

# JUSTITIA

## A Wrongly Convicted Prisoner Refuses Parole

By Joel Freedman

For many years I have corresponded with Alfred Blanche, who was paroled from Attica Correctional Facility in January 2006 after being incarcerated for almost 18 years. Blanche was convicted of the rape and sexual abuse of a 10-year-old Fresh Air Program girl hosted in Blanche's household. At the time, Blanche, a Vietnam veteran, managed a 406-acre farm in Washington County.

I have serious doubts that Blanche is actually guilty. My review of the trial evidence, as well as evidence never heard by the jury, indicated Blanche consented to and passed a lie detector test while he was awaiting trial. The test was administered by a former state police polygraph expert, with the approval of the district attorney. The district attorney's office paid for half the costs of the polygraph test. The district attorney, instead of dropping the charges, offered Blanche a one-to-three-year prison sentence if Blanche would plead guilty to reduced charges. Otherwise, Blanche faced up to 25 years in prison. Blanche refused the offer.

Physicians and nurses who examined the

girl shortly after her accusation observed no physical or emotional discomfort or trauma and reported they were "unsure if the assault was real or imaginative." Former hosts of this child indicated she made false accusations or threatened to make false accusations if she did not get her own way. They would not host any other Fresh Air Program children as a result of their experiences with this girl. All the physical evidence was either inconclusive or exculpatory. The post-trial disclosure of a DNA test which the district attorney had previously asserted had never been done, a rape kit that was never fully tested, and a 1988 police report which plainly states that there was no evidence of the girl being raped or sexually abused, are additional innocence indicators. And after Blanche was convicted and sentenced to 8 1/3 to 25 years imprisonment, he received a letter which said if he would fork over some money the girl would recant. I believe Blanche was the victim of a scam, and that the alleged sexual crimes never happened.

By maintaining his innocence since the onset of his ordeal, Blanche was denied family reunion visits, opportunities for release, and assistance with release planning.

The girl and her family have used aliases that have made it almost impossible to track them down.

Seven years ago, after Blanche gave the Parole Board the information described above to support his innocence claim, he was granted parole contingent on finding a prison-approved place to live. But because Blanche refused to participate in

a sexual offender program that required him to admit guilt, Department of Correctional Services and Attica parole staff regarded him as an unrepentant child molester and failed to provide him the assistance necessary for release. It was only after Blanche was preparing to initiate civil action that he was paroled, in January 2006.

Blanche was put out the front gate with no notice, without a place to live, with instructions to check in with the police and area parole office, and to seek assistance from the Washington County Department of Social Services.

In April 2006, Blanche was arrested for an alleged parole violation. He was not accused of doing anything improper with a computer; he was jailed because he used a computer to email acquaintances and to do legal research he believed was necessary in his continuing fight to clear his name. He was returned to prison with the understanding he would be paroled on April 13, 2007.

Shortly before his scheduled release date, however, Blanche was given a lengthy list of parole conditions that included an 8 p.m. to 8 a.m. curfew; a requirement that he maintain a log detailing all his daily activities and people he communicated with; and prohibitions against being within 1,000 feet of places where young people may gather, against participating in any online computer services or possessing any photographic equipment. Blanche would have to submit to electronic monitoring, periodic polygraph testing, and sex offender treatment. If he became involved in a relationship with an adult woman, he would have been required to inform her of the sex offense conviction in the presence of his parole officer. Blanche, who is age 63 and has multiple health problems, and who has no means of transportation, would also have been required to submit applications for employment to three sites daily. Although Blanche maintains he has no history of illegal drug use or alcohol abuse, he nevertheless would have to submit to random urine testing and to participate in substance abuse treatment programs. If the parole officer allowed Blanche to have a telephone, it would have to have a printout of all calls to and from it.

It is noteworthy that while Blanche's presentation of his prior exculpatory polygraph results was met with lack of interest by the Division of Parole, he would now be subject to polygraph tests to assure parole compliance. Blanche was a combat photographer in Vietnam, a wildlife and

nature photographer, and an editor and photographer for *Adirondack Bits-'n-Pieces* magazine prior to his incarceration. Now a camera restriction would be imposed. While in prison, Blanche held prison jobs in which he mastered computer skills. Now he would be denied access to a computer.

Some of the restrictions could have eventually been eased at the discretion of Blanche's parole officer. Blanche, however, is doubtful that the parole officer would have shown him much consideration; and even if some of the restrictions were eventually eased, Blanche would probably have been found in violation of his parole for his continuing refusal to participate in sex offender therapy.

With all this in mind, Blanche refused to sign his parole release papers, even at the risk of having to spend a total of 25 years in prison. He must also cope with other difficulties, including recent diagnoses of prostate cancer and skin melanoma.



## No Unlawful Enemy Combatants at Guantanamo

By Marjorie Cohn

In 2002, Donald Rumsfeld famously called the detainees at Guantánamo “the worst of the worst.” General Richard B. Myers, former chairman of the Joint Chiefs of Staff, warned they were “very dangerous people who would gnaw hydraulic lines in the back of a C-17 to bring it down.” These claims were designed to justify locking up hundreds

of men and boys for years in small cages like animals.

George W. Bush lost no time establishing military commissions to try the very “worst of the worst” for war crimes. But four and a half years later, the Supreme Court decided in *Hamdan v. Rumsfeld* that those commissions violated the Uniform Code of Military Justice and the Geneva Conventions. So Bush dusted them off, made a few changes, and rammed his new improved military commissions through the Republican Congress last fall.

Only three detainees have been brought before the new commissions. One would expect the people Bush & Co. singled out for war crimes prosecutions would be high-level al-Qaeda leaders. But they weren't. The first was David Hicks, who was evidently not so dangerous. The U.S. military made a deal that garnered Hicks a misdemeanor sentence and sent him back to Australia.

Salem Ahmed Hamdan, a Yemeni who used to be Osama bin Laden's chauffeur, was the second. Hamdan, whose case had been overturned by the Supreme Court, was finally brought before a military commission Monday for arraignment on charges of conspiracy and material support for terrorism.

The third defendant was Omar Khadr, a Canadian citizen, who appeared for arraignment the same day as Hamdan. Khadr was 15 years old when he arrived at Guantánamo. He faced charges of conspiracy, murder, attempted murder, spying, and supporting terrorism.

On Monday [June 4], much to Bush's dismay, two different military judges dismissed both Hamdan's and Khadr's cases on procedural grounds.

The Military Commissions Act that Congress passed last year says the military commissions have jurisdiction to try offenses committed by alien unlawful enemy combatants. Unlawful enemy combatants are defined as (1) people who have engaged in hostilities or purposefully and materially supported hostilities against the United States or its allies; or (2) people who have been determined to be unlawful enemy combatants by a Combatant Status Review Tribunal (CSRT) or another competent tribunal. The Act says that a determination of unlawful enemy combatant status by a CSRT or another competent tribunal is dispositive.

But there are no “unlawful” enemy combatants at Guantánamo. There are only men who have been determined to be “enemy combatants” by the CSRTs. The Act declares that military commissions “shall not have jurisdiction over lawful enemy combatants.” In its haste to launch post-Hamdan military commissions, Bush's legal eagles didn't notice this discrepancy. That is why the charges were dismissed.

The Bush administration may try to fix the procedural problem and retry Khadr and Hamdan. But regardless of whether Guantánamo detainees are lawful or unlawful enemy combatants, the Bush administration's treatment of them violates the Geneva Conventions. Lawful enemy combatants are protected against inhumane treatment by the Third Geneva Convention on prisoners of war. Unlawful enemy combatants are protected against inhumane treatment by Common Article Three.

Omar Khadr was captured in Afghanistan and brought to Guantánamo when he was 15 years old. In both places, he has been repeatedly tortured and subjected to inhumane treatment. At Baghram Air Base, Khadr was denied pain medication for his serious head and eye shrapnel wounds. At Guantánamo, his hands and feet were shackled together, he was bolted to the floor and left there for hours at a time. After he urinated on himself and on the floor, U.S. military guards mopped the floor with his skinny little body. Khadr was beaten in the head, dogs lunged at him, and he was threatened with rape and the removal of his body parts.

Khadr cried frequently. He has nightmares, sweats and hyperventilates, and is hypervigilant, hearing sounds that he can't identify. When Khadr's lawyer saw him for the first time in 2004, he thought, “He's just a little kid.”

Why was Khadr treated this way? He comes from a family allegedly active in al-Qaeda. His charges stem from an incident where the U.S. sent Afghans into a compound where Khadr and others were located. The people inside the compound killed the Afghans and began firing at the U.S. soldiers. The Americans dropped two 500-pound bombs on the compound, killing everyone inside except Khadr. After Khadr threw a hand grenade which killed an American, the soldiers shot Khadr, blinding and seriously wounding him. Khadr begged them in English to finish him off. He was then taken to Baghram and later to Guantánamo.

According to Donald Rehkopf, Jr., co-chair of the National Association of Criminal Defense

Lawyers Military Law Committee, "The government has steadfastly refused to allow hearings on this alleged [unlawful enemy combatant] status because there are so many prisoners at GTMO that were not even combatants, much less 'unlawful' ones. Khadr is in an unusual situation because he has a viable 'self-defense' claim - we attacked the compound that he and his family were living in, and the fact that he was only 15 at the time."

If Khadr were a U.S. citizen, he would not even be subject to trial by court-martial because of his age. When the Supreme Court ruled in 2005 that children under 18 at the time of their crimes could not be executed, it said that youths display a "lack of maturity and an underdeveloped sense of responsibility" that "often results in impetuous and ill-considered actions and decisions." A juvenile, the Court found, is more vulnerable or susceptible to negative influences and his character is not as well-formed as that of an adult. "From a moral standpoint," Justice Kennedy wrote for the majority, "it would be misguided to equate the failings of a minor with those of an adult, for a greater possibility exists that a minor's character deficiencies will be reformed." The Bush administration's treatment of Omar Khadr flies in the face of the Court's reasoning.

The United States may be able to retry Khadr and Hamdan. They have a few days to file an appeal. But the Court of Military Commissions Review hasn't even been established yet, so it's unclear where the appeals would be brought.

The Military Commissions Act, which denies basic due process protections, including the right to habeas corpus, is a disgrace. But an even bigger disgrace is the concentration camp the United States maintains at Guantánamo Bay, Cuba. The Act should be repealed and the Guantánamo prison should be shut down immediately.

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## ***Back From the Dead: One Woman's Search for the Men Who Walked Off Death Row / By Joan M. Cheever***

A Review by Joel Freedman

Joan Cheever, an award-winning legal affairs journalist and a former managing editor of *The National Law Journal*, received some advice from her supervisor. "For God's sake, Joan. If you are there, just close your eyes. You don't need to watch." But Cheever knew in her heart she needed to be an eyewitness to the execution by lethal injection of Walter Williams, her client of nine years. On October 5, 1994 Williams was executed in Huntsville, Texas. Invited by Williams to witness his execution, Cheever kept her eyes open. Williams was executed for the cold-blooded killing of a young clerk during a botched robbery of a convenience store.

In the hours before his execution, Cheever asked Williams for permission to write about him, his life, and the death penalty. Cheever had a lot of questions about why people kill and if it was possible for killers to be rehabilitated. Williams replied, "That's fine, Joan. Just make sure you get it right." Cheever and Williams spent 2 ½ hours "talking like old friends. We laughed, we cried, and at times feel silent. Occasionally, we both looked at the door that stood only 10 feet away - the one to the Death House."

The night he died, Cheever asked Williams if he had been given a second chance at life, how would he spend it? Williams replied he would have

liked to work with inner-city kids like himself. He would have warned them away from gang affiliations, illegal drugs and alcohol.

In the Death House, Cheever entered to find Williams lying on top of the gurney, bound by six thick leather straps. Separated by a glass window from her client, Cheever said farewell to Williams through a microphone. "God bless and Godspeed, Walter. You're almost home." "Thank you, Joan," Williams replied. Asked by the warden if he had any last words, Williams said he was grateful he had converted to Islam. He asked the family of Daniel Liepold, the victim, for forgiveness. Cheever "wanted to scream, to slam my hands on the plexiglass that separated us. To do anything I could to stop what was happening. But I knew that I couldn't. Instead, I just kept my eyes on Walter, never imagining that those few minutes would burn in my memory for a lifetime. At that moment, I knew that I would never be the same." Cheever watched as Williams, struggling to breathe, took his final gasp of air.

For the next nine months, Cheever would find herself walking out of movies with violent scenes. She stopped reading newspaper reports of executions. Cheever would cry through death row movies and documentaries. And then something unexpected happened that was beyond Cheever's wildest dreams. It was an event that brought some serenity to Cheever, and prompted her to embark on the journey which became the subject of her book.

Bill Falk, a reporter for *Newsday*, was working on a story about John Edward, a Long Island psychic. Falk, a Pulitzer Prize-winning reporter, had observed Edward in readings and had even undergone one himself. Falk was impressed, but he needed more proof that Edward really could communicate with the dead. So Falk brought Cheever to Edward's home. Cheever had not publicized her final conversations with Williams. Falk introduced Cheever to Edward only by her first name. Edward was told only that she wanted to establish a communication with a deceased person who had been important in her life.

Edward correctly told Cheever she is from the Southwest. He correctly told her she has a twin sibling. Edward became excited when he asked Cheever, "Is there someone around you who had a sudden passing? I'm getting a very sudden feeling. Is there someone whose actions led to their passing? It wasn't a suicide, but their actions

brought about their own passing." (The execution.) Edward said this person was "stabbed or impaled." (The executioner's needle would do that.) Edward revealed that "he's showing me headlines. Yes, that's it. It's headlines. His death and whatever he did to cause it is showing up in the newspaper." (Williams' crime and execution made headlines.)

Edward said that the man in question was now with his parents. "M and L, Joan. That's it. M and L. Do you know who these people are?" (Williams' father's name was Lucien; his mother's, Melba.) "I get the feeling that you worked together on a project, on a team," Edward said. (Nine years of appellate work was a project, indeed.) Edward said the spirit wanted to thank "Bob," who had done television work, for helping with the project. (Cheever's co-counsel was nicknamed Bob, and Bob had been a legal commentator on *Geraldo Rivera*, *Larry King Live* and *Court TV*.) The clincher was when Edward asked Cheever if she planned to write something about this spirit. Cheever replied, "yes." "Well, the spirit says okay. Just make sure you get it right." (Edward had just repeated the exact words uttered by Williams just before his execution. Cheever had never told anyone about the details of that conversation. She had never even repeated the "just make sure you get it right" conversation to her husband.)

What would Cheever do, as a writer, to "get it right"? From the depths of her being, Cheever realized she must do more than write about the life and death of Walter Williams. She remembered asking Williams what he would have liked to do with his life if he had received a second chance. A 1972 U.S. Supreme Court decision, *Furman v. Georgia*, temporarily ended the death penalty in the United States. When the *Furman* ruling was handed down on June 29, 1972, 587 men and two women were on death row. None would be executed for the crimes that brought them to death row. All were given the gift of life. Of the 589 death row inmates whose death sentences were commuted to life imprisonment, 226 are currently incarcerated. Of this number, 62 were paroled but were returned to prison as recidivists. Of the original group of 589, 164 (including the two women) have never been released. Of the 332 former death row inmates who have been released from prison, more than half are no longer on parole. They have successfully discharged their sentences.

*Back From the Dead* focuses on the 322 who were released from prison. Cheever's search

for this group of former death row inmates was a formidable task. First, Cheever had to put together a list of these men from reading court opinions and old newspaper articles, and talking to some of their attorneys. Many states did not keep meticulous records. Next, Cheever worked with a private investigative agency to find them, or she contacted parole officers, the inmates' former lawyers, inmates' families or their former cell mates. Cheever's task was made more difficult because some of these men had changed their names or birthdates. Eventually, Cheever was able to personally meet with many of these men. Cheever acknowledges her book "is not about angels because angels don't end up on Death Row. There are many good reasons why these men landed there. And almost everyone in The Class of '72 - with the exception of the seven who have been exonerated - are most probably guilty of the crimes for which they were accused."

*Back From the Dead* tells of Cheever's exhaustive, sometimes dangerous, search for the former "Class of '72", and what they had to say when they were found. Cheever reminds us "it is an almost impossible task to predict who will succeed and who will fail. Even the so-called 'experts' can't do it. But we ask jurors every day in death penalty trials across the United States to make those predictions."

Over a span of three decades, I have received thousands of letters from prisoners throughout America. Two of them are featured in *Back From the Dead*. Benny Demps arrived on Florida's death row in 1971, convicted of murdering two people and wounding a third person while they were inspecting some land for sale. They encountered Demps in a citrus grove where he had fled with a safe he had stolen from a nearby house. In 1972, *Furman v. Georgia* resulted in commutation of death sentences for Demps and 99 other Florida death row inmates. A new Florida death penalty law was upheld in 1976 by the U.S. Supreme Court. Two months later, an inmate was stabbed to death. Demps and two other inmates were convicted of murdering him. Demps was sentenced to death, the other perpetrators were sentenced to life imprisonment.

Demps wrote to me in 1979 with a claim of innocence. I could not substantiate his claim, but Demps, a former Marine injured in Vietnam, also wanted to discuss his activities and opinion of the death penalty. "I'm into weightlifting, jogging,

volleyball, basketball, and most sports. I like to read good books on politics, philosophy and human behavior. I like good music, meeting people, and exchanging thoughts and ideas. When I first came to prison I could barely read or write but I took it upon myself to improve." On the death penalty controversy, Demps wrote me: "Which of us can understand why there's so much violence, why people kill. It's wrong for an individual to take a life. If it's wrong to kill then does killing the killer sanctify or correct it?"

About his own situation, Demps predicted that "never will I die strapped in the electric chair." On June 7, 2000, 21 years after this prediction, Demps was finally executed. However, his prediction was accurate. He did not die in the electric chair. Several other condemned people were burned alive while strapped to "Ol' Sparky," Florida's electric chair. Fearing that future electrocutions would face court challenges, the Florida legislature changed its execution method to lethal injection. Demps became the third Florida inmate to be executed by injection.

The execution team experienced difficulties inserting the catheter into Demps's veins. Demps demanded that the execution not be carried out because the pain of the preparation process was "cruel and unusual punishment". For his final words, Demps spoke for seven minutes. He proclaimed his innocence. But time had run out for Demps. The drugs were administered. Unconsciousness. Death.

I have also discussed, through correspondence, criminal justice reform issues with Charles Culhane, a former New York death row inmate. Chapter Five of *Back From the Dead*, entitled "A Dead Man Walking And Talking" is about Culhane and Cheever's visit with him at a time when Culhane seemed to have turned his life around. Cheever sat in on "Criminal Justice in America," which was taught by Culhane at a state university in upstate New York. Culhane kept a promise he made to himself when his death sentence was commuted in 1972 - to continue to fight for the abolition of capital punishment in America. Sadly, however, Culhane stumbled on the road to freedom. Culhane returned to prison in May 2002, after eight years on parole, for a substance abuse offense. He was released in June 2003, but was arrested again two years later, after testing positive for cocaine. Presently incarcerated at Great Meadow Correctional Facility, Culhane will

be eligible for release later this year.

After interviewing more than 125 former Death Row inmates, Cheever realized her rendezvous with destiny had still not been completed. So Cheever wrote to the mother of Daniel Liepold, the young man Walter Williams shot at point blank range in the back of the head. Cheever needed to know how Mrs. Liepold was doing, and to find out if Williams' execution had eased her sorrow. Cheever visited the Liepold family. Mrs. Liepold told Cheever she was bothered by Williams' lack of remorse. "I wasn't for the death penalty before Daniel was killed. But I am now. And one of the reasons is that Walter Williams never showed the slightest bit of remorse." Cheever told the family that if the Walter Williams of 1981 appeared unrepentant and cocky, the Walter Williams of 1994 really was remorseful. The prison chaplain had not informed the Liepold family, and the news media had not reported, that Williams' last words were asking the Liepold family for forgiveness.

At the request of Mrs. Liepold, Cheever helped arrange for Mrs. Liepold to meet with Sister Helen Prejean. Sister Helen, a spiritual adviser to many death row inmates, and the author of *Dead Man Walking* and *The Death of Innocents: An Eyewitness Account of Wrongful Executions*, met with Mrs. Liepold two years ago.

"I've kept my promise. Mrs. Liepold got her talk with 'that nun'. Now she says she wants to talk to me. Once again, she wraps me in her arms and kisses me. She tells me she prays for me all the time. I start to cry. Soon, I am weeping. Hugs and kisses. Prayers. And, 24 years later, forgiveness." When Cheever told Williams she planned to write about him after his execution, Williams admonished her to "just make sure you get it right." *Back From the Dead* is a mission accomplished endeavor.

Here is a life-embracing, off-beat, extraordinary, and passionate book that has the ingredients to transform readers' consciousness about life and death. Cheever has provided a significant contribution to the death penalty literature and, because I have been fascinated by psychic and paranormal experiences for as long as I remember, I also believe *Back From the Dead* is a wonderful contribution to the parapsychology literature.

Although Clare Regan, our longtime editor of "Justicia", died from cancer last December, I still sense her gentle presence. I believe it is

commendable that the Judicial Process Commission has not removed Clare's name from the membership list of our Board. As I wrote this book review, I found myself thinking that Clare will read it and that she continues to take an interest in *Justicia*, other activities of the Judicial Process Commission, and in all the causes to which she was devoted. "Just make sure you get it right," I can almost hear Clare tell us - just as Williams urged Cheever to "just make sure you get it right."

In the journeys we all take through eternity, the power of spirituality can sometimes triumph even over death.

*Back From the Dead: One Woman's Search for the Men Who Walked Off America's Death Row* is published by John Wiley & Sons, Hoboken, New Jersey, 2006. 308 pages. \$24.95. ISBN 0-470-01750-3.



## ***All Alone in the World: Children of the Incarcerated / by Nell Bernstein***

A Review by Joel Freedman

The Child Development-Community Policing Program (CD-CP) is a collaboration between the New Haven, Connecticut, Department of Police Service and the Yale Child Study Center (YCSC). Established to try to deal with the wounds that frequent and prolonged exposure to violence inflicts on children, CD-CP has also transformed the way police handle arrests of adults when children are present. Child Study Center clinicians will come to the scene of a crime or an arrest to offer counseling and other services to children in the wake of parental arrest or other traumas. The CD-CP has been adopted in thirteen other cities.

The Family Matters Program at the Centers for Youth and Families, a Little Rock, Arkansas,

federally-funded demonstration project, offers case management services to 27 families affected by parental incarceration. Grandparent care providers attend support groups and receive counseling on a regular basis from family advocates who also help grandparents establish guardianship, obtain public assistance, enroll their grandchildren in school, and prepare for their incarcerated children's return. The advocates meet monthly with incarcerated parents and arrange special visits. Family Matters tries to organize its services around the needs of the grandparents who are trying to care for their grandchildren. The organization sponsors Camp Ferncliff, a week long summer camp for children of the incarcerated. The camp offers children a chance to enjoy the companionship of other children whose parents are incarcerated, while providing their grandparents a week of respite.

The Children's Center at New York's Sing Sing Correctional Facility, established by the Osborne Association, operates on the premise that meaningful contact between incarcerated fathers and their children can have a positive impact on both. Inside the Center, fathers can hug and hold their children, read books to them, play computer games with them, and help them to make key chains out of colored string. Transparent walls enable correction officers to see in, but at least for a few hours children and their parents experience an intimacy not quite attainable in the regular visiting room.

La Bodega de la Familia on the Lower East Side of Manhattan combines case management, direct service and faith in the prospect of redemption, in a program to foster family reunification when prisoners return to society. Walk-in services and a 24-hour crisis hotline are available to returning prisoners, their children and other relatives. The parole department has assigned six parole officers to work exclusively with Bodega clients and their families. Bodega case managers accompany parole officers to pre-release visits at the prisons, and parole officers join case managers at family meetings.

The Oregon Department of Corrections (DOC) works closely with other state and non-profit agencies known as the Children of Incarcerated Parents Project. Oregon inmates have access to parenting classes, and special visits where they receive feedback from a family therapist. Mothers at the Coffee Creek Correctional Facility are permitted to participate in an on-site Early Head

Start program, where young children spend twice-weekly three-hour stretches with their mothers in a pre-school like setting. A Girl Scouts Beyond Bars has been established at the prison, allowing mothers and their daughters to participate in bimonthly troop meetings inside the institution. Outside the prison, the DOC and the Portland Relief Nursery provide case management and family support to children, their caregivers, and their parents upon release from prison.

Such programs, Nell Bernstein contends, are steps in the right direction toward overcoming the deprivation of one in 33 American children - and one in eight African American children - who have an incarcerated parent. Bernstein, a journalist who also coordinates the San Francisco Children of Incarcerated Parents Partnership, has spent many years researching and writing about the children of prisoners. She would like to see a lot more of the kinds of programs that she profiles in *All Alone in the World*, but, sadly, "they exist in piecemeal form, scattered across the nation, serving a small percentage of the families who need them, and often with no reliable source of funding from one year to the next." Bernstein is convinced that "when the arrest and incarceration of a parent are genuinely necessary, it remains our responsibility to seek a least detrimental alternative - to take steps to protect and support children at every step of the process, from arrest through reentry."

Throughout *All Alone in the World*, young people talk with Bernstein about the impact their parents' incarceration has had on their lives. Bernstein insists that one conclusion is inescapable: "Their stories make clear that each decision we make about how to handle lawbreaking - from arrest protocols through sentencing through policy governing the prospects of returning prisoners - affects children's lives in deep and lasting ways... Many of the things we worry about on behalf of children - poverty, single or no parent families, homelessness, unemployment, juvenile delinquency - are exacerbated by, if not directly attributable to, parental incarceration."

Bernstein's conversations with the children of prisoners across America - and with their caregivers and service providers - have led her to several conclusions about what needs to be done.

Developing arrest protocols that support and protect arrestees' children, placing prisoners in prisons that are as close as possible to their children, creating more child-centered visitation

policies, abolishing exorbitant collect-call phone rates imposed on prisoners' families, creating specialized units within child welfare departments to assist children of prisoners, designating a family services coordinator at prison and jail facilities, creating opportunities for children of incarcerated parents to communicate with and support one another, and supporting family reunification endeavors, are among Bernstein's worthwhile proposals.

Because imprisonment may punish their families as well as the offenders, Bernstein proposes consideration of children's needs at sentencing, devising and implementing sentences which encourage accountability to children, and including a family impact statement in pre-sentence investigation reports that would consider assessments of the potential effect of a given sentence on children and families, "and recommendations for the least detrimental alternative sentence in this context."

When Andrew Fastow and his wife Lea were both indicted in connection with the Enron scandal, they and their attorneys made the welfare of the Fastow children a key part of the plea and sentence bargaining. Thus the Fastows received staggered sentences, so that one parent would always be free to take care of them. "Rather than being decried as special treatment, similar consideration should routinely be extended to children of lawbreakers whose collars are other than white," Bernstein suggests.

Bernstein's heart is in the right place, but she does not always consider all the ramifications of her proposals. Let us suppose that Jack and Mack have robbed a bank. Let us suppose that their past offenses, and potential for rehabilitation, are similar, but that Jack is single and Mack is married and the father of two young children, Would justice really be served if Jack's sentence was significantly harsher than Mack's sentence simply because Jack had no dependents?

In some cases, losing a parent to prison is a blessing for their children and other family members; the less contact they have with their incarcerated family member, the better off they will be. And while Bernstein correctly asserts that prison contact visits "are rarely structured with a child's needs in mind," security issues sometimes do require guarding against drugs in the diaper or razor blades concealed in a child's shoes. Unfortunately, although they are not the majority,

there are some prisoners who will not respect benevolent visitation policies, or who will be willing to jeopardize their children in and outside of prison.

Nevertheless, children who visit their incarcerated parents should not be subjected to any unnecessary indignities. For the most part, Bernstein's recommendations about how to enhance the welfare of the children of incarcerated people are worthy of thoughtful consideration. The ideas presented in this book should not be scoffed at. As Bernstein concludes "the parent-child bond, beyond its private importance to the individuals who share it, is a social asset that must be valued and preserved."

*All Alone in the World: Children of the Incarcerated* was published by The New Press, New York, 2005. 303 pages, \$25.95, ISBN 1-56584-952-3.



## New York State Death Penalty Update as of 6/5/07

By Suzanne Schnittman

Background: In the wake of three recent cop killings this year, the New York State Senate passed a new bill that would make it a capital crime to murder a police officer. A similar New York State Assembly bill currently sits in the Codes Committee.

Assembly Speaker Sheldon Silver does not want the bill to come out, so it probably will not reach the floor this year. Governor Spitzer supports the Senate cop killer bill, but is not willing to push it, remaining "passive" on the issue for now.

Action Recommended: Take every opportunity to tell your Assembly Representative and Governor Spitzer that you oppose legislation that would invoke capital punishment for any crime. (NY's death penalty law has been null for two years because it was determined to be unconstitutional in its current form.)

# Three US Newspapers Reverse 100-Year-Old Stand on Death Penalty

Selections from an article pub. 5/11/07 by Inter Press Service  
By Eli Clifton

WASHINGTON - Three established U.S. newspapers... in three different states have in the past weeks abandoned their century-old support of the death penalty and become passionate advocates of a ban on state-sponsored killing.

The newspapers — the Chicago Tribune in Illinois, the smaller Sentinel in Pennsylvania and the Dallas Morning News in Texas — announced their change of heart in strongly-argued editorials following a series of investigative articles highlighting the flaws in the death penalty system in their states and country...

The Chicago Tribune said its “groundbreaking” reporting suggested that innocent people had been convicted and executed... “The evidence of mistakes, the evidence of arbitrary decisions, the sobering knowledge that governments can’t provide certainty that the innocent will not be put to death — all that prompts this call for an end to capital punishment. It is time to stop killing people in the people’s name,” the Chicago Tribune wrote, reversing its pro-capital punishment position held since 1869.

Pennsylvania’s Sentinel newspaper, founded in 1861, also came out editorially against capital punishment after its reporters highlighted the “ineffectiveness” of the death penalty system in the state.

“The death penalty is useless,” the newspaper wrote in its Apr. 3 editorial.

The state’s lengthy appeals process created an almost indefinite stay of execution... “We are left with a grueling process that in the end only guarantees more suffering for the victims’ families and society at large as faith in the justice system erodes,” the editorial said. The majority of public opinion in the U.S. now favored prison without parole rather than capital punishment — either out of “frustration with the system or revulsion at the punishment”...

In Texas, the Dallas Morning News reversed its century-old support for the death penalty in an editorial on Apr. 15, citing mounting evidence that the state had wrongly convicted a

number of people in capital trials and probably executed at least one innocent man...

The number of death sentences handed down in the U.S. has been steadily decreasing as public opinion in support of capital punishment has been falling...

*Accessed on [www.commondreams.org](http://www.commondreams.org).*

## JUSTICIA DELIVERS... But Sometimes Is Not Delivered

By Jack Bradigan Spula

It has come to our attention that at least one New York State prison rejected a recent issue of *Justicia* — making it undeliverable within the walls. Specifically, a Media Review panel at Oneida Correctional Facility determined that an article detailing the factual history of the 1971 Attica rebellion and its aftermath somehow encourages “disobedience toward law enforcement.”

An appeal has been filed with an Albany-based central media review committee; the letter of appeal rightly notes that prison libraries hold books and periodicals that present similar material, and that the Judicial Process Commission is highly regarded by people within the system. We are now gathering information on the exclusion and appeal, and we certainly will keep readers updated.

## Googling Death in Preparation for a Vigil

By Suzanne Schnittman

Eternal One,

You taught me how to google for death last night.

You kept me steady as I recorded the crimes.

You reminded me why we stand here in a vigil.

You let me in on the secrets of the families, of victims and murders.

You told me some pretty gruesome details.

I wondered why we stand here.

Then You told me how the state studies how to kill with a needle

Filled with the perfect cocktail.

First the anesthesia - sodium thiopental, puts the inmate into deep sleep, followed by a saline flush,

Then the paralyzing agent, pancuronium bromide, paralyzes the diaphragm and lungs, followed by a saline flush,

Then the toxin (not used by all states), potassium chloride, to interrupt the electrical signaling essential to heart functions, inducing cardiac arrest.

This takes about 30 minutes from when the inmate leaves the cell to the declaration of death, but last week it took an hour.

You told me about the doctors who watch and the priests who anoint.

You told me about the chemists who have been called back to the drawing table for more humane drugs.

You showed me that many states - 13 currently - are putting executions on hold.

Then you told me about New York State, where at least 3 cops have been killed this year, and how the Senate is trying to reinstate the death penalty

You showed me Spitzer's silence.

And the Assembly's resolve.

We might be only 3 or 4, but now I know why we're here.

## **JUDICIAL PROCESS COMMISSION**

121 North Fitzhugh Street  
Rochester, NY 14614  
585-325-7727; email: info@rocjpc.org  
website: www.rocjpc.org

### **VISION**

The Judicial Process Commission envisions a society with true justice and equality for all. We understand that in a just society, all institutions will be based on reconciliation and restoration, instead of retribution and violence.

### **MISSION**

The JPC is a grassroots, nonprofit organization that challenges society to create a just, nonviolent community which supports the right of all people to reach their fullest potential. We do this by:

- Providing support services for those involved in the criminal justice system
- Educating the public
- Advocating for changes in public policy.

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Judicial Process Commission  
121 N. Fitzhugh Street  
Rochester, New York 14614  
585-325-7727  
info@rocjpc.org

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**The Judicial Process Commission's**  
35<sup>th</sup> Annual Fundraising Luncheon and Meeting  
Downtown United Presbyterian Church  
121 N. Fitzhugh Street

**Disenfranchised - For Life? Law vs Myth in Re-Entry**  
***Wednesday, June 27, 2007, Noon – 2:00 PM***

**Jason Hoge, Esq.**

Monroe County Legal Assistance Center (MCLAC) Lead Counsel for Re-Entry Project

**& Ray Barnes**

**Jason Hoge** is a human rights lawyer who studied at Mahidol University in Bangkok and while there worked on the Burma Lawyers' Council, Legal Aid Section from August 2003 to March 2005. He received his Juris Doctor degree from CCNY in 2004, joined MCLAC in 2006, and is now the lead counsel for the Re-Entry Project.

**Ray Barnes** Reentry Net Coordinator/Reintegration Specialist for the Center for Community Alternatives in Syracuse.

\$18 for lunch and program

\$8 for program only

**\*\*Scholarships available\*\***

**All proceeds go to further the work of JPC that includes:**

- **Case Management and mentoring for parolees and probationers**
- **Stopping the death penalty in New York State, and**
- **Raising consciousness about white privilege and racism.**