the first to be sent into the field and he rapidly befriended Shnewer, eventually persuading him to go on trips to scout out Fort Dix. The Duka brothers never did so, nor was any evidence presented that showed them as aware of the base as a target. Bakalli, who was Albanian, worked more closely on befriending the Dukas, especially getting them to talk about their Muslim faith.

"He had question after question and one of the main questions which he stood by was the concept of jihad... It wasn't out of the ordinary that that happened because that was what we talked about. The war in Iraq was its peak at that time," Duka said of their long conversations which, unknown to him, Bakalli was recording.

The use of these informants – as it is in many other such "entrapment" cases – is the most controversial element of the case. Both Omar and Bakalli had serious criminal records. Omar had fraud convictions and was facing possible deportation before the FBI persuaded him to work for them. Bakalli, meanwhile, had confessed to attempted murder back in Albania. He was found by the FBI while in jail.

In a move seen by critics as likely to give the informants motivation to secure convictions no matter what, both men also made a fortune out of their new work. Bakalli made \$150,000. Omar got \$240,000. Nor was their evidence exactly open and shut. It was Omar himself who drew up a list of guns to buy, which Duka says were wanted for another Poconos holiday so they could avoid rental queues. It was also Omar who added RPGs to the list, which were not actually bought.

Omar's recording equipment also mysteriously failed at key moments, such as the vital chats where the gun deal was set up. In later court testimony, Omar actually confessed that two Duka brothers – Dritan and Shain – did not know of any Fort Dix plot. "[They] had nothing to do with this matter," Omar said during the trial.

Indeed, it was only Shnewer who seemed to have direct, recorded thoughts about attacking Fort Dix. But even he failed to do things that Omar asked him to do, like return to Fort Dix or practise making bombs, and he ignored Omar's taunts that he was not doing enough to further the scheme.

Shain Duka believes Omar exploited Shnewer, who he said was young, impressionable and eager to appear tough. "This [Omar] is a guy who can manipulate. He had huge incentive. He knew this guy [Mohammed] is the guy to work with. They did psychological operations on this kid. He was a young kid. Twenty years old. But in his mind he was like a 14 or 15 year old," he said.

*(Continued on page 14)*



*Fort Dix Five Family Support Committee*  
*c/o Philadelphia Activists Initiatives, P.O. Box 34249, Phila., PA 19101*  
*(610) 931-2615 \* phillyactivists@gmail.com*

February 2013

Dear Friends and Neighbors,

**We write to call your attention to a truly tragic situation of two families right here in our own community, and to ask for your help.**

Here's the background: in 2007, the U.S. government brought criminal conspiracy charges against three young members of the Duka family, Shain, Dritan, and Eljivir, who were living just outside Philadelphia, and against two other young friends and relatives: Mohamad Shnewer, Eljivir Duka's brother-in-law, and a friend, Serdar Tatar. After a controversial trial, all were convicted in 2008. The three Duka brothers and Mohamad Shnewer were each sentenced to life in prison in 2009; Serdar Tatar got 33 years. Shain Duka and Mohamad Shnewer are single, but Dritan Duka has a wife and five children. Eljivir Duka has a wife and a baby who was born while her father was in prison. These families have thus been left with little income on which to survive.



**Naza Duka, the mother of the Fort Dix Five. Photograph: Mike Derer/AP**

Both of the larger Duka and Shnewer families are struggling, **which is why we are writing to you now.** The Duka family has owned a roofing business for many years; the three brothers worked in the business to support their own families. The two wives and six children left behind now depend on their elderly father

-in-law and grandfather, Ferik, and the Dukas' youngest son, Burim, to keep the roofing business running for the support of them all. It is a daunting task, made more difficult since the main workers—the three brothers—are gone, and because the stigma of their convictions has caused a serious decline in business. What was once a prosperous enterprise is now struggling to survive because prejudice and fear have deprived Ferik and his wife, Zurata, as well as the brothers' wives and children, of the support of a compassionate and understanding community. The family problems are made worse because one brother is imprisoned in Colorado, one is in Indiana, and the third is in Kentucky. To take the children even once a year to visit their fathers requires renting a van and driving the whole family across the U.S. for several weeks—a serious undertaking that costs thousands of dollars. **The**

**Duka family does not have the money to spare for these trips, even though it is essential for the well being of both the children and their fathers that they continue to see each other.**

The Shnewer family is headed by Ibrahim and Fatan and includes Mohamad's five sisters, who range in age from 24 to 10. The Shnewers own a modest taxi business, which is the family's main income. But Ibrahim has been unable to work for months. One of the older Shnewer daughters is working, but expenses for Mohamad in prison (mainly commissary) are beyond the family's capacity to cover right now. Besides struggling with this, **The Shnewer family cannot afford even a once-a-year visit to Marion, Illinois, where Mohamad is incarcerated.**

Our community has to do a better job of supporting our neighbors, those who have been "left behind." Other communities all across the U.S. have come together in the face of preemptive prosecutions and supported the wives, children, and families of the incarcerated. **Can you help the Duka and Shnewer families in any of the following ways?**

- **Donate.** Every year the Dukas have been faced with a "Sophie's Choice" decision: which son can they afford to visit, and which ones will have to wait? You can help the Duka family—including the six Duka children—visit the three brothers in prison at least once a year, and you can help the family ensure that they do not lose their roofing business, which is their only means of support. You can help the Shnewer family maintain their son's commissary account and help them visit him in prison. You can do this by contributing generously to a fund set up and administered by the Philadelphia Activists Initiatives. You can send a check to the address at the bottom of this letter, payable to **Philadelphia Activists Initiatives**, or you can use PayPal online; go to [www.PayPal.com](http://www.PayPal.com) and pay to **phillyactivists@gmail.com**. Please also designate "Fort Dix 5 Family Support" on the memo line of your check and within PayPal (you do not need to open a PayPal account to contribute). **Either way, your donation will be doubled: two generous anonymous donors have pledged to meet every donation, dollar for dollar, up to a total of \$2,500.**
- **Hire.** The Duka family wants to work. If you need to have your roof replaced or repaired, consider hiring their firm, Colonial Roofing, (856)489-1600. They do quality work at competitive prices.

*(Continued on page 19)*

**THE MOVEMENT**

[www.hrccoalition.org](http://www.hrccoalition.org)

(Continued from page 18)

- **Write.** You can correspond with the men in prison. They need your support.  
  
-Dritan Duka #61285-066, USP Florence ADMAX, U.S. Penitentiary, P.O. Box 8500, Florence, CO 81226  
-Shain Duka #61284-066, USP Big Sandy, U.S. Penitentiary, P.O. Box 2068, Inez, KY 41224  
-Eljivar Duka #61284-066, FCI Terre Haute, Federal Correctional Institution, P.O. Box 33, Terre Haute, IN 47808  
-Mohamad Shnewer # 61283-066, USP Marion, U.S. Penitentiary, P.O. Box 1000, Marion, IL 62959
- **Get Involved.** If you are interested in joining the campaign to support the Fort Dix 5 and the hundreds of other preemptively prosecuted defendants all across the U.S., please e-mail [phillyactivists@gmail.com](mailto:phillyactivists@gmail.com).

We know the extended Duka and Shnewer families well. We have eaten at their house, traveled with them to events, and struggled with their complicated legal problems. They are good, hard-working, generous, and kind people. **Please help support them.**

Sincerely,

Joe Piette, Dave Brown, and Sally Eberhardt (Fort Dix Five Family support Committee)

Lynne Jackson, President, Steve Downs, Esq., and Jeanne Finley (Project SALAM)

Sudoku Medium 018

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## ***Is Innocence Irrelevant?***

*As you read, ask yourself if justice is being served by the judicial system when it criminally tries and convicts individuals while knowing of their innocence, while prosecutors are not held accountable for their illegal misconduct at individuals trials, and while the courts and intentionally deny fair trials to others.*

# Q&A: The Wrongly Convicted Central Park Five on Their Documentary, Delayed Justice and Why They're Not Bitter

By: Madison Gray, Posted: TIME Entertainment, January 2013



From left: Yusef Salaam, Kevin Richardson, Raymond Santana, Korey Wise.

*One April 19, 1989, Tricia Meili, then a 28-year-old investment banker, went on a routine jog on the northern side of New York City's Central Park, not far from where she lived. Before the night was over, she was bludgeoned, raped and left for dead. To this day, she does not remember who attacked her, but Manhattan prosecutors determined that five Harlem boys — Raymond Santana, Korey Wise, Yusef Salaam, Kevin Richardson and Antron McCray, ages 14 to 16, confessing under coercion and without credible evidence — committed the terrible crime. They were given sentences ranging from five to 11 years, keeping them incarcerated into their adult lives.*

*But the prosecutors were wrong.*

*After a public tsunami of outrage in which New Yorkers, grappling with an alarming crime rate of more than 2,200 homicides and 5,200 rapes that year, turned their full attention to the five teens, in some cases demanding execution (Donald Trump took out full-page ads in four daily newspapers calling for the death penalty), after politicians like former mayor Ed Koch had already convicted them in the public gallery. In 2002, after they had served their sentences, Mathias Reyes — who was already serving 33 years to life behind bars for murder and rape — confessed to the attack. The courts exonerated the five, clearing their records of any crimes committed relating to the case. A lawsuit against the city is pending.*

*(Continued on page 21)*

*Fast forward to 2011, when Sarah Burns, daughter of documentary filmmaker Ken Burns, published The Central Park Five: The Untold Story Behind One of New York's Most Infamous Crimes, examining the vicious outcry behind the case, the prosecutors' jumbled rush to get convictions and the racial and socioeconomic atmosphere in which it all happened.*

*In 2012 Burns collaborated as a co-director with her father and producer David McMahon on the documentary of the same name, examining how the teens wound up imprisoned for a crime they did not commit. TIME sat down with Burns and four of the men, now in their 30s (the fifth, Antron McCray, does not do interviews regarding his ordeal, nor does he appear in the film, save for voice recordings), to talk about the film, what they have experienced and why — after all they've been through — they are not bitter.*

**TIME: This is a hard story to tell, and one that a lot of people would want to leave behind. Why tell it?**

Raymond Santana: Because we don't want people to leave it behind. We were done so wrongly by the media and by the court system. Now that we have been vacated of all charges and everything has changed around and the powers that be want to forget about it — this is the reason why we want to tell it.

Yusef Salaam: There's so many things that have come out of this that the city uses, the police department uses, as a basis for what they do — things like "stop and frisk." The fact that young people are still looked at as being guilty before they can be looked at as being innocent, just because of the color of their skin.

Kevin Richardson: In '89, we really didn't have a voice. We were scared to speak because the negative publicity was overwhelming, so now we want to keep this fresh because we have a story to tell. Our story, the true story. And it's amazing for people to see us as grown men now. You think, back then, the proof was there for people, but the media frenzy was so strong, people didn't really use logic. They automatically were like, "Oh, they got guys. They're guilty." But if they would have taken a little time to use a little logic, then we probably wouldn't be here speaking about this. It might be a different situation.

Korey Wise: To go from kids, man, kids of New York to being called "menaces to society" ... It's just sad how our lives turned into a raw deal ... They kidnapped me. I would call them terrorists. They kidnapped me.

**This is probably the most you've talked about the case outside of the court system. What was the most significant thing to come back to you?**

Santana: Sarah gave us an opportunity to tell our whole story from beginning to end, so it's all significant. It's all important. It is finally a chance for us to be like, "Whew, there it is. I just got it all out."

Salaam: I think for me, just being able to talk about it ... It was like a breath of fresh air to tell our story ... We were able to talk about our experiences. We were able to talk about the prison time we went through, what was it like when we came home from prison.

**Sarah, was there anything that particularly struck you when you were doing all the interviews and all the research?**

Burns: Over the course of working on the book, I talked to these guys a bunch of times over the years. But with the film, it was a little different. I think there's something about the presence of a camera that just changes the way an interview happens. These interviews were maybe 2 1/2 hours long, but there's a sense that's like, Let's try to tell the story. Let's try to cover this whole thing. It was the sense that it was getting something off your chest. That it was not going to be easy or fun to talk about this stuff, but that it was important and maybe even cathartic to be able to just put it all out there.

**There's still people out there who are just as convinced of your guilt, even now. Is this film going to change their minds?**

Salaam: We were in Connecticut with Ken Burns, and one of Ken's friends comes up to me while me and Korey were hanging out and says, "You know, we heard Ken Burns was doing this film with his daughter about the Central Park Five. We'd thought he'd lost his mind. We couldn't understand why was he making a film about this." Almost like this was a bad thing. And she says to me, "This film is the icing on the cake. We've never seen a film done so well. We believed that you guys were guilty, and I'm so sorry that we believed that. Because you guys are obviously not."

(Continued on page 22)



**Korey, you were 16 — the oldest of the five, old enough to get your driver’s license in some states, on the cusp of manhood. What did you see when you saw yourself on film? Did you see a different person? Did you see a person you wish you could reach back and talk to and console a little bit?**

Wise: I went through hell, man. I’m still going through it within myself. But I went through hell to see where we’re at right now. As I’m listening to my brothers’ stories, I’m going through hell. I’m fighting damn near every day. To give you a picture of what I’m talking about, I’m going back to Mel Gibson’s movie *The Passion of the Christ*. I’m going through that. Spit in the face. Punched in the face. So I came across peace of mind. I came across redemption. All I can get from the streets, the real streets, is, “I apologize, man.”

**In the film you describe the moment that the false confessions were coerced. Did you realize when you were talking about this that maybe people might gasp at those moments?**

Richardson: People needed to hear that we really went through that. This really happened to us. People tend to realize that we were so young and naive that we were fragile — not just physically, mentally too. We weren’t prepared for what we were about to endure. When we were in the precinct, we didn’t see daylight. We didn’t even know what was happening on the outside.

Santana: When we tell people this story, it’s hard for them to believe it. Like Yusef always says, they’ll think that this is fiction. And so what happens is that people go into this story saying, “Well, how can you confess to something you didn’t do? If that was me, I would have never confessed.” But what happens is that when they see the movie ... then it becomes very real.

Burns: The best part for me in bringing this film out in the world has been witnessing what happens between these guys and an audience. Just to be there in the space and to feel this sort of communion that happens of sharing the story and of the support and the love — it’s been really extraordinary. The most important part of the film is that people who didn’t necessarily have anything in common maybe now can relate somehow to your experience, to your family life. These connections are being made between people who are sharing this story and feeling something about it. To me, that’s a success.

**Yet you’re not walking around bitter and angry.**

Burns: That was the first thing that struck me when I met each and every one of them in working on the book and doing these interviews. I had imagined they’d be hardened by this prison experience or bitter in a certain way, and that’s sort of the opposite of what I found.

Richardson: None of us are bitter. We’re disgusted. We’re disgusted with the city for what happened to us. I tend to say this in certain screenings — that if we continue to be bitter, we’ll be bitter all the way until the grave. So we all found a way to challenge that negative energy and turn it into a positive. So us going around speaking is very extremely therapeutic to us because we used to keep our emotions bottled in. Sarah, Ken and [writer] Dave [McMahon] gave us that platform to finally be heard. So now when people meet us, they say, “You guys are articulate.” [Chuckles.] We’re human beings. We just want to live in this society, and that’s it.

Santana: Back then in ’89, we were so young, and we were taken advantage of by the media. We got exonerated, and they rewarded us with a small print on Page 12. Now we have our voices back, and so now they have to deal with us for the rest of our lives.

**Last question — and you all can give me a one-word answer if you want to. Did anybody in the legal system, the court system, cops, corrections, anybody since the exoneration come up to you and say, “We f—ed up!”?**

Santana: No.

Wise: No.

Salaam: No.

Richardson: No.

<http://entertainment.time.com/2013/01/08/qa-the-central-park-five-on/#ixzz2NWGLtiK8>

### About The U.S. Detention and Deportation System

The U.S. government detained approximately 380,000 people in immigration custody in 2009 in a hodgepodge of about 350 facilities at an annual cost of more than \$1.7 billion. **Did you know?**

- Immigrants in detention include families, both undocumented and documented immigrants, many who have been in the US for years and are now facing exile, survivors of torture, asylum seekers and other vulnerable groups including pregnant women, children, and individuals who are seriously ill without proper medication or care.
- Being in violation of immigration laws is not a crime. It is a civil violation for which immigrants go through a process to see whether they have a right to stay in the United States. Immigrants detained during this process are in non-criminal custody. The Department of Homeland Security (DHS) is the agency responsible for detaining immigrants.
- The average cost of detaining an immigrant is approximately \$122 per person/ per day. Alternatives to detention, which generally include a combination of reporting and electronic monitoring, are effective and significantly cheaper, with some programs costing as little as \$12 per day. These alternatives to detention still yield an estimated 93% appearance rate before the immigration courts.
- Although DHS owns and operates its own detention centers, it also “buys” bed space from over 312 county and city prisons nationwide to hold the majority of those who are detained (over 67%). Immigrants detained in these local jails are mixed in with the local prison population who is serving time for crimes.
- About half of all immigrants held in detention have no criminal record at all. The rest may have committed some crime in their past, but they have already paid their debt to society. They are being detained for immigration purposes only.
- Torture survivors, victims of human trafficking, and other vulnerable groups can be detained for months or even years, further aggravating their isolation, depression, and other mental health problems associated with their past trauma.
- As a result of this surge in detention and deportation, immigrants are suffering poor conditions and abuse in detention facilities across the country and families are being separated often for life while the private prison industry and county jailers are reaping huge profits.



<http://www.detentionwatchnetwork.org/aboutdetention>

# EXPOSE & CLOSE

The acute and chronic human right violations detailed in this series of reports exemplify the entrenched crisis of

immigration detention in the United States today. A group of advocates, community organizers, legal service providers, faith groups and individuals personally impacted by detention, who together have deep experience and understanding of the detention and deportation system in the U.S., have identified these ten prisons and jails as facilities that are among the worst where immigrants are detained by the U.S. government. However, there is no facility among the approximately 250 in operation at the time of publication where Immigrations and Customs Enforcement (ICE) reliably protects those inside from physical and sexual abuse, assures basic medical care, provides adequate nutrition and exercise, and allows sufficient access to the outside world so that immigrants can prepare their legal cases and preserve their families.

ICE currently incarcerates more than 400,000 immigrants every year in 33,400 prison and jail beds. Immigrants in ICE custody are technically in civil detention, meaning that they are locked up to ensure that they show up for their hearings and comply with the court's decision, not because of any crime. While no person should have to suffer the hardships of incarceration as it is practiced in the U.S., those who are in prisons and jails serving time for criminal convictions have legal protections that immigrants do not—for example the right to a lawyer and to a speedy trial. The majority of people in immigration detention do not have the right to a bond. This means that people can spend months and sometimes years locked up while they work to prove that they have the right to stay in the U.S., without ever having the chance to ask a judge to let them remain with their families while their cases are ongoing. Harsh deportation policies also mean that there are more and more points of entry in the immigration enforcement pipeline sending a record number of people into detention.

The conditions inside ICE prisons, combined with the unfairness of the laws and policies that put people there in the first place, violate human dignity and cause incredible suffering.

Illustrative examples from the ten reports include:

\*Roberto Medina Martinex, a 39- year- old immigrant, died at Stewart Detention Center in Georgia in March 2009 of a treatable heart infection. An investigation conducted following his death revealed that the nursing staff failed to refer Mr. Medina for timely medical treatment and the facility physician failed to follow internal oversight procedures.

\*A man with serious emotional health problems in the Houston Processing Center in Texas was placed in solitary confinement for months at a time, a practice which the UN Special Rapporteur on Torture has deemed torture.

\* At Hudson County Jail in New Jersey, an HIV positive woman was not receiving any medication until a local NGO intervened.

\* Irwin County Detention Center in Georgia is more than three hours from Atlanta, making family and legal visits essentially impossible.

\* Individuals at Tri-County Detention Center in Illinois report paying as much as \$2 a minute to speak with their families and lawyers, a problem that is prevalent at ICE facilities across the country.

\* At Pinal County Jail in Arizona complaints regarding sanitation include receiving food on dirty trays, worms found in food, bugs and worms found in the faucets, receiving dirty laundry, and being overcrowded with ten other men in one cell and only one toilet.

***A group of advocates, community organizers, legal service providers, faith groups and individuals ... have identified these ten prisons and jails as facilities that are among the worst where immigrants are detained by the U.S. government.***

### **DETENTION FACILITIES**

***Etowah County Detention Center (AL)***

***Irwin County Detention Center (GA)***

***Pinal County Jail (AZ)***

***Tri-County Detention Center (IL)***

***Baker County Jail (FL)***

***Houston Processing Center (TX)***

***Stewart Detention Center (GA)***

***Polk County Detention Facility (TX)***

***Theo Lacy Detention Center (CA)***

***Hudson County Jail (NJ)***

*(Continued on page 25)*

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\* At Baker (FL), Etowah (AL) and Pinal County (AZ) Jails, families are only able to visit with their loved ones in detention through video monitors after having driven hundreds of miles to see them.

\* At Theo Lacy Detention Center (CA) and at Baker County (FL) and Hudson County (NJ) Jails, people reported being insulted, being cursed and laughed at, and having their clothes and other possessions thrown on the floor by corrections officers.

\* At Polk County Jail (TX) one man was put in solitary confinement for thirty days for “misbehaving.” According to the man, facility staff forced him to sign papers agreeing to be segregated, even though he didn’t understand the forms presented to him in English.

Other problems are widespread. At all ten of the facilities, people reported waiting weeks or months for medical care; inadequate, and in some cases a total absence, of any outdoor recreation time or access to sunlight or fresh air; minimal and inedible food; the use of solitary confinement as punishment; and the extreme remoteness of many of the facilities from any urban area which makes access to legal services nearly impossible. Perhaps the most universal refrain of immigrants in ICE detention is the fear that complaining about their treatment or living conditions will provoke retaliation by guards, or will negatively impact their immigration cases.

Of all the inhumane conditions in detention, the most serious is simply the condition of being locked up. Detention means that parents are taken from their children and shipped hundreds of miles away to prisons where visits are impossible. Immigrants who have lived in the U.S. almost their whole lives lose their jobs, their homes, and their livelihoods while locked up in an ICE jail trying to fight deportation to a country they don’t even remember, without even a lawyer to help guide them through the complicated morass of immigration law. Women and men, especially those who identify as LGBT, endure physical and sexual abuse by guards and staff as well as by other detained people. People of color, who constitute the majority of the detained population, endure racial slurs and discriminatory treatment by prison staff. Asylum seekers who come to the U.S. seeking protection from persecution are kept behind bars, denied the medical care they need to recover from physical and emotional trauma, and are subjected to more of the same misery that prompted them to flee their home countries in the first place.



To read the full list of reports, please go to [detentionwatchnetwork.org/exposeandclose](http://detentionwatchnetwork.org/exposeandclose)

In 2009, the Obama administration acknowledged these injustices and inefficiencies and promised to reform the immigration detention system. Three years later, as detailed in the ten reports from the field, communities report no measurable improvement in conditions for those locked up. ICE continues to operate facilities that are not only cruel and inhumane but also do not meet its own detention standards. Furthermore, there are still no legal safeguards to prevent abuse in detention or independent monitoring of facilities, and ICE still does not rigorously enforce its own internal guidelines regarding the treatment of those in its custody.

Immigration detention is also extremely wasteful. According to ICE’s own estimate, it costs about \$160 per day to hold someone in an ICE prison. Meanwhile, effective community based alternatives to detention cost as little as \$12 per day. At a time when

(Continued on page 26)

**THE MOVEMENT**

[www.hrcallition.org](http://www.hrcallition.org)



the fiscal crisis and concerns about the impact of mass incarceration on social health are prompting state governments to reduce their prison populations, the Obama administration should view the release of immigrants from civil detention as an easy way to decrease overall federal spending. In addition, ICE must stop outsourcing detention to county jails and private prison companies whose primary concern is profit. The big money of the detention business has attracted deep investment from the private prison industry, which runs about 50% of all immigration detention beds, and which lobbies extensively at the state and federal level on laws and policies pertaining to the detention of immigrants. Private prison companies should not be allowed to influence or profit from the incarceration of human beings.

## CONCLUSION

Some politicians and private prison companies would have us believe that immigration detention is a necessary evil. But just 15 years ago, immigration detention was rare, rather than the norm. It is not too late to turn back the clock. As the details of these reports show with terrible clarity, true reform cannot be achieved by making minor adjustments and upgrades. This is why today we call for the closure of at least the ten facilities highlighted in these reports, as a first step towards the broader overhaul of our nation's unjust immigration policies and practices.

Except where a publication is cited, the information reported here is based solely on claims made by detained individuals without independent corroboration.

<http://detentionwatchnetwork.org/sites/detentionwatchnetwork.org/files/ExposeClose/Expose-Executive11-15.pdf>

5	1	3	9	6	2	4	8	7
6	2	4	8	1	7	9	3	5
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8	5	2	6	7	3	1	9	4
7	6	9	1	8	4	3	5	2
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3	7	5	4	9	6	8	2	1
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## Food for thought From the movie 'Coach Carter'



## Our Deepest Fear

poem by: Marianne Williamson

Our deepest fear is not that we are inadequate.  
Our deepest fear is that we are powerful beyond measure.

It is our light, not our darkness, that most frightens us.

We ask ourselves, Who am I to be brilliant,  
gorgeous, handsome, talented and fabulous?

Actually, who are you not to be?

You are a child of God.

Your playing small does not serve the world.  
There is nothing enlightened about shrinking  
so that other people won't feel insecure around you.

We are all meant to shine, as children do.

We were born to make manifest the glory of God within us.

It is not just in some; it is in everyone.

And, as we let our own light shine, we consciously give  
other people permission to do the same.

As we are liberated from our fear,  
our presence automatically liberates others.

# Prisons are Prisons are Prisons!

## Interview with Mia-Lia Kiernan and Caitlin Barry

*Patricia Vickers a founding member of the Human Rights Coalition (HRC) and co-founder/editor of THE MOVEMENT interviews Mia-lia Kiernan and Caitlin Barry, below. Read and encounter another side of the immigration detention story.*



**Mia-lia Kiernan,**  
Community Organizer

**Mia-lia Kiernan** - Community Organizer, One Love Movement. She's influential because she's speaking out on immigrant rights and an unjust criminal justice system, and will not be silenced. She is a co-founder and organizer for One Love Movement, a grassroots group advancing critical dialogue around the intersect of criminal justice and the immigration movement, formed in response to the rise in detention and deportation of Cambodian Americans on the basis of prior criminal convictions in Philadelphia, and nationwide. According to One Love: "These policies neglect to consider the severe flaws in the immigration system, including the presence of retroactive punishment, denial of individualized review, the broad range of crimes deemed deportable, and the value of rehabilitation." It's a complicated issue, but Mia-lia Kiernan and One Love Movement are working to create more awareness of the deeper story behind these so-called "criminal deportations," and get to the heart of what's at stake: real families torn apart by destructive, unjust policies.

**Caitlin Barry** - Supervised the Temple Immigration Law Clinic at Nationalities Service Center (NSC) as an adjunct professor, where she collaborated with law students to provide pro bono deportation defense services to low-income Philadelphia residents and coordinated a weekly seminar on lawyering skills and local migrant justice issues from 2011-2012. Prior to her clinic work, Caitlin served as a staff attorney at NSC, specializing in deportation defense for individuals targeted by the criminal system. From 2007 to 2012 she was also the Immigration Specialist at the Defender Association of Philadelphia, a position she created with a 2007 post-graduate fellowship from the Berkeley Law Foundation. Caitlin is an active volunteer with local organizations working on issues of prison abolition, gender self-determination, migrant justice and grassroots empowerment and a frequent presenter on the intersections of the deportation and criminal systems.

**Patricia Vickers:** Hello everyone, I'm Patricia Vickers from the Human Rights Coalition. I'm doing an interview with Mia-lia Kiernan from One Love Movement and Caitlin Barry from MELT. Thank you for being with us; both of you; thank you for granting us this interview. I'd just want to know first, how you guys are doing today?

**Mia-lia:** Great, thank you.

**Caitlin:** Good, thank you.

**PV:** I want to start off with questions right away because this interview is a telephone conference call that I am recording and I don't know how long we have. My first question is for Mia-lia, would you mind telling our readers about yourself?

**Mia-lia:** Yes. My name is Mia-lia and I am an organizer and co-founder with One Love Movement. We're based in Philadelphia but we have network chapters around the country. We were formed out of a detention and deportation crisis in the Cambodian community.

**PV:** Thank you. And Caitlin can you tell us something about yourself?

**Caitlin:** Sure. I am an immigration attorney and a supporter and volunteer with local organizations working on issues of immigrant justice, prison abolition and grassroots empowerment.

**PV:** Are there any particular human rights issues that you recognize and are fighting for?

**Mia-lia:** We perceive detention and deportation as human rights issues. In terms of deportation they're rooting up, and breaking apart families and communities all across the country. Many people who are deported aren't given access to due-process in our immigration court system. And the results are broken families in our communities here in the US; we perceive this as a human rights issue.

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In terms of detention we see prison, period - whether you're an immigrant or not an immigrant - as a human rights issue. Particularly the conditions of prison - detention center or prison; it's not humane and also keep people removed from our society.

**PV:** For the readers who don't know anything about immigration detention centers or the concerns related, what would you say to them?

**Mia-lia:** Immigration detention is a way to lock up people who are not citizens of this country. And often you don't have to go through any legal processes. So there can be indefinite detention, a lot of the times, without any end date. There're also conditions of living; and, being in prison away from your family. Basic human dignity is denied to people who are incarcerated, under any circumstances. So, I would just say there is an entire system within that immigration deportation system that has many places where people can be - people who are immigrants - can be locked up. And I think maybe Caitlin can explain some of those.

**Caitlin:** I think that the first thing I would want people to know, who don't know anything about immigration detention, is that definitely in Pennsylvania and most parts of the country ... ICE just contracts with county jails. It's not like ICE is building their own separate facilities and people are being subject to separate rules and regulations. They are in prison, and prison is prison, is prison. They're subject to the exact same restrictions and the same of violations of their rights, in terms of conditions, that all other prisoners are subjected to. They are subjected to the same disciplinary conditions; they get sent to solitary confinement on the same basis.

The only difference is immigration detainees, who are really immigration prisoners, don't know when they're getting out. They have that added level of psychological assault because all immigration detention is indefinite. Once you go there you have no idea when you're going to be released. It could be in a week, or it could be five years. And because you're not serving a sentence, because there is no end date, it's just whenever your case gets resolved. If your case takes five years to get resolved, well then, there you are.

There are ways to challenge it and there are legal standards. But, of course, that means involving an attorney and there is no right to an attorney for immigration detainees. So the majority of folks - over 80% of folks - are unrepresented. They're in prison without to legal information or information about how to start a case or about how to get out. So we really don't have to stretch to find a crossover between the issues affecting people incarcerated for crimes and people incarcerated by immigration. They're in the exact same facility and subject ...

**Mia-lia:** The exact same place, yes.

**PV:** Wow and they really haven't committed a crime, but that doesn't matter either way ...

**Caitlin:** Yeah. Some of them may have committed a crime. Some of them may not have. But that's not why they're there; they are there because they are immigrants. So if two people ... if a citizen gets arrested for a crime and a immigrant gets arrested for a crime, they go to court and they get the same amount of time, say they do a month in jail. The citizen walks out of jail and goes home; the immigrant is stuck in detention for who knows how long. They are there because they are immigrants not because of what the underlying issue was.

**PV:** Thanks. I'm going to throw some statistics at you, let me know if it's true. There are 250 Immigration Detention Centers across the United States and the cost to the tax payers is 2 billion dollars per year.

**Mia-lia:** I don't ... Caitlin do you know the numbers?

**Caitlin:** I know locally. The statistics that I've seen is the cost for detaining someone here in Pennsylvania. The cost is somewhere between 80 and 130 dollars per day. And there's usually about 2,000 people in immigration detention in Pennsylvania.

**PV:** I understand that 10 detention centers have been labeled the worst, as far as how they treat the prisoners or immigrants that are there, what do you have to say about that?

**Mia-lia:** I haven't heard ...

**Caitlin:** I just ... to give a little context, Mia, about this. I know about this because I was reading about it last week. It's a Detention Watch Network campaign called Expose & Close where they're trying to bring attention to the worse practices around the country.

My statement on that is that I applaud them for trying to bring some of this behavior to light. But there's no such thing as a "just" prison. There's no such thing as a prison that respects peoples' human rights. I don't care how many soccer fields they have. There's no such thing as a way to keep someone in prison and to respect someone's dignity as a human being.

**Mia-lia:** I agree. I agree. I mean it doesn't, I don't think that any "top ten" or top something works; no matter what it does. It doesn't make sense to me ... a prison is a prison, whether it's on the top of the list or bottom of the list. It's still a cage. And it's still denying people their freedom.

**PV:** What do you have to say about some - in Congress - have declared a "war on immigrants", any comments?

**Mia-lia:** I haven't heard that, until you just said that. I'm just ... it's just shocking.

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**PV:** From what I understand the “war on immigrants” target specific groups of people – what do you have to say about that? Is it targeting like only Spanish speaking or . . . what are your comments?

**Mia-lia:** I think that there are different ways people get caught up in the immigration and deportation system. But I think the bottom line is that all communities are affected by “injustice” towards any group, or community, or family in this country. So we have to really not be talking like this is this community’s problem; or that community’s problem. It’s all of our problem when families are being torn apart. We have to really not get into talking about this is someone else’s problem. We need to all be taking responsibility.

**PV:** What would you suggest that we, everyday citizens, do about this problem?

**Caitlin:** There are so many incredibly powerful organizations, led by and for the community of folks who are directly affected, working on the issues of deportation, incarceration of immigrants, poverty, lack of access to quality education and health care. We need to support those organizations and place the concerns of marginalized communities at the center of our struggle. We need to listen to leaders from communities that are directly affected by these unjust laws who are creating strategies of resistance on the ground.

I also think as people concerned with racial, economic and gender justice we need to think about how our struggles are connected. In the context of mass incarceration, the prison system is profiting off of the detention of all bodies, including immigrants, including women, including transgender prisoners and queer prisoners. We need to connect our communities and build understanding and solidarity to fight this system and its impact on all communities.

**PV:** Are there any final comments for our readers? Are there organizations that they can contact about this problem?

**Caitlin:** There are so many vibrant, community based organizations working on these issues! One Love Movement has been building a base of organizers to fight against the terrible impact of the expansion of the criminal punishment system on immigrant communities. DreamActivist PA supports families of immigrants in detention, and their organizers have literally put their lives on the line to bring attention to the injustice of the deportation system. Juntos advocates for immigrant families in our public education system, they organize against racial profiling in immigrant communities and they work to build strength and unity in Latino communities. New Sanctuary Movement has been organizing in communities of faith to involve church leaders and congregations in the fight for immigrant justice. Check them out!

**PV:** Would you mind sharing your contact information (your organization’s name, website, email)?

**Caitlin:** We were connected with HRC through the MELT committee of Decarcerate PA. MELT hopes to mobilize communities to build bridges through common experience against the profit-driven criminal system. Check out [www.decarceratepa.info](http://www.decarceratepa.info) for our immigration fact sheet and statement on immigration reform!

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Provisions to expand the population facing mandatory detention and deportation—for example, adding categories such as suspected gang members—are another means by which comprehensive reform might lead to more immigrants being detained, Wessler said in an interview.

Muzaffar Chishti, director of the Migration Policy Institute’s office at New York University, said he thought it was unlikely that legislators would seek to exert much influence over executive-branch enforcement programs such as Operation Streamline and Secure Communities.

But, Chishti said, “McCain will want to stay relevant in the Gang of Eight, so he’ll want to put his preferred items in the enforcement agenda.” And in general, lawmakers “could start introducing elements in the legislation saying these are triggers that indicate the borders are secure.”

CCA, for its part, has said it anticipates continued strong demand from the government, regardless of whether a reform bill is passed. A subsequent article by Wessler quoted CCA President and CEO Damon Hininger telling investors last week that while the profile of ICE detainees may change over time, “I think their general belief is there’s always going to be a demand for beds.”

But the murkiness of reform’s impact on the industry is one of the features that makes this such a compelling—and challenging—story. In the coming weeks and months, reporters will be tracking the flurry of competing reform proposals coming from lawmakers, and the ways that those proposals reflect the priorities of competing interest groups. As the story of immigration reform gets told, let’s not forget about an industry that has more than a few dollars at stake.

(Continued from page 39) Norwegian Prisons

information has been offered voluntarily. Vidor does the same. He tells me he is serving 15 years for double manslaughter. There is a deep sadness in his eyes, even when he smiles. “Killers like me have nowhere to hide,” he says. He tells me that in the aftermath of his crimes he was “on the floor”. He cried a lot at first. “If there was the death penalty I would have said, yes please, take me.” He says he was helped in prison. “They helped me to understand why I did what I did and helped me to live again.” Now he studies philosophy, in particular Nietzsche. “I’m glad they let me come here. It is a healthy place to be. I’ll be 74 when I get out,” he says. “I’ll be happy if I can get to 84, and then just say: ‘Bye-bye.’”

On the ferry back to the mainland I think about what I have seen and heard. Bastoy is no holiday camp. In some ways I feel as if I’ve seen a vision of the future – a penal institution designed to heal rather than harm and to generate hope instead of despair. I believe all societies will always need high-security prisons. But there needs to be a robust filtering procedure along the lines of the Norwegian model, in order that the process is not more damaging than necessary. As Nilsen asserts, justice for society demands that people we release from prison should be less likely to cause further harm or distress to others, and better equipped to live as law-abiding citizens.

It would take much political courage and social confidence to spread the penal philosophy of Bastoy outside Norway, however. In the meantime, I hope the decision-makers of the world take note of the revolution in rehabilitation that is occurring on that tiny island.



# Immigration reform and private prison cash

Key lawmakers in the immigration debate are among the top recipients of campaign contributions from the prison industry

Columbia Journalism Review

By Sasha Chavkin

February 20, 2013

[www.cjr.org](http://www.cjr.org)

As immigration reform picks up steam in Congress, conventional wisdom holds that a handful of key players are shaping the legislation. Labor unions. Big business. Advocacy groups for and against a path to citizenship for the undocumented. But little scrutiny has been directed at a multi-billion dollar industry with a lot riding on the future of immigration policy: the private companies that operate federal prisons and detention facilities.

For-profit prison management has become a booming business in recent years. Much of that growth is driven by the government's ramped-up immigration enforcement, which have boosted demand for privately-run prison facilities to detain suspected illegal immigrants until deportation hearings, and to incarcerate immigrants who have been convicted of crimes.

The nation's two largest private prison operators, the Corrections Corporation of America (CCA) and the GEO Group, have more than doubled their revenues from the immigrant detention business since 2005, contributing to overall combined revenues that eclipsed \$3 billion in 2011. Prison companies have spent heavily during this time to influence government: over the last decade, according to The Associated Press, the industry has spent more than \$45 million on campaign contributions and lobbying at the state and federal level.

Some of the politicians who have benefited most from this largesse are influential Senators who are now playing key roles in shaping proposed immigration reform legislation.

Among members of Congress, the top two recipients of contributions from CCA are its home-state senators, Lamar Alexander and Bob Corker of Tennessee. The Republican lawmakers, each of whom has received more than \$50,000 from CCA according to data compiled by the Sunlight Foundation, represent important swing votes for advancing a reform bill through the Senate. Another top CCA recipient is Arizona Republican John McCain, who has gotten \$32,146 from CCA and is a member of the bipartisan "Gang of Eight" that is working to draft legislation. His fellow Gang of Eight member, Marco Rubio, ranks among the top recipients of contributions from the Florida-based GEO Group, receiving \$27,300 in donations over the course of his career.

In recent years, each of these senators has sponsored bills that would have increased the detention and incarceration of immigrants. Legislation put forward by Alexander in 2009, for example, would have provided for "increased alien detention facilities." And a 2011 bill cosponsored by McCain and Rubio sought to expand Operation Streamline, a federal enforcement program that makes illegal entry a criminal offense in some jurisdictions.

The contours of the immigration reform debate are complex, in part because it's not quite clear yet what "reform" might look like. Various reform proposals might decrease, increase, or have negligible effect on the number of immigrants funneled into the detention system—and thus on the balance sheet of the companies hired by the government to run that system.

But as the immigration reform debate moves forward, reporters would be wise to keep a close eye on how the legislation will affect detention and incarceration levels—and on whether the private prison industry is in fact staying fully on the sidelines, as it insists it does. The key senators who have benefited most from the industry's donations—Alexander, Corker, McCain, and Rubio—will merit particular attention as they help to shape the bipartisan bill that is considered the most likely blueprint for reform.

### Booming industry says it stays out of debate

The explosion of immigrant detention and incarceration is a relatively recent phenomenon. The Immigration Customs and Enforcement budget more than doubled from 2005 to 2012, and now surpasses \$2 billion annually. Roughly 400,000 immigrants are now detained each year. ICE's capacity for daily detention beds has surged from 18,000 in 2003 to 34,000 in 2011—and ICE officials have said they understand the law as requiring the agency to keep these detention beds filled.

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Proponents of stronger enforcement say these programs are necessary because immigrants facing deportation can disappear into the shadows if they are not detained, and have little incentive to obey immigration law if there are no consequences for breaking it. “If you’re serious about removing people, then you hold them throughout the proceedings,” said Ira Mehlman, a spokesman for the Federation for American Immigration Reform.

The government programs behind this surge in detentions include initiatives known as 287(g) and Secure Communities, which authorize state and local law enforcement, and local jails and prisons, respectively, to look up the immigration status of suspected criminals. Individuals who are found to be undocumented may be placed into deportation cases and potentially detained. Another important program is Operation Streamline, which increased the penalties for illegal border crossers, with the result that many serve time in federal prisons for designated immigration offenders. Some of these prisons are operated by CCA and GEO Group.

And as is usually the case for companies that do big business with the government, the private prison industry is active on the lobbying front. Records from the Lobbying Disclosure Act database show that both CCA and GEO Group have regularly lobbied the House and Senate, as well as executive-branch agencies, on immigration-related matters in recent years. But both companies say that while they lobby the government to obtain contracts, they never seek to shape the policy that determines who is detained.

“It is CCA’s longstanding policy not to draft, lobby for or in any way promote detention enforcement legislation,” CCA spokesman Steve Owen said in an email. “That means CCA does not take a position on or advocate for or against any specific immigration reform legislation nor does our government relations team on our behalf.”

GEO Group spokesman Pablo E. Paez replied in an email that “the GEO Group has never directly or indirectly lobbied or advocated to influence immigration policy.”

These claims of a hands-off approach to immigration policy debates have been called into question in the past, however. A 2010 investigation by NPR found that CCA had participated in a “quiet, behind-the-scenes effort to help draft and pass” the controversial Arizona law that allowed police to demand papers from individuals who were suspected of being undocumented immigrants and lock up those who failed to provide them. Most of that law has since been struck down by the Supreme Court.

When asked whether CCA had lobbied Sen. Alexander regarding immigration enforcement or reform, Alexander spokesman Jim Jeffries replied in an email: “Corrections Corporation of America is an important Tennessee company. Sen. Alexander and his staff have hundreds of conversations a week with his constituents and he believes they are entitled not to have those conversations publicly reported.” (Throughout his career, Alexander has enjoyed close ties to CCA: his former special assistant, Charles L. Overby, sits on CCA’s board. And his wife, Honey, made an early \$5,000 investment in CCA in the first part of a transaction that later came under scrutiny.)

In reply to an inquiry about whether Sen. McCain had discussed either Operation Streamline or pending immigration reform proposals with CCA, McCain spokesman Brian Rogers replied that the enforcement program “will continue whether or not Congress passes comprehensive immigration reform. Senator McCain supports Operation Streamline because it works.”

A spokesperson for Sen. Corker said he was traveling overseas and unable to respond. Sen. Rubio’s office did not respond to email and telephone inquiries.

### **Impact of reform unclear**

While the companies insist that they do not seek to shape immigration policy, the private prison industry has at times acknowledged its business could be affected by the reform debate. “Immigration reform laws which are currently a focus for legislators and politicians at the federal, state and local level also could materially adversely impact us,” the GEO Group declared in a 2011 SEC filing. And with the White House saying its goals for reform include “expanding alternatives to detention and reducing overall detention costs,” the limited media coverage so far has focused on potential losses for the industry. “Private prisons will get totally slammed by immigration reform,” read the headline on a Feb. 2 Business Insider piece.

But any immigration reform bill will be shaped by Congress—and the impact of reform on detention and incarceration still hangs in the balance. Divisions have already emerged between the White House and the Senate’s bipartisan Gang of Eight about the crucial path to citizenship. One key difference is that the Gang of Eight—which includes McCain and Rubio—has proposed that the Homeland Security department must certify that the border is secure before any undocumented immigrants can get green cards.

One reporter, Seth Freed Wessler of the progressive media site Colorlines.com, has suggested that as negotiations unfold, reform might even increase the numbers of immigrants being imprisoned. A concern among Democratic staffers and immigrant advocates, Wessler wrote, is that Republicans may insist on more enforcement—such as, perhaps, an expansion of Operation Streamline—in exchange for agreeing to a path to citizenship.

(Continued on page 29)

***The Human Rights Coalition (Disclaimer)***

***The Human Rights Coalition is an organization that focuses on the plight of prisoners in their struggle for human rights and humane conditions of prisons and challenging the prison industrial complex exploitation of inmates and the drastic ramification on the families of prisoners and society at large.***

***We recognize that most prisoners are people of color and often are economically disfranchised working class people. HRC serves as an educational and resource forum to the community.***

***The Human Rights Coalition does not have the ability to represent individuals in the court of law nor has funding for such activities. The Human Rights Coalition does not have lawyers for personal counsel nor the ability to write legal briefs on behalf of any individual.***

***The Human Rights Coalition is about building a grassroots movement with the leadership of the families of prisoners and citizens who are concerned about the proliferation of prisons and the lack of social programs that could prevent crime and injustice.***

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### Guard Charged with Sexual Assault

**Centre Daily Times**

A suspended corrections officer at the State Correctional Institution at Rockview has been charged with sexually assaulting an inmate at the Benner Township facility over a number of years.

State police at Rockview said Marlin E. Freeman, 54, forced the inmate to perform sexual acts in the prison chapel between September 2009 and April 2012.

Freeman, of Ramey, Clearfield County, allegedly threatened that the inmate would lose his janitorial job in the prison's medical facility or would face solitary confinement if he did not comply, police wrote in charging documents filed Tuesday. Police say they have DNA evidence that connects Freeman to the case.

Department of Corrections press secretary Susan McNaughton said Freeman was suspended without pay Nov. 16. Freeman told investigators in November he intended to resign from the prison after he had been informed of the investigation, police wrote in a criminal complaint.

The inmate is serving a life sentence on murder charges. He has been incarcerated since 1984 and at Rockview since 2003. McNaughton said the inmate was transferred to another prison after making the allegations in April.

McNaughton said no other inmates have come forward with allegations against Freeman. The inmate has also filed a lawsuit in federal court against Freeman and several other prison employees he claims were told of the assaults but did nothing to stop them, according to court records. According to charges in the criminal case, Freeman told police he had worked at the facility since the early '90s, most recently in the prison chapel. His duties there included conducting random pat-down searches of inmates and overseeing several inmate workers.

Freeman previously worked on the cell block where the inmate stayed, the incarcerated man told police. The inmate said Freeman would stalk his cell, standing outside and looking in the window. After moving to the chapel, Freeman would summon the inmate in the late evening, when no one else was in the area, under the pretext of returning religious tapes for inventory, the inmate alleges. The inmate claims he wasn't physically assaulted, but that Freeman used his position to force the man into committing sexual acts.

After an encounter in April, the inmate was able to preserve a sample from Freeman, which he mailed to investigators, his defense attorney and family members. Police said tests revealed that the sample matched Freeman's DNA.

Freeman faces felony charges of involuntary deviate sexual intercourse, rape, sexual assault and institutional sexual assault.

He remains free on \$50,000 unsecured bond.

"These are very serious charges, and it's our intent to defend them vigorously," said Bellefonte attorney Brian Manchester, whose office is representing Freeman. Philadelphia-based attorney Norris Gelman, who is representing the inmate, did not return a call seeking comment.

In a prisoner civil rights lawsuit filed in federal court, an attorney for the inmate said the man "was terrified to tell anyone because Freeman could simply deny it. (The inmate) knew that correctional officers are virtually always believed in matters of credibility between themselves and inmates."

The lawsuit, which was filed in November, claims the inmate found the courage to report the abuse in March 2011, writing letters to two registered nurses and a health care administrator employed by the Department of Corrections.

He claims the employees, who are also named as defendants in the lawsuit, rebuffed him and warned that he never mention the allegations again. The inmate is seeking a civil jury trial and is seeking punitive damages and interest. Wilkes-Barre-based attorney Barry Dyller, who is representing the inmate in the federal lawsuit, could also not be reached.

### Death Penalty Repeal in Maryland Major Step Towards National Abolition

**Amnesty International**

(ANNAPOLIS, Md.) - Amnesty International USA (AIUSA) hailed the repeal of the death penalty in Maryland today and urged Governor Martin O'Malley, a proponent of the bill, to commute the sentences of all five prisoners remaining on death row. Maryland will become the sixth state in six years to repeal capital punishment when Governor O'Malley signs the bill as expected in the coming weeks.

"This is a great victory for human rights, and a major step towards ending the cruel and anachronistic practice of capital punishment in the United States," said Brian Evans, Acting Director of AIUSA's Death Penalty Abolition Campaign. "The death penalty is a fundamental human rights violation for a reason - it's irreversible."

"Having failed to eliminate the risk of executing an innocent person, Maryland lawmakers came to the right conclusion and voted to send the death penalty where it belongs - into the dustbin of history," said Evans.

As AIUSA praised Governor O'Malley for making the abolition bill the signature issue of his legislative agenda, the organization also urged him to set

aside money in the state's budget to support victims' families. Funds allocated were stripped from the original bill.

"We must help victims' families rebuild their lives and make communities safer from violence," said Evans.

"Times were extremely difficult when we began campaigning in Maryland," said Cathy Knepper, a longtime Amnesty International activist who served as Amnesty's state death penalty abolition coordinator from 1985 to 2005. "Most Americans believed that the death penalty was as American as apple pie. We were actively spurned. Over the years, we have seen our message gradually become more and more acceptable - that the death penalty is the ultimate human rights abuse and a terrible waste of taxpayers' money that could be used to fight crime and support victims. This is a day to celebrate the evolution of thinking that has finally overturned this abhorrent practice in the state of Maryland."

Maryland will become the 18th state to repeal the death penalty and in the coming weeks, serious debates on abolition are likely to take place in Delaware and Colorado.

Amnesty International has led a global movement to abolish capital punishment since 1977 and has been organizing grassroots abolition efforts in Maryland for decades, serving as an integral member of the Maryland Citizens Against State Executions coalition.

According to Amnesty International's most recent annual worldwide death penalty survey in 2012, the United States stands almost alone among industrialized countries retaining the death penalty.

Since 1990, more than 50 countries have abolished the death penalty, including Haiti, Paraguay, Romania, Spain, Portugal, South Africa and Rwanda. More than two thirds of the world's countries no longer execute people or use the death penalty. It is a disturbing fact that in 2012, the United States remained among the top five countries that carried out the highest number of known judicial executions. The others were China, Iran, Saudi Arabia and Iraq, whose governments have consistently demonstrated notoriously poor human rights records.

Amnesty International is a Nobel Peace Prize-winning grassroots activist organization with more than 3 million supporters, activists and volunteers in more than 150 countries campaigning for human rights worldwide. The organization investigates and exposes abuses, educates and mobilizes the public, and works to protect people wherever justice, freedom, truth and dignity are denied.



### Cornelius Harris Trial

#### Redbird Prison Abolition

February 9, 2013

(Mahoning County, OH)- The jury largely sided with hunger striking super max prisoner Cornelius Harris in his criminal trial this week. Harris was facing nine felony charges stemming from fights with guards at The Ohio State Penitentiary (OSP). Harris has long maintained that these fights were actually initiated by guards who have targeted him for harassment and abuse. Earlier this week, a jury found largely in Mr. Harris' favor.

Mr. Harris initiated his hunger strike on January fourth, and went to trial later in the month. He represented himself, and part way through the trial he was transferred to Franklin Medical Center (FMC) because of his deteriorating health due to the hunger strike. Mr. Harris says he has lost about fifty pounds, and is experiencing sharp pains in his legs. Doctors report that he is close to suffering serious medical problems like organ failure because he has refused food for so long.

On Tuesday February 5th, the court Judge Maureen Sweeney ordered Mr. Harris return to court to complete his trial, against the wishes of doctors at FMC. Harris was transferred back to OSP and appeared in court, ending the jury phase of trial on Friday, February 8th. Mr. Harris was charged with two counts of attempted aggravated murder, one count of attempted murder, three counts of felonious assault, and three possession of a dangerous weapon while in detention charges. He was found not guilty of the attempted murder and felonious assault charges. Both attempted aggravated murder charges were reduced to felonious assault.

Mr. Harris represented himself, with no assistance from lawyers, while his health was seriously compromised by the hunger strike. He says he is confident that under different circumstances, or with legal representation he would have also beaten the remaining charges.

As of Friday evening, Mr. Harris is still on hunger strike. He was threatening to refuse water as well as food, a decision that would risk ending his life within 72 hours, but after the trial results and a meeting with the warden, he decided to drink water at least through the weekend. Mr. Harris is making two main demands. First, an end to this harassment from guards and second, an improved procedure for security level review.

In June of 2012, Mr. Harris released a statement, posted to RedBird Prison Abolition's website detailing this abuse. In this statement he names correctional officers Timothy McVay, James Burns,

Kieth Hawn and Waylon Wine as abusers. Mr. Harris is concerned that these or other guards may escalate harassment and violence against him because of the results of the trial.

Mr. Harris has been incarcerated at OSP since being transferred from Southern Ohio Correctional Institution (SOCF) in Lucasville five and a half years ago. The incidents producing these criminal charges occurred in 2009 and 2010. Mr. Harris says he has not had any incident reports for the last three years, but has been kept on level 5 with severely restricted access to visitors, commissary and programming. Under these limitations, there is very little any level 5 prisoners can do to demonstrate good behavior and reduce their security level.

In June of 2012, a death sentenced level 5 prisoner



at OSP named Jason Robb went on a nine day hunger strike which ended with modifications to security review procedure and privileges for him and other death sentenced prisoners at OSP. These changes include limited congregate recreation, full contact visits, and increased frequency of security reviews. These changes allow the death sentenced prisoners at OSP to demonstrate ability to be housed on death row in Chillicothe. Mr. Harris is demanding that these changes also apply to him. Mr. Harris says Warden David Bobby is unwilling to meet these demands because he would have to apply the same changes to all level 5 prisoners.

Prisoner advocates say that these step-down procedures should be applied to all level 5 prisoners. Prisoners on level 5 at OSP spend 23 hours a day alone in their small cells, often for years on end. They have no human contact other than guards. These conditions are common in US super max prisons, but violate international human rights standards and are widely considered a form of torture.

Supporters are requesting that people call OSP Warden David Bobby on Monday, demanding that Mr. Harris be kept safe from retaliation and have his hunger strike demands met. Warden Bobby can be reached at 330-743-0700 ext 2006. People are also encouraged to contact central office and demand oversight and changes to the security review system for level 5 prisoners. The number for Central Office is 614-752-1159.

### Group suing prisons over treatment of mentally ill

#### CBS21 News

March 11, 2013

The Disability Rights Network of Pennsylvania (DRN) filed a federal lawsuit today challenging the unconstitutional treatment of prisoners with serious mental illness in solitary confinement, known as Restricted Housing Units, in state correctional institutions.

The network, designated under federal law to protect the rights of people with disabilities, said the Pennsylvania Department of Corrections confines about 800 men and women with mental illnesses in horrific conditions with inadequate mental health treatment.

The lawsuit alleges that the department is aware that such confinement exacerbates their mental illness, but does not adequately take their mental health into account before disciplining them by placing them in solitary confinement for extended periods of time. The lawsuit alleges the state's mistreatment of these prisoners, who make up about 33% of the total RHU population, violates their rights under the Eighth Amendment to the U.S. Constitution.

Prisoners in RHUs are locked down at least 23 hours a day in cells as small as 80 square feet – the size of an average home bathroom. Often prisoners are punished for violations of prison rules that are a result of the symptoms and manifestations of their mental illness.

Prisoners confined to RHUs have only the most minimal contact with other human beings. Prolonged isolation exacerbates the symptoms of mental illness. As a result, often prisoners with mental illness refuse to leave their cells for the limited recreation time or for medical treatment. Others experience sleeplessness, hallucinations, and paranoia. Still others engage in head banging, injure themselves by cutting or attempted hanging, and sometimes are successful in suicide attempts. Frequently, these symptoms are regarded as prison rule infractions, which prison officials punish with still more time in the RHU.

Despite knowing the psychological pain the RHU imposes, DOC fails to provide prisoners with mental illness in solitary adequate mental health services. Prisoners receive, at best, very brief cell-front contacts from mental health staff. However, many prisoners need far more extensive treatment, which is not provided.

The American Psychiatric Association as well as

*(Continued on page 35)*

the National Commission on Correctional Health Care (the accreditation entity for jails and prisons) advocate against housing prisoners with serious mental illness in segregated units like the RHU without an evaluation by mental health professionals to determine whether such placement would be harmful. They further urge that such confinement should last only a few weeks at most and that adequate mental health services be provided to prisoners whatever the setting. While other states' corrections officials have adopted these standards, Pennsylvania's have not.

## California's prison realignment causes dangerous row of dominoes at local level

**Southern California Public Radio**

January 14, 2013

*After a federal court ordered California to reduce its prison population, California enacted "realignment," shifting responsibility for tens of thousands of felons to counties. But a little over a year after the change took effect, local officials say they often lack critical information about who and where these people are. KPCC's Julie Small reports.*

In 2011, California began "realignment" – shifting state inmates to local custody to comply with an order from a federal court to ease overcrowding as a way to improve prison medical care.

Counties had only a few months from the time realignment became law to the day they became responsible for supervising thousands of additional felons coming out of state prisons. Officials focused on beefing up probation departments and city jails. Coordinating databases wasn't a top priority.

"It was a kind of a 'Ready, fire, aim' approach," says Glendale police Chief Ron De Pompa.

De Pompa says, from the outset, he lacked important information about the state prisoners released into his community.

"About 70 percent of the addresses we get on these individuals are bad," De Pompa said. "We are behind the eight-ball from the start because we don't even know where these individuals reside in our community, until suddenly we encounter them on a call for service or a violent crime or in an arrest situation."

Before realignment, counties could use a state database of low-level felons in their communities

to see a parolee's physical description, address and prior convictions.

Los Gatos Police Chief Scott Seaman, head of the California Police Chiefs Association, says police relied on the database to keep communities safe.

"Parole had a system, which we all had access to, and parole agents would update the cases of their clients," Seaman says. "And we could check that system and we could know what their current status of an offender was if we had contact with them or they came to our attention in the course of an investigation."

Police can still access the state database, but it's not up-to-date for felons under county supervision. That's because county probation officers have their own databases to maintain. Seaman says some local police chiefs have had trouble getting access to those county files.

### Greatest challenge: Los Angeles County

Under realignment, Los Angeles County has received a third of all felons released from state prisons. In the first year of realignment, the county probation department gained more than 11,000 new cases to track.

"The probation department has been challenged, both with its own ability to process the large numbers of offenders who are coming, but also the difficulties of starting a big program in a short period of time," Seaman says.

"We're doing it. But we're doing it with limited resources," says Reaver Bingham, the L.A. County Probation Department's deputy chief of adult services. He oversees the department's realignment plan.

"We had to build this program quickly," Bingham explains. "So there were certain infrastructure that we had to build. There were certain things that had to be fine-tuned. There were certain basic relationships that we had to formulate. And there were certain internal things that we had to do before we could fully branch out and do some of these other things. But the intent to share information was always there."

### Paper records in a computer age

One thing that slows down probation: California's prisons maintain inmate files the old fashioned way – on paper. Probation staff digitize them by scanning the documents manually.

L.A. County Probation has worked out a system to share the data with the Sheriff's Department, which then shares it with local police departments. But that's where the data trail ends, which creates another new problem for police: counties aren't sharing probation data the way state parole officers do.

Fontana Police Chief Rodney Jones says if he arrests an L.A. County probationer in San Bernardino County, he can't know if they've violated the conditions of their probation.

"I have very little access, if any, to find out what those terms are," Jones says. "And [whether] he's in violation of those terms...or even find out who is probation officer is."

There's growing consensus among California law enforcement officials that they need to be able to read every county's probation database.

Matthew Cate, who implemented realignment when he was Secretary of Corrections, recently became head of the California State Association of Counties. Cate agrees that a statewide database would be good to have, but might be difficult to achieve.

A one-size-fits-all system would be difficult to design, says Cate, "until we know that each county can afford to provide their data, that we know whoever is accumulating data is doing it in a way that makes sense."

L.A. County officials have been meeting with the Brown administration and the state Department of Justice to push for a statewide database of county-supervised felons. And they're pushing for the state to fund it.

## Ruiz: Immigration and Customs Enforcement released 2,000 detained immigrants for all the wrong reasons

**NY Daily News**

March 24, 2013

Immigration and Customs Enforcement Director John Morton had a rough day last Tuesday — and deservedly so. That was the day in which the ICE chief testified at a House appropriations subcommittee hearing about the release of more than 2,000 undocumented immigrants from local jails throughout the country. They were let go under "supervised release" between Feb. 9 and March 1, and according to Morton, for "solely budgetary reasons."

Whatever the reasons, I for one am happy for those released and their families; but House Republicans, not surprisingly, are not.

Actually they are furious, although not so much for any concern for the safety of the American people. The main reason for their anger is their belief that the massive release was an Obama administration political ploy to make people believe that budget cuts are worse than they really are.

*(Continued on page 36)*

"At the time this release started, the President of the United States was going around the country telling people what the pain was going to be from the Sequester," said subcommittee chairman, Rep. John Carter (R-Tex.). "That's a fact. That was the atmosphere. It was Chicken Little, the sky is falling."

Yet, that isn't the real scandal, as Rep. Luis Gutiérrez (D-IL) made clear at the hearing.

In truth, there are few reasons to be concerned about the safety of the communities into which the immigrants were released. The great majority those freed are not violent or dangerous in any way, shape or form.

The real scandal is Morton's admission that 70% of the released had "no record at all," and only eight — who were freed by mistake — had committed serious crimes.

In other words, ICE's director admitted the agency had blatantly violated its own guidelines on "prosecutorial discretion," which direct it to focus on immigrants who have committed serious



**Department of Homeland Security Assistant Secretary for Immigration and Customs Enforcement John Morton/AP Photo**

crimes.

Gutiérrez, a fiery proponent of immigration reform, pointedly questioned Morton about why immigrants with no criminal record or low level offenses were imprisoned in the first place.

"The fact is you will deport 1,400 people today, you will deport 1,400 people tomorrow and the next day and the next day until we do comprehensive immigration reform," an angry Gutiérrez told Morton. "Two hundred and fifty to 300 American citizen children are going to be left today — because of your actions and those of your department — without a mom or a dad."

Deportations have reached a new high under Morton's directorship of ICE; he defended his decision to release the immigrants as an inevitable consequence of the budget cuts.

"The releases were a direct result of ICE's efforts to stay within its detention budget in light of the CR (continuing federal budget resolution) and sequestration," Morton said.

Yet, in reality ICE itself is pretty much responsible for its awful reputation and financial troubles.

Had the agency paid attention to the recommendations of advocacy experts to release, under supervision, exactly the kind of non-dangerous immigrants Morton says they were forced to free for lack of money, ICE would not be in such financial straits and would have fulfilled its mission in a more compassionate manner.

After all, according to the National Immigration Forum, the cost of keeping immigrants in jail is about \$164 per day, per person.

Meanwhile, immigrants under supervised release — like the more than 2,000 freed by ICE — cost the government from 30 cents to \$14 a day, saving taxpayers many millions of dollars.

Obviously for ICE to free all non-dangerous detainees and allow them to return to their families and communities makes a lot of sense.

For budgetary reasons and, more important, for moral ones.

## Pennsylvania DOC Releases Recidivism Report:

### HRC PA Prison Report

March 23, 2013

On February 28, 2013 the Department of Corrections released what they call a "groundbreaking" and "comprehensive" report on recidivism rates, creating a "new normal" within the Pennsylvania criminal legal system. The focus of this "new normal," which is laid out by the Corbett administration's Justice Reinvestment Initiative, is to adopt market based reforms that rely on "performance based" accountability, "best practices," and data to drive prison reform. This study was called the "keystone" of Corbett's new approach to the Department of Corrections and is largely about keeping statistics and trying to find out what isn't working.

While this report is considered "landmark" mainly because of its scope and inclusion of Community Corrections Center (CCC's) and summary of hard data, the numbers are still staggering. The report shows rearrest rates and reincarceration rates and the overall total of recidivism rates for the last decade have not changed over the years. Recidivism is defined as the first instance of any type of re-arrest or reincarceration after inmates are released from state prison. The average recidivism rate from 2000-2008 is 63% within the first 3 years of release. That rate went as low as 62.0% (2008) and as high as 64.4% (2005).

Some of the other highlights from the report are nothing new. Released prisoners who return to concentrated poverty, concentrated police presence, and unequal access to resources, and now face employment and housing discrimination tend to have higher recidivism rates. Despite the prison industry admitting that they are failing miserably in their number one goal of deterring crime, the proposed solutions still refuse to address root causes of crime such as increasing wealth inequality, poverty, and cuts to social spending and education. Restorative justice is nowhere on the agenda.

Instead, the Corbett administration is focusing on reducing the number of people incarcerated through managing and increasing the efficacy of the failing CCC's and the struggling parole system. While lowering the number of prisoners stuck in a bureaucratic nightmare is worthwhile, given that the end goal of the administration is a reduction in costs and NOT in dealing with the mass incarceration epidemic or its collateral consequences, there will be little change in the human cost of the injustice system.

The PA DOC estimates, with the help of the Council of State Governments, that a recidivism reduction of 10% over the course of one year would save an estimated \$44.7 million dollars annually. While there is discussion about using the savings on "data based" programs, there are no real details on what that means or where the funds would go. PennLive reports that community corrections center will have to rebid for money and those with the best performance records will continue getting money over those that are less effective at reducing recidivism.

It is encouraging that the DOC is highlighting the failure of private and publicly funded CCC's, better known as halfway houses. But again, instead of looking at abuses, rules violations, and corruption, the DOC's plan is to create essentially a No Prisoner Left Behind scheme. As we have seen elsewhere "performance based" accountability rarely addresses the real reasons for failures and instead, often creates more problems.

Nowhere does this study address the health hazards, the neglect, the physical/mental trauma, or any of the other prison issues that create human misery through taxpayer funds. Nowhere does this study discuss investing in positive programs or access to resources within the prisons as a way to reduce recidivism. Finally, nowhere does this study on recidivism question the systemic social and economic issues that, if dealt with conscientiously and appropriately, would reduce the number of prisoners by far more than any market mechanisms and managing tactics could ever hope to. Instead, as so many studies before it, this study addresses reducing incarceration rates as an economic issue, not as a human rights issue. Any conversation on the decarceration of the state of PA MUST address the human nature of mass incarceration and its social ramifications.



## Official HRC Chapters

### Human Rights Coalition - Philadelphia Chapter

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**START A HUMAN RIGHTS COALITION (HRC) CHAPTER OR BRANCH IN YOUR AREA. Each Chapter or Branch must comply with eight requirements. These eight are:**

- 1.) Respond to inquiries in a timely manner as resources permit.
- 2.) Update membership to HRC-Philly at least quarterly.
- 3.) Incorporate as a non-profit organization.
- 4.) Obtain tax exempt or 501 ( C ) 3 status.
- 5.) Publish a newsletter at least semi annually as resources permit.
- 6.) Send minutes of chapter meetings to HRC-Philly.
- 7.) Establish internet video conferencing for statewide chapter meetings.
- 8.) Create a cooperative business to finance your chapter or branch to be financially independent.

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The Human Rights Coalition would like to thank RESIST for their support of our efforts; i.e., protecting the human rights of our loved ones in prison, bringing a stop to the torture and abuse of prisoners, and making the public aware of DOC's inhumane practices and the effect it has on our communities.





## The Norwegian prison where inmates are treated like people

By: Erwin James—The Guardian

*On Bastoy prison island in Norway, the prisoners, some of whom are murderers and rapists, live in conditions that critics brand 'cushy' and 'luxurious'. Yet it has by far the lowest reoffending rate in Europe*

The first clue that things are done very differently on Bastoy prison island, which lies a couple of miles off the coast in the Oslo fjord, 46 miles south-east of Norway's capital, comes shortly after I board the prison ferry. I'm taken aback slightly when the ferry operative who welcomed me aboard just minutes earlier, and with whom I'm exchanging small talk about the weather, suddenly reveals he is a serving prisoner – doing 14 years for drug smuggling. He notes my surprise, smiles, and takes off a thick glove before offering me his hand. "I'm Petter," he says.

Before he transferred to Bastoy, Petter was in a high-security prison for nearly eight years. "Here, they give us trust and responsibility," he says. "They treat us like grownups." I haven't come here particularly to draw comparisons, but it's impossible not to consider how politicians and the popular media would react to a similar scenario in Britain.

There are big differences between the two countries, of course. Norway has a population of slightly less than five million, a 12th of the UK's. It has fewer than 4,000 prisoners; there are around 84,000 in the UK. But what really sets us apart is the Norwegian attitude towards prisoners. Four years ago I was invited into Skien maximum security prison, 20 miles north of Oslo. I had heard stories about Norway's liberal attitude. In fact, Skien is a concrete fortress as daunting as any prison I have ever experienced and houses some of the most serious law-breakers in the country. Recently it was the temporary residence of Anders Breivik, the man who massacred 77 people in July 2011.

Despite the seriousness of their crimes, however, I found that the loss of liberty was all the punishment they suffered. Cells had televisions, computers, integral showers and sanitation. Some prisoners were segregated for various reasons, but as the majority served their time – anything up to the 21-year maximum sentence (Norway has no death penalty or life sentence) – they were offered education, training and skill-building programs. Instead of wings and landings they lived in small "pod" communities within the prison, limiting the spread of the corrosive criminal prison subculture that dominates traditionally designed prisons. The teacher explained that all prisons in Norway worked on the same principle, which he believed was the reason the country had, at less than 30%, the lowest reoffending figures in Europe and less than half the rate in the UK.

As the ferry powers through the freezing early-morning fog, Petter tells me he is appealing against his conviction. If it fails he will be on Bastoy until his release date in two years' time. I ask him what life is like on the island. "You'll see," he says. "It's like living in a village, a community. Everybody has to work. But we have free time so we can do some fishing, or in summer we can swim off the beach. We know we are prisoners but here we feel like people."

I wasn't sure what to expect on Bastoy. A number of wide-eyed commentators before me have variously described conditions under which the island's 115 prisoners live as "cushy", "luxurious" and, the old chestnut, "like a holiday camp". I'm skeptical of such media reports.

As a life prisoner, I spent the first eight years of the 20 I served in a cell with a bed, a chair, a table and a bucket for my toilet. In that time I was caught up in a major riot, trapped in a siege and witnessed regular acts of serious violence. Across the prison estate, several hundred prisoners took their own lives, half a dozen of whom I knew personally – and a number were murdered. Yet the constant refrain from the popular press was that I, too, was living in a "holiday camp". When in-cell toilets were installed, and a few years later we were given small televisions, the "luxury prison" headlines intensified and for the rest of the time I was in prison, it never really abated.

It always seemed to me while I was in jail that the real prison scandal was the horrendous rate of reoffending among released prisoners. In 2007, 14 prisons in England and Wales had reconvictions rates of more than 70%. At an average cost of £40,000 a year for each prisoner, this amounts to a huge investment in failure – and a total lack of consideration for potential future victims of released prisoners. That's the reason I'm keen to have a look at what has been hailed as the world's first "human ecological prison".

Thorbjorn, a 58-year-old guard who has worked on Bastoy for 17 years, gives me a warm welcome as I step on to dry land. As we walk along the icy, snowbound track that leads to the admin block, he tells me how the prison operates. There are 70 members of staff on the 2.6 sq km island during the day, 35 of whom are uniformed guards. Their main job is to count the prisoners – first thing in the morning, twice during the day at their workplaces, once en masse at a specific assembly point at 5pm, and finally at 11pm, when they are confined to their respective houses. Only four guards remain on the island after 4pm. Thorbjorn points out the small, brightly painted wooden bungalows dotted around the wintry landscape. "These are

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the houses for the prisoners," he says. They accommodate up to six people. Every man has his own room and they share kitchen and other facilities. "The idea is they get used to living as they will live when they are released." Only one meal a day is provided in the dining hall. The men earn the equivalent of £6 a day and are given a food allowance each month of around £70 with which to buy provisions for their self-prepared breakfasts and evening meals from the island's well-stocked mini-supermarket.

I can see why some people might think such conditions controversial. The common understanding of prison is that it is a place of deprivation and penance rather than domestic comfort.

Prisoners in Norway can apply for a transfer to Bastoy when they have up to five years left of their sentence to serve. Every type of offender, including men convicted of murder or rape, may be accepted, so long as they fit the criteria, the main one being a determination to live a crime-free life on release.

I ask Thorbjorn what work the prisoners do on the island. He tells me about the farm where prisoners tend sheep, cows and chickens, or grow fruit and vegetables. "They grow much of their own food," he says. Other jobs are available in the laundry; in the stables looking after the horses that pull the island's cart transport; in the bicycle repair shop, (many of the prisoners have their own bikes, bought with their own money); on ground maintenance or in the timber workshop. The working day begins at 8.30am and already I can hear the buzz of chainsaws and heavy-duty strimmers. We walk past a group of red phone boxes from where prisoners can call family and friends. A large building to our left is where weekly visits take place, in private family rooms where conjugal relations are allowed.

After the security officer signs me in and takes my mobile, Thorbjorn delivers me to governor Arne Nilsen's office. "Let me tell you something," Thorbjorn says before leaving me. "You know, on this island I feel safer than when I walk on the streets in Oslo."

Through Nilsen's window I can see the church, the school and the library. Life for the prisoners is as normal as it is possible to be in a prison. It feels rather like a religious commune; there is a sense of peace about the place, although the absence of women (apart from some uniformed guards) and children is noticeable. Nilsen has coined a phrase for his prison: "an arena of developing responsibility." He pours me a cup of tea.

"In closed prisons we keep them locked up for some years and then let them back out, not having had any real responsibility for working or cooking. In the law, being sent to prison is nothing to do with putting you in a terrible prison to make you suffer. The punishment is that you lose your freedom. If we treat people like animals when they are in prison they are likely to behave like animals. Here we pay attention to you as human beings."

A clinical psychologist by profession, Nilsen shrugs off any notion that he is running a holiday camp. I sense his frustration. "You don't change people by power," he says. "For the victim, the offender is in prison. That is justice. I'm not stupid. I'm a realist. Here I give prisoners respect; this way we teach them to respect others. But we are watching them all the time. It is important that when they are released they are less likely to commit more crimes. That is justice for society."

The reoffending rate for those released from Bastoy speaks for itself. At just 16%, it is the lowest in Europe. But who are the prisoners on Bastoy? Are they the goodie-goodies of the system?

Hessle is 23 years old and serving 11 years for murder. "It was a revenge killing," he says. "I wish I had not done it, but now I must pay for my crime." Slight and fair-haired, he says he has been in and out of penal in-



An inmate repairs a bike. Photograph: Marco Di Lauro

stitutions since he was 15. Drugs have blighted his life and driven his criminality. There are three golden rules on Bastoy: no violence, no alcohol and no drugs. Here, he works in the stables tending the horses and has nearly four years left to serve. How does he see the future? "Now I have no desire for drugs. When I get out I want to live and have a family. Here I am learning to be able to do that."

Hessle plays the guitar and is rehearsing with other prisoners in the Bastoy Blues Band. Last year they were given permission to attend a music festival as a support act that ZZ Top headlined. Bjorn is the band's teacher. Once a Bastoy prisoner who served five years for attacking his wife in a "moment of madness", he now returns once a week to teach guitar. "I know the potential for people here to change," he says. Formerly a social researcher, he has formed links with construction companies he previously worked for that have promised to consider employing band members if they can demonstrate reliability and commitment. "This is not just about the music," he says, "it's about giving people a chance to prove their worth."

Sven, another band member, was also convicted of murder, and sentenced to eight years. The 29-year-old was an unemployed labourer before his conviction. He works in the timber yard and is waiting to see if his application to be "house father" in his five-man bungalow is successful. "I like the responsibility," he says. "Before coming here I never really cared for other people."

The female guard who introduces me to the band is called Rutchie. "I'm very proud to be a guard here, and my family are very proud of me," she says. It takes three years to train to be a prison guard in Norway. She looks at me with disbelief when I tell her that in the UK prison officer training is just six weeks. "There is so much to learn about the people who come to prison," she says. "We need to try to understand how they became criminals, and then help them to change. I'm still learning."

Finally, I'm introduced to Vidor, who at 72 is the oldest prisoner on the island. He works in the laundry and is the house father of his four-man bungalow. I haven't asked any of the prisoners about their crimes. The

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*If any prisoner, family member, or community activist would like to submit an article that is critical of the state and county prison systems, courts, D.A. offices, police, capitalist corporate America, and the government, just forward your article to the HRC's Newsletter Department for possible printing.*

## **Days Without End: Life Sentences and Penal Reform**

by Marie Gottschalk

Death fades into insignificance when compared with life imprisonment. To spend each night in jail, day after day, year after year, gazing at the bars and longing for freedom, is indeed expiation.

—Lewis E. Lawes, warden of Sing Sing prison, 1920–41

### **PART II—CONTINUED FROM ISSUE # 17**

#### **Recidivism and Life Sentences**

The political and legislative obstacles to rethinking the widespread use of life sentences are almost as daunting as the judicial ones. The U.S. commitment to life sentences remains deep despite a formidable consensus among experts on sentencing and crime that imprisonment and lengthy sentences do not necessarily deter offenders and would-be offenders from committing crimes. State-of-the-art research in criminology is substantiating Italian philosopher Cesare Beccaria's provocative claim in the 18th century that the certainty of punishment is a far greater deterrent to crime than the severity of punishment.

The deterrent and incapacitative effects of lengthy sentences are so modest for several reasons. First, offenders tend to be present-oriented. Thus, lengthening the sentence from, say, 15 years for a certain offense to life in prison is unlikely to have much of an effect on whether someone commits that crime or not. Moreover, the evidence that people age out of crime is compelling. Researchers have persistently found that age is one of the most important predictors of criminality. Criminal activity tends to peak in late adolescence or early adulthood and then declines as a person ages. Finally, many lifers are first-time offenders convicted of homicide. The phrase "one, then done" is commonly used to sum up their criminal proclivities. [Editor's Note: As someone who has served a life sentence, I can note that the severity of the punishment is immaterial to criminals who do not think they will be caught or are immune from punishment and this applies equally to pickpockets, armed robbers, corporate leaders and heads of state.]

Older prisoners who have served lengthy sentences are much less likely to return to prison due to the commission of a serious crime than younger prisoners who have served shorter sentences. The recidivism rate for lifers is much lower by far than for other offenders. Lifers released from prison were less than one-third as likely to be rearrested as all released prisoners, according to an analysis by The Sentencing Project. Of the 368 people convicted of murder who were granted parole in New York between 1999 and 2003, only six, or less than 2 percent, returned to prison within three years for a new felony conviction, and none of those were re-imprisoned for a violent offense according to a 2011 study by the New York State parole board.

#### **The War on the War on Drugs**

Even though life sentences and decades-long sentences contribute little to enhancing public safety and are socially and economically very costly, rethinking their widespread use is not high up on the penal reform agenda for several reasons. One reason has to do with how the political mobilization against the war on drugs has developed. The battle against the war on drugs has been premised in part on lightening up on drug offenders and other nonviolent offenders while getting tough with the "really bad guys." This quid pro quo has reinforced the misleading belief that there are two very distinct and immutable categories of offenders, the violent ones and the nonviolent ones,

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which has been to the detriment of lifers. It obscures the reality that the United States, relatively speaking, is already quite punitive toward violent offenders and property offenders and has been so for a long time now. It also fuels the misperception that the war on drugs has been the primary engine of mass incarceration and that ending it would significantly reduce the country's incarcerated population while leaving the "really bad guys" in prison where they belong.

All the attention that opponents of the war on drugs, most notably the Drug Policy Alliance, have brought to bear on the excesses of the war on drugs have fueled the public perception that the country's hard-line drug policies have been the primary engine of prison growth. But new research by William Sabol, the chief statistician for the U.S. Bureau of Justice Statistics, challenges this widespread belief. The contribution of violent offenders to the prison population now significantly dwarfs the contribution of drug offenders. Overall, drug offenders were responsible for 13 percent of the growth in the state prison population from 1994 to 2006. By contrast, in the face of plummeting violent crimes rates, defendants convicted of violent crimes accounted for almost two-thirds of the overall growth in state prisoners from 1994 to 2006. These figures indicate that ending the war on drugs – one of the top priorities for many penal reformers – will not necessarily end mass incarceration in the United States because drug offenders have not been the primary engine of recent growth in the prison population.

Opposition to the war on drugs has dominated the penal reform movement, overshadowing the plight of the "really bad guys" left behind. This is largely due to the funding priorities of foundations that have lavished funding on anti-drug war groups while doing little or nothing to challenge sentencing of non-drug prisoners. Recently lawmakers in several states have enacted comprehensive penal reform packages that reduce the penalties and/or provide alternatives to incarceration for drug possession and other nonviolent crimes while simultaneously ratcheting up the punishments for other crimes. For example, in 2010, South Carolina legislators approved a number of laudable sentencing reforms with bipartisan support. These reforms included equalizing the penalties for possession of crack and powder cocaine, authorizing greater use of alternatives to incarceration for people convicted of non-trafficking drug offenses and reducing the maximum penalty for burglary. But South Carolina lawmakers also added two dozen offenses to the "violent crime" list and expanded the list of crimes that are eligible for LWOP sentences.

Over the past few years, maverick district attorneys launched into office in major urban areas with the backing of broad penal reform coalitions have served as important beachheads to engineer wider statewide shifts in penal policy. However, most of their focus has been on the shortcomings of the war on drugs. The plight of people serving lengthy sentences for serious or violent crimes has not been part of their reform agenda.

New York State is a good case in point. After years of political agitation by the "Drop the Rock" campaign, the state legislature finally enacted a reform package in 2009 that eviscerated what remained of the draconian Rockefeller drug laws. But at the same time, legislators rejected an extremely moderate recommendation from the New York State Commission on Sentencing Reform to extend "merit time" to a very limited pool of people convicted of violent offenses, making them eligible to have a few months at most shaved off their sentences. These were offenders who had served decades in the system, had stellar behavior records, and had earned college degrees and/or other markers of rehabilitation.

The political strategy to draw a firm line between nonviolent drug offenders and violent offenders contributes to the further demonization of "serious" or "violent" offenders in the public imagination and in policy debates. It reinforces the misleading view that there are two clear-cut, largely immutable categories of offenders who are defined most meaningfully by the seriousness of the offense that sent them away. However, on closer examination, these fixed categories – the nonviolent drug offender on one hand and the serious violent offender on the other – are more porous.

Certainly many drug offenders are in prison because their primary criminal activities were drug possession or trafficking. However, many people serving time for a nonviolent crime have been convicted of a violent offense in the past. Furthermore, police, prosecutors and some scholars claim that drug charges often serve as surrogates for a violent crime. This is so because of the difficulties that the police and prosecutors face in trying to enforce violent

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felonies straight up in many poor inner-city neighborhoods due to no snitchin' norms and the vulnerability of eye-witnesses. Another factor is the fall in the clearance rates for violent felonies, partly due to a rise in stranger homicides of strangers and robbery-murders, and a relative decline in friend-and-family murders, which are easier to solve. "For all these reasons, the substitution of drug prosecutions for violent cases was natural," according to the late William Stuntz of Harvard Law School.

Just as all drug convictions may not necessarily be what they first appear, on closer inspection all "violent" offenders are not necessarily what they seem. Many of the people sent to prison for violent offenses are not necessarily violent years later. But the widespread perception is that they still are despite stellar prison conduct records, ample evidence of rehabilitation through education, volunteering and other programs, and mounting research about deterrence and aging out of crime. Witness the uproar after the North Carolina Supreme Court declined in October 2009 to review a 2008 decision by the appellate court that a life sentence is to be considered 80 years under the state's statutes. After the ruling, the state's Department of Correction announced its intention to release dozens of lifers who were eligible for early release thanks to the good time and merit time credits they had accumulated. Governor Beverly Perdue stepped in to stop the releases amid numerous reports in the media that many "rapists and murderers" were about to go free. This brouhaha spurred a spate of news stories that featured outraged victims and their families and which recounted the gruesome details of crimes committed decades earlier. In August 2010, the North Carolina Supreme Court reversed course, ruling that the prisoners sentenced to life in the 1970s were not eligible for parole.

### **From Pizza Thieves to Serial Killers**

The life-sentenced population includes not only drug offenders, but also middle-aged serial killers, getaway drivers in convenience store robberies gone awry, aging political radicals from the 1960s and 1970s, women who killed their abusive partners, three-strikers serving 25 years-to-life for trivial infractions like stealing two pieces of pizza, and men who killed their teenage girlfriends decades ago in a fit of jealous rage. Many of the people serving life sentences today were the main perpetrators of a violent crime like homicide. But a great number of them were sent away for life for far less serious infractions. A central question facing any penal reform movement concerned about the lifer issue is whether to concentrate on challenging the fundamental legitimacy of all life sentences not subject to a meaningful parole review process or to concentrate on a subset of lifers who appear less culpable and more likely to garner public sympathy.

In the 1980s and 1990s, the penal reform movement at Louisiana's Angola prison splintered and floundered over this very issue.<sup>1</sup> Old timers sentenced during the more permissive 10/6 regime were at odds with more recent lifers sentenced under tougher new statutes. Angola's Lifers Association excluded "practical lifers," that is, the men with the "basketball sentences" of a high number of years that exceed a natural life span. Lifers who were first-time offenders wearied of the all-or-nothing push for parole eligibility for all lifers, and attempted to form their own organization. They believed legislators would be more receptive to consider parole eligibility for them than for repeat offenders. Norris Henderson, a leader of Angola's lifers who became a penal reformer on the outside, said recently, "While I think the life sentence is in itself the problem, I also believe we have to go for the low-hanging fruit. We've now done that with the drug lifers, so the next thing might be to see how many 10/6 lifers are here and work on them. Then how many 20-year lifers and work on them."

The enormous heterogeneity of the life-sentenced population presents an enormous political challenge. It renders political and legal arguments based on going after the "low-hanging fruit" by emphasizing degrees of culpability and relative fairness extremely attractive. However, such strategies could be costly over the long term. They potentially sow divisions among lifers and also among their advocates on the outside. Moreover, they also threaten to undermine more universalistic arguments about redemption, rehabilitation, mercy and aging out of crime that would encompass a broader swath of the life-sentenced population. More narrowly tailored arguments may win the release of individual lifers or certain categories of lifers but may worsen the odds of other lifers left behind.

### **Felony Murder**

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The United States is exceptional not only for its widespread use of life sentences but also for the persistence of the felony murder rule, which other common law countries have largely abolished. The felony murder doctrine generally refers to an unintended killing during a felony and/or an accomplice's role in a murder. An accomplice can be considered as liable as the triggerman for any murder committed during the commission of another felony, such as burglary or robbery. And the definition of accomplice can be quite capacious. Lending your car to a friend who ends up using it to commit a murder can send you away for life in some states. Prosecutions for felony murder have been relatively common in the more than 30 states that allow them.

Political and legal strategies highlighting the lesser culpability of people convicted of felony murder and the gross disproportionality of their sentences can end up pitting one group of lifers and their advocates against another. One lifer appears more deserving of release by highlighting how less deserving other lifers are. This may win the eventual release of that offender who had only minimal involvement in a particular crime but perhaps at the cost of bolstering the view that the main perpetrators – or the “really bad guys” – got what they deserved and should be forever defined by the crime they committed.

## Juvenile Lifers

The plight of juvenile offenders sentenced to life without the possibility of parole is another good case in point. Approximately 2,500 people currently are serving LWOP sentences for offenses committed when they were juveniles. This sentencing practice violates the 1989 United Nations Convention on the Rights of the Child and other international human rights agreements and norms. Many youths sentenced to LWOP are incarcerated in adult facilities while they are still juveniles. Despite efforts to segregate these juveniles from the adult population, often in super-max-type conditions until they turn 18, many youths in adult prisons are still subject to physical and other abuses, including rape, by adult prisoners and staff alike.

States are beginning to rethink LWOP for juvenile offenders, or JLWOP. In recent years, legislation that would eliminate or restrict the use of JLWOP has been introduced in at least nine states. As discussed earlier, *Graham v. Florida* and *Roper v. Simmons* have been major catalysts for the reconsideration of JLWOP sentences. These two cases rested on persuasive new research in brain science and psychology about adolescent brain development, most notably that the prefrontal cortex of the brain, which regulates impulse control, is not fully developed in teenagers. Opponents of executing juveniles and of condemning them to life in prison argued that children and teenagers should not be considered fully culpable for the crimes they commit, however heinous or violent, because their brains are not fully developed until they are in their 20s. As a consequence, they have greater trouble controlling their impulses and resisting peer pressure.

Political and legal strategies rooted in arguments about the underdevelopment of teenage brains have proven to be an extremely promising avenue to end or at least limit the use of JLWOP sentences. However, these strategies could be costly over the long term for those offenders who were sent away for life for crimes they committed as adults and thus when they presumably had fully-developed brains. Stressing that teenagers are not fully culpable reinforces in a backhanded way the idea that adults who commit serious crimes should have known better and thus are fully culpable. The brain scan approach to criminal justice bolsters narrow biologically deterministic arguments about why people commit crimes, which are enjoying a renaissance in criminology and in public debates about crime and punishment not seen since the heyday of the eugenics movement a century ago. This approach reinforces the popular view that people who commit serious crimes are biologically incapable of fundamentally changing.

Pennsylvania has about 450 juvenile lifers, or one-fifth of the country's total, which is more than any other jurisdiction in the world. Under Pennsylvania law, mandatory life is the only sentence available to adults and youths convicted of first- or second-degree murder, and there is no minimum age for which a juvenile can be tried as an adult. The case of Jordan Brown, initially charged as an adult in early 2010 for killing his father's fiancée when he was eleven years old, put an unflattering national spotlight on JLWOP in Pennsylvania (Jordan's case has since been transferred to juvenile court). Pennsylvania has been persistently unwilling to commute the sentences of juvenile lifers who have served decades behind bars, even in instances where members of the homicide victim's family

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have called for mercy and release. A newly formed statewide coalition is currently engaged in an uphill battle to get Pennsylvania legislators to reconsider the state's widespread use of JLWOP sentences. At a legislative hearing in August 2010, JLWOP opponents focused extensively on the adolescent brain development argument.

The relative culpability of juveniles convicted of felony murder was also a central issue. One of the main witnesses testifying in favor of the legislation was Anita Colón, a charismatic, articulate woman whose brother, Robert Holbrook, is serving a life sentence in Pennsylvania for a felony murder conviction when he was 16. In her testimony, Colón underscored that almost 60 percent of Pennsylvania's juvenile lifers were first-time offenders who had never been convicted of a previous crime and that about a third were sent away for life for a felony murder conviction. This is slightly above the national average of about 25 percent. Members of the House Judiciary Committee focused much of their attention at the hearing on the relative fairness of felony murder for juvenile lifers rather than on alternative arguments raised by Colón and other witnesses about redemption, aging out of crime and the huge economic cost of incarcerating so many youths until the end of their days.

In opposing the legislation, the Pennsylvania District Attorneys Association commended the Judiciary Committee's recent efforts to reduce the state's prison population by focusing on diversionary and other programs directed at people convicted of less violent offenses. "That is the cohort group our collective attention should be focused on – not on letting murderers out early," the association declared in its written testimony.

The DAs' association and other opponents framed the proposed legislation as a violation of the rights of victims and of Pennsylvania's commitment to truth-in-sentencing. "It would be devastating and unfair to change the rules long after families of murder victims who were told that the person who murdered their child, spouse, parent or other family members would spend the rest of his or her life behind bars," the DAs argued.

Representatives of victims' organizations and other opponents of the legislation echoed this view and devoted much of their testimony to recounting gruesome details of crimes committed by juvenile lifers.

The debate over JLWOP illustrates how the death penalty continues to cast a long shadow over the broader politics of punishment and penal reform. As *Roper v. Simmons* wound its way through the courts, organizations representing the victims of juvenile offenders generally did not mobilize in support of executing juvenile offenders.

Assurances that juveniles who were spared the death penalty would spend all their remaining days behind bars were an important reason why. At the Pennsylvania hearings, representatives of victims' organizations portrayed ending JLWOP retroactively and making juvenile lifers eligible for parole consideration as a betrayal. They contended that many victims' families agreed to not push for a charge of capital murder due to assurances from prosecutors that the perpetrator would be locked up for life, thus sparing the family the seemingly endless appeals process of death penalty cases.

## **Striking Out in the Golden State**

California has been teetering at the brink of fiscal Armageddon for several years now and is struggling to comply with a federal court order, upheld in 2011 by a divided Supreme Court, to devise a plan that would reduce the state's dangerously overcrowded prison population by more than 40,000, or to about 138 percent of capacity (compared to 200 percent in recent years). Nonetheless, the state's commitment to incarcerating people for lengthy or life sentences at an average cost of nearly \$50,000 per year has not diminished much. California operates the largest state prison system and also has the highest number of life-sentenced prisoners – about 34,000, or around one-quarter of the nation's total.

This is more than triple the number in 1992, before the state enacted the country's toughest three-strikes law. About one in five prisoners in California is serving a life sentence, or about double the national average.

California's life-sentenced population is exceptional not only for its sheer size but also for its extreme heterogeneity as measured by sentencing offense. The three-strikes law in California, which has become a towering symbol of the

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state's commitment to crime victims and of its uncompromising stance toward punishing offenders, poses a huge hurdle to devising effective political and legislative strategies to dismantle the "other death penalty" in the Golden State.

California's 1994 three-strikes law doubles the minimum sentence for anyone convicted of a felony who has one prior serious or violent felony. For those with two or more prior serious or violent strikes, a third conviction for any felony generally means a minimum sentence of 25 years-to-life if a prosecutor chooses to invoke the three-strikes law. Unlike three-strikes statutes in many other states and the federal system, in California the third strike need not be for a serious or violent offense. Moreover, California has an extremely permissive definition of what constitutes a felony, and prosecutors have enormous leeway to upgrade misdemeanors to felonies. As a consequence, the state's prison population includes a considerable number of people convicted under the three-strikes law who are serving lengthy sentences for trivial infractions like petty theft, minor drug possession or minor drug sales.

The proportion of three strikers in California's prisons increased dramatically between 1994 and 2001, going from about 2½ percent to about 25 percent, where it has stabilized. The readiness of California's district attorneys to invoke their three-strikes prerogative varies enormously around the state and even between seemingly similar cases in a single county. Offenders sentenced under the state's three-strikes law receive on average sentences that are nine years longer than they would have received otherwise. A 2009 report by the state's auditor estimated that the 43,500 prisoners currently serving time under California's three-strikes law will cost the state approximately \$19 billion in additional costs. More than half of those prisoners are imprisoned for a felony that is not considered violent or serious, at an additional cost of \$7.5 billion.

The last major attempt to reform the state's three-strikes law, Proposition 66, went down to a resounding defeat in 2004 after the political establishment in California, including then-Governor Arnold Schwarzenegger and current Governor Jerry Brown, rallied against the measure in the final days before the election. They joined a well-funded campaign against Proposition 66 spearheaded by conservative victims' groups allied with the California Correctional Peace Officers Association (CCPOA), arguably the most powerful union in the state and unquestionably the country's savviest prison guards' union. The well-funded eleventh hour blitz of television and radio commercials exploited negative racial stereotypes and fearsome images of reviled criminals to defeat the measure.

Some lawyers and law students in California have started mobilizing to exploit a 1998 ruling by the California Supreme Court that permits trial judges, in considering a bid for leniency in a three-strikes case, to weigh whether mitigating factors like a defendant's "background, character and prospects" place him or her outside the "spirit" of three-strikes. The Stanford Three Strikes Project has litigated various aspects of the administration of the three-strikes law in both state and federal court. Defense attorney Michael Romano, who helped found the Stanford clinic, argues that legal clinics should concentrate their efforts on gaining the release of sympathetic three-strikers "who haven't done terrible things, who haven't actually hurt anyone."<sup>2</sup> On the positive side, these below-the-radar efforts have resulted in the release of a handful of three-strikers. But given the huge size of the three-striker and life-sentenced population, it is hard to see how these below-the-radar efforts will significantly reduce the number of lifers in California.

Political support for three-strikes is not as steadfast as it once was in California. Steven Cooley, district attorney of Los Angeles and the 2010 Republican candidate for attorney general, has been an outspoken critic of some aspects of the state's three-strikes law, earning him the umbrage of the California District Attorneys Association. Kamala Harris, who triumphed over Cooley in a tight race, pursued relatively few three-strikes cases when she was San Francisco's district attorney.

A group of Stanford University law professors is seeking to put a new three-strikes reform measure on the ballot in 2012. The new initiative is much narrower than Proposition 66, which sought to restrict felonies that trigger a third strike to violent or serious crimes. The new proposed measure would still permit putting away for life people who had once been convicted of serious crimes like rape, murder and child molestation, and then are subsequently con-

(Continued on page 46)



victed of any third-strike felony, including a trivial infraction like shoplifting. For other repeat offenders, it would restrict the use of the tough third-strike provisions to crimes that are serious and violent offenses. The proposed measure would not change the existing second-strike provision, which doubles the sentence length for many second-strike offenders, even if the offense is not serious or violent. In promoting this new ballot initiative, its supporters appear to be embracing some of the negative, demonizing language that opponents of Proposition 66 used in 2004. “We’re making absolutely sure that these [hard-core] criminals get no benefit whatsoever from the reform, no matter what third strike they commit,” said Dan Newman, a spokesman for the new campaign to reform three-strikes in California.<sup>3</sup>

Despite these developments, a major overhaul of the three-strikes law in California via the ballot box faces a tough uphill battle. The political establishment’s commitment to three-strikes is almost theological in California. Any time that politicians’ faith appeared to waver, victims’ groups working closely with the CCPOA have had the money and organizational resources to bring them back into the fold. The CCPOA and its allies have been steadfast in their opposition to revising three-strikes, even in the case of the pizza thief, the petty drug dealer and other minor offenders. The prison guards provided a key campaign endorsement to Jerry Brown, the state’s new governor, who has assiduously cultivated the union over the years.

The case of John Wesley Ewell, charged in late 2010 with murdering four people in home-invasion robberies, has also set back the cause of three-strikes reform. Ewell, who had multiple felony convictions, had campaigned against California’s three-strikes law and had managed to escape its harsh sentencing guidelines four times. Any future ballot initiative to reform three-strikes will likely provide yet another occasion to demonstrate that California’s prisons are full of the “worst of the worst” who should not be released for a very long time – if ever.

***Due to length of this article, PART III beginning with ‘Worst of the Worst’ will be printed in the next issue of The Movement. The above article is from ‘Prison Legal News—Dedicated to Protecting Human Rights’, providing a cutting edge review and analysis of prisoner rights, court rulings and news . . . Families of prisoners may find it at: [www.prisonlegalnews.org/](http://www.prisonlegalnews.org/)***

# Parole Eligibility for PA Lifers

## Why? Or Why Not?

**Most states provide parole for lifers. Seven states do not, Pennsylvania is one of the seven.**

**1.** As with the death penalty, Life sentences were designed to be used in rare cases. However in reality, this “rare” practice has become **common practice** as nearly **125,000 prisoners age 55 or older are now behind bars** which represents an increase of 1,300 percent since the 1980’s (June 2012, American Civil Liberties Union). **2.** Life sentences have become an acceptable punishment not only for murder, but also for a wide variety of other crimes with “Mandatory Minimum Sentencing” laws and the “War on Crime” agenda. **3.** There is ample evidence that most prisoners **over age 50 pose little or no threat to public safety** and experts on sentencing and crime have concluded that imprisonment and lengthy sentences does not necessarily deter offenders and would-be offenders from committing crimes. **4.** **More than \$16 billion is spent** annually by states and the federal government to incarcerate elderly prisoners, prisoners aged 50 and older cost around \$68,000 a year to incarcerate. **Changes must be made to sentencing and parole policies** as the number of older prisoners could sky rocket as high as 400,000 by 2030, posing a tremendous threat to state and federal budgets (June 2012, ACLU report).



Photo by Tim Gruber/ACLU

**Sign on as a supporter of Parole for PA Lifers. Forward petition to Human Rights Coalition, Attention: PAROLE FOR LIFERS, 4134 Lancaster Avenue, Philadelphia, PA 19104. Families and orgs. feel free to make copies, distribute, and to gain signatures.**

	Organization/Group Name	Individual or Contact Name	Address, City, State, Zip Code	Phone Number or Email Address
1.	Human Rights Coalition	Ms. Karen Ali	4134 Lancaster Ave, Phila,PA 19104	267-293-9169
2.				
3.				
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Guest Speakers

Robert King Matt Meyer Pam Africa Anthony Monteiro  
Fred Ho Jasiri X Ben Barson

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# “Maroon the Implacable: The Collected Writings of Russell Maroon Shoatz”



Francis Goldin, friend of Maroon, hugs banner at rally in DC.

## Book Tour Schedule & Local Contacts

### Monday, April 1, 2013: Amherst, MA

Contact person: Ana Lua Fontes  
Email: [afontes@hampshire.edu](mailto:afontes@hampshire.edu)  
Location: Franklin Patterson Hall (FPH) Faculty Lounge, Hampshire College, 893 West Street, Amherst, MA 01002  
Event time: 6:00-9:00pm

### Tuesday, April 2, 2013 Woodstock, VT

Contact person for event: Sonny Saul  
Email: [pleasantstreetbooks@comcast.net](mailto:pleasantstreetbooks@comcast.net)  
Location: Pleasant Street Books, 48 Pleasant Street Books, Woodstock, Vermont, 05091  
Time of event: 7:00-9:00pm

### Wednesday, April 3, 2013 Ithaca, NY

Contact person for event: Max Ajl  
Email address: [max.ajl@gmail.com](mailto:max.ajl@gmail.com)  
Location: Cornell University, 410 Thurston Ave., Ithaca, NY 14850  
Time of event: TBD

### Friday, April 5, 2013 Philadelphia, PA

Contact person for event: Theresa Shoatz  
Email: [tiye1120@gmail.com](mailto:tiye1120@gmail.com)  
Location: Anderson Hall Room 7, Temple University, 1114 W. Pollett Walk (N. 11 St. & W. Berks St), Philadelphia  
Time of event: 7:30pm

### Saturday, April 6, 2013 Washington D.C.

Contact person for event: Paulette Dauteuil  
Email: [albq.jericho@gmail.com](mailto:albq.jericho@gmail.com)  
Location: UDC Clarke School of Law, 5th Floor, Room 4340, 4200 Connecticut Avenue NW, Washington, DC 20008  
Time of event: 7:00-9:00pm

### Sunday, April 7, 2013 Baltimore, MD

Contact person for event: Sara McClean (organizer) & Babi Nati (owner of Everyone's Place)  
Email: [sara.mcclean@gmail.com](mailto:sara.mcclean@gmail.com)/Babi Nati: [africanworld-word@aol.com](mailto:africanworld-word@aol.com)  
Location: Everyone's Place African Cultural Center, 1356 W North Ave., Baltimore, MD 21217  
Time of event: 3:00-5:00pm

### Monday, April 8, 2013 Nashville, TN

Contact person: Lisa Guenther  
Email address: [lisa.n.guenther@gmail.com](mailto:lisa.n.guenther@gmail.com)  
Location: Furman Hall 109, Vanderbilt University, 2201 West End Ave., Nashville, TN 37235  
Time of event: 5:00pm

### Thursday, April 11, 2013 Chicago, IL

Contact person: Matt Meyer  
Email: [mmmsrnb@igc.org](mailto:mmmsrnb@igc.org)  
Location: TBD  
Time of event: TBD

### Friday, April 12, 2013 Madison, WI

Contact person for event: Joshua Steuwer  
Email: [joshua@rainbowbookstore.coop](mailto:joshua@rainbowbookstore.coop)  
Location: Rainbow Bookstore Cooperative, 426 W Gilman St, Madison, WI 53703  
Time of event: TBD

### Sunday, April 14, 2013 St. Paul, MN

Contact person for event: Peter Rachleff & Abass Noor  
Email: Peter: [rachleff@macalester.edu](mailto:rachleff@macalester.edu)/Abass: [anoor@macalester.edu](mailto:anoor@macalester.edu)  
Location: Weyerhaeuser Memorial Chapel, 1600 Grand Avenue, Saint Paul, MN 55105  
Time of event: 7:00pm

### Monday April 15, 2013 Austin, TX

Contact person: Rene Valdez  
Email: [consafos70@yahoo.com](mailto:consafos70@yahoo.com)  
Location: Multiple venues

- Monday, April 15th – Location TBD
- Tuesday, April 16th – UT Austin
- Wednesday, April 17th – Austin Community College
- Time of event: N/A

### Sunday, April 21, 2013 Seattle, WA

Contact person: Dan Berger, Dana Barnett, Shon MeckFessel  
Email: Dan: [danberger81@gmail.com](mailto:danberger81@gmail.com)/Dana: [dana-barnett78@gmail.com](mailto:dana-barnett78@gmail.com)  
Location: Black Coffee Café, 501 E Pine St, Seattle, WA 98122  
Time of event: 4:00pm

### Monday, April 22, 2013 Santa Barbara, CA

Contact person: Diane Fujino & Matef Harmacchis  
Email: Diane: [fujino@asamst.ucsb.edu](mailto:fujino@asamst.ucsb.edu) /Matef: [mharm@hotmail.com](mailto:mharm@hotmail.com)  
Location: UCSB Multicultural Center, University Center, Room 1504, Santa Barbara, CA 93106-6050  
Time of event: 5:00pm

### Wednesday, April 24, 2013 Bay Area, CA

Contact person: Nischit Sarpangala Hegde, Tony Marks-Block, Annie Paradise, Lawrence Shoupe  
Email: Nischit: [sarpangala@gmail.com](mailto:sarpangala@gmail.com) / Annie: [aparadise@ciis.edu](mailto:aparadise@ciis.edu)/ Tony: [ynotrevolt@gmail.com](mailto:ynotrevolt@gmail.com)/ Lawrence Shoupe: [larry-shoup@earthlink.net](mailto:larry-shoup@earthlink.net)  
Location: Multiple venues

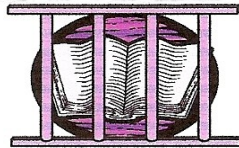
- April 24th – Mills College, Mills College, 5000 MacArthur Blvd, Oakland, CA 94613-1301
- April 24th – California Institute of Integral Studies, 1453 Mission Street, San Francisco, CA 94103
- April 28th – Niebyl Proctor Marxist Library, 6501 Telegraph Ave, Oakland, CA 94609-1113
- April 28th – Eastside Cultural Alliance, 2277 International Blvd, Oakland, CA 94606



# **When A Child Is Worth More Than The Worst Mistake He Ever Made:**

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**Antonio M. Howard**



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