

Justice

Injustice in Jena as Nooses Hang from the 'White Tree'

By Bill Quigley

(July 3, 2007) In a small still mostly segregated section of rural Louisiana, an all white jury heard a series of white witnesses called by a white prosecutor testify in a courtroom overseen by a white judge in a trial of a fight at the local high school where a white student who had been making racial taunts was hit by black students. The fight was the culmination of a series of racial incidents starting when whites responded to black students sitting under the "white tree" at their school by hanging three nooses from the tree.

The white jury and white prosecutor and all white supporters of the white victim were all on one side of the courtroom. The black defendant, 17 year old Mychal Bell, and his supporters were on the other. The jury quickly convicted Mychal Bell of two felonies - aggravated battery and conspiracy to commit aggravated battery. Bell, who was a 16 year old sophomore football star at the time he was arrested, faces up to 22 years in prison. Five other black youths await similar trials on attempted second degree murder and conspiracy charges.

Yes, you read that correctly. The rest of the story, which is being reported across the world in papers in China, France and England, is just as chilling.

The trouble started under "the white tree" in front of Jena High School. The "white tree" is where the white students, 80% of the student body, would always sit during school breaks.

In September 2006, a black student at Jena high school asked permission from school administrators to sit under the "white tree." School officials advised them to sit wherever they wanted. They did.

The next day, three nooses, in the school colors, were hanging from the "white tree." The message was clear. "Those nooses meant the KKK, they meant 'Niggers, we're going to kill you, we're going to hang you till you die,'" Casteptla Bailey, mom of one of the students, told the London Observer.

The Jena high school principal found that three white students were responsible and recommended expulsion. The white superintendent of schools overruled the principal and gave the students a three day suspension, saying that the nooses were just a youthful stunt. "Adolescents play pranks," the superintendent told the Chicago Tribune, "I don't think it was a threat against anybody."

The African-American community was hurt and upset. "Hanging those nooses was a hate crime, plain and simple," according to Tracy Bowens, mother of students at Jena High.

But blacks in this area of Louisiana have little political power. The ten person all-male government of the parish has one African-American member. The nine member all-male school board has one African American member. (A phone caller to the local school board trying to find out the racial makeup of the school board was told there was one "colored" member of the board). There is one black police officer in Jena and two black public school teachers.

Jena, with a population of less than 3,000, is the largest town in and parish (county) seat of LaSalle Parish, Louisiana. There are about 350 African Americans in the town. LaSalle has a population of just over 14,000 people - 12% African-American.

This is solid Bush and David Duke Country - GWB won LaSalle Parish 4 to 1 in the last two elections; Duke carried a majority of the white vote when he ran for Governor of Louisiana. Families earn about 60% of the national average. The Census Bureau reports that less than 10% of the businesses in LaSalle Parish are black owned.

Jena is the site of the infamous Juvenile Correctional Center for Youth that was forced to close its doors in 2000, only two years after opening, due to widespread brutality and racism including the choking of juveniles by guards after the youth met with a lawyer. The U.S. Department of Justice sued the private prison amid complaints that guards paid inmates to fight each other and laughed when teens tried to commit suicide.

Black students decided to resist and organized a sit-in under the "white tree" at the school to protest the light suspensions given to the noose-hanging white students.

The white District Attorney then came to Jena High with law enforcement officers to address a school assembly. According to testimony in a later motion in court, the DA reportedly threatened the black protesting students, saying that if they didn't stop making a fuss about this "innocent prank... I can be your best friend or your worst enemy. I can take away your lives with a stroke of my pen." The school was put on lockdown for the rest of the week.

Racial tensions remained high throughout the fall.

On the night of Thursday November 30, 2006, a still unsolved fire burned down the main academic building of Jena High School.

On Friday night, December 1, a black student who showed up at a white party was beaten by whites. On Saturday, December 2, a young white man pulled out a shotgun in a confrontation with young black men at the Gotta Go convenience store outside Jena before the men wrestled it away from him. The black men who took the shotgun away were later arrested; no charges were filed against the white man.

On Monday, December 4, at Jena High, a white student – who allegedly had been making racial taunts, including calling African American students "niggers" while supporting the students who hung the nooses and who beat up the black student at the off-campus party – was knocked down, punched and kicked by black students. The white victim was taken to the hospital treated and released. He attended a social function that evening.

Six black Jena students were arrested and charged with attempted second degree murder. All six were expelled from school.

The six charged were: 17-year-old Robert Bailey Junior whose bail was set at \$138,000; 17-year-old Theo Shaw - bail \$130,000; 18-year-old Carwin Jones – bail \$100,000; 17-year-old Bryant Purvis – bail \$70,000; 16 year old Mychal Bell, a sophomore in high school who was charged as an adult and for whom bail was set at \$90,000; and a still unidentified minor.

Many of the young men, who came to be known as the Jena 6, stayed in jail for months. Few families could afford bond or private attorneys.

Mychal Bell remained in jail from December 2006 until his trial because his family was unable to post the \$90,000 bond. Theo Shaw has also remained in jail. Several of the other defendants remained in jail for months until their families could raise sufficient money to put up bonds.

The Chicago Tribune wrote a powerful story headlined "Racial Demons Rear Heads." The London Observer wrote: "Jena is gaining national notoriety as an example of the new 'stealth' racism, showing how lightly sleep the demons of racial prejudice in America's Deep South, even in the year that a black man, Barack Obama, is a serious candidate for the White House." The British Broadcasting Company aired a TV special report "Race Hate in Louisiana 2007."

The Jena 6 and their families were put under substantial pressure to plead guilty. Mychal

Bell was reported to have been leaning towards pleading guilty right up until his trial when he decided he would not plead guilty to a felony.

When it finally came, the trial of Mychal Bell was swift. Bell was represented by an appointed public defender.

On the morning of the trial, the DA reduced the charges from attempted second degree murder to second degree aggravated battery and conspiracy. Aggravated battery in Louisiana law demands the attack be with a dangerous weapon. The dangerous weapon? The prosecutor was allowed to argue to the jury that the tennis shoes worn by Bell could be considered a dangerous weapon used by "the gang of black boys" who beat the white victim.

Most shocking of all, when the pool of potential jurors was summoned, fifty people appeared – every single one white.

The LaSalle Parish clerk defended the all white group to the Alexandria (Louisiana) Town Talk newspaper saying that the jury pool was selected by computer. "The venire [panel of prospective jurors] is color blind. The idea is for the list to truly reflect the racial makeup of the community, but the system does not take race into factor." Officials said they had summoned 150 people, but these were the only people who showed up.

The all-white jury which was finally chosen included two people friendly with the District Attorney, a relative of one of the witnesses and several others who were friends of prosecution witnesses.

Bell's parents, Melissa Bell and Marcus Jones, were not even allowed to attend the trial despite their objections, because they were listed as potential witnesses. The white victim, though a witness, was allowed to stay in the courtroom. The parents, who had been widely quoted in the media as critics of the process, were also told they could no longer speak to the media as long as the trial was in session. Marcus Jones had told the media "It's all about those nooses" and declared the charges racially motivated.

Other supporters who planned a demonstration in support of Bell were ordered by the court not to do so near the courthouse or anywhere the judge would see them.

The prosecutor called 17 witnesses - eleven white students, three white teachers, and two white

nurses. Some said they saw Bell kick the victim; others said they did not see him do anything. The white victim testified that he did not know if Bell hit him or not.

The Chicago Tribune reported the public defender did not challenge the all-white jury pool, put on no evidence and called no witnesses. The public defender told the Alexandria Town talk after resting his case without calling any witnesses that he knew he would be second-guessed by many but was confident that the jury would return a verdict of not guilty. "I don't believe race is an issue in this trial...I think I have a fair and impartial jury..."

The jury deliberated for less than three hours and found Mychal Bell guilty on the maximum possible charges of aggravated second degree battery and conspiracy. He faces up to a maximum of 22 years in prison.

The public defender told the press afterwards, "I feel I put on the best defense that I could." Responding to criticism of not putting on any witnesses, the attorney said "why open the door for further accusations? I did the best I could for my client, Mychal Bell."

At a rally in front of the courthouse the next day, Alan Bean, a Texas minister and leader of the Friends of Justice, said "I have seen a lot of trials in my time. And I have never seen a more distressing miscarriage of justice than what happened in LaSalle Parish yesterday." Khadijah Rashad of Lafayette, Louisiana, described the trial as a "modern day lynching."

Tory Pegram with the Louisiana ACLU has been working with the parents for months. "People know if they don't demand equal treatment now, they will never get it. People's jobs and livelihoods have been threatened for attending Jena 6 Defense meetings, but people are willing to risk that. One person told me: 'We have to convince more people to come rally with us....What's the worst that could happen? They fire us from our jobs? We have the worst jobs in the town anyway. They burn a cross on our lawns or burn down my house? All of that has happened to us before. We have to keep speaking out to make sure it doesn't happen to us again, or our children will never be safe.'"

Whites in the community were adamant that there is no racism. "We don't have a problem," according to one. Other locals told the media, "We all get along," and "Most blacks are happy with the

way things are." One person even said, "We don't have many problems with our blacks."

Melvin Worthington, the lone African American school board member in LaSalle Parish said it all could have been avoided. "There's no doubt about it," he told the Chicago Tribune, "whites and blacks are treated differently here. The white kids should have gotten more punishment for hanging those nooses. If they had, all the stuff that followed could have been avoided."

Hebert McCoy, a relative of one of the youths who has been trying to raise money for bail and lawyers, challenged people everywhere at the end of the rally when he said, "You better get out of your houses. You better come out and defend your children...because they are incarcerating them by the thousands. Jena's not the beginning, but Jena has crossed the line. Justice is not right when you put on the wrong charges and then convict. I believe in justice. I believe in the point of law. I believe in accepting the punishment if I'm guilty. If I'm guilty, convict me and punish me, but if I'm innocent, no justice..." and the crowd joined with him and shouted "no peace!"

What happened to the white guys? The white victim of the beating was later arrested for bringing a hunting rifle loaded with 13 bullets onto the high school campus and released on \$5,000 bond. The white man who beat up the black youth at the off-campus party was arrested and charged with simple battery. The white students who hung up the nooses in the "white tree" were never charged.

The people in Jena are fighting for justice and they need legal and financial help. Since the arrests, a group of family members have been holding well-attended meetings, and have created a defense fund – the Jena 6 Defense Committee. They have received support from the NAACP, the Louisiana ACLU and Friends of Justice. People interested in supporting can contact: the Jena 6 Defense Committee, PO Box 2798, Jena, LA 71342 jena6defense@gmail.com; Friends of Justice, 507 North Donley Avenue, Tulia, TX 79088 www.fojtulia.org; or the ACLU of Louisiana, PO Box 56157, New Orleans, LA 70156 www.laclu.org or 417-350-0536.

What is next? The rest of the Jena 6 await similar trials. Theodore Shaw is due to go on trial shortly. Mychal Bell is scheduled to be sentenced July 31. If he gets the maximum sentence he will not be out of prison until he is nearly 40.

Meanwhile, the "white tree" outside Jena High sits quietly in the hot sun.

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Contributions may be sent to the Jena 6 Defense Committee, PO Box 2798, Jena, LA 71342. (Late update: The sentencing of Mychal Bell has been postponed until September; he has a new pro bono lawyer.)



Cruelty To Animals Behind Prison Walls

By Joel Freedman

People For The Ethical Treatment of Animals (PETA) is trying to stop cruelty to animals at the Carl Robinson Correctional Facility in Enfield, Connecticut.

According to one correctional officer at this prison: "I never thought that I'd have a conflict with the department over my feelings about animals, and then I look out my window and see them being beaten to death. It's emotionally draining for me to try to do my job while this is going on." An inmate at the prison reports that woodchucks "are being barbarically slaughtered with giant rat traps that are put into the entrances of their dens. Eyewitnesses accounts of smashed heads and still-alive bloody pups, struggling with eyes bulging and taking their last breaths are commonplace. Why can they not be trapped humanely and relocated instead of being slaughtered?"

I posed this question in a letter to Theresa Lantz, Commissioner of the Connecticut Department of Correction, but I received no reply. My phone calls to Department officials were not returned. PETA's urgent appeals to Commissioner Lantz offering advice on a humane, effective woodchuck-control program were rejected.

The conibear traps used at Carl Robinson Correctional Facility are so cruel that they have

been banned or restricted in eleven states. These traps, which apply 90 pounds of pressure per square inch, often do not kill the animals immediately, but leave them to endure prolonged suffering from internal injuries.

Four years ago, an inmate at a New York medium security prison wrote to Animal Rights Advocates of Upstate New York:

"I am an inmate at [place name withheld] Correction Facility. I would like to explain a situation to you and see if you can offer any help in this matter. Last year a pregnant skunk somehow got into the facility and had a litter of 5 babies. When the babies were roughly 12 weeks old an officer intentionally ran over the mother with the perimeter truck. Having no mother to care for them anymore a couple of inmates and myself took it upon ourselves to feed the baby skunks. I know this probably wasn't the right thing to do, but we felt that they would die from starvation and we didn't want that to happen. As a result of this, the skunks grew and became very friendly and would come to us every evening. It got to a point where they would sit-up and beg for scraps, and allow us to pet them.

"This year only three skunks survived the winter and remained inside the prison fence. One had become pregnant and had a litter of eight baby skunks. Because she trusted us and the babies were getting bigger, she started to bring her babies out to us to get fed also. They were still very small (about the size of a small kitten), but they started to trust us, and come out regularly. One evening the facility closed the yard early at 7:30 p.m., instead of the regular time of 10:00 p.m., for various reasons. After that evening we noticed that the baby skunks were no longer coming out, nor were they in their lair underneath the shed attached to the Mess Hall. They were nowhere to be found, only the mother and a familiar skunk from the previous year's litter were seen. This was very unusual because they were coming out every evening like clockwork to be fed.

"After about two weeks time and many inquiries about the disappearance of the baby skunk an officer had been bragging that another officer brought some poison into the facility and put it in the skunk lair. This has caused me to be very upset and nervous that the skunks were actually killed by poison. Another officer claims that they were taken away; however, the mother is still here, and will no longer go near her lair where the babies once lived. Why would they take eight (two month

old) baby skunks without taking the mother to care for them? Additionally, the mother and another familiar skunk from last year's litter now roam the yard at night in a very lethargic state with a poor appetite. I believe they are probably suffering from the effects of poisoning.

"I feel they could have used a more humane method to solve the problem, and also I am sure they did not have the Superintendent's permission to bring poison inside a correctional facility. That constitutes a crime. It is my hope that maybe your organization might inquire to the Superintendent as how these skunks were disposed of. I feel the humane thing to do to such beautiful animals would be to call the right organization and have the babies and mother relocated, instead of cruelly murdered. Maybe you could remove the remaining skunks and put them in a safer environment."

A related concern was brought to my attention by a wildlife rehabilitator who serves on the board of the New York State Wildlife Association. Several years ago, she attended a seminar dealing with chemical immobilizations of animals. She said that one of the seminar participants had a contract to remove wildlife from New York State prison properties. The man in question was licensed to do this, but instead of releasing skunks back into the woods or bringing them to wildlife rehabilitators, he took it upon himself to drown these animals. The wildlife rehabilitator explained to the trapper that his actions were illegal. She tried to provide him with information about humane handling of skunks and about how to avoid getting "sprayed," but the man seemed disinterested.

I shared my concerns with then DOCS Commissioner Glenn Goord, but the Department denied any wrongdoing in their handling of wildlife on prison property.

Several years ago, at the Avenal State Prison in California, prison officials arranged to board up the sides of a trailer with metal grates, even though cats made their home under the trailer. Twelve cats and kittens starved to death before the gratings were finally removed. More cats would have perished if not for the intervention of animal protection agencies, and for the kindness of employees and inmates who risked disciplinary actions for feeding the cats. And during the early 1990s at one of New York's maximum security prisons, inmates were reportedly outraged and saddened by the actions of some officers who were

observed poisoning cats or beating them to death.

There is a link between violence to animals and human-to-human violence. Just as cruelty to animals by humans promotes antisocial behavior toward other humans, kindness to animals by humans promotes human-to-human kindness, improving the quality of life for everyone. The significance of this in correctional facilities that are supposed to strive to improve the moral behavior and attitude of prisoners, should be appreciated by those who administer penal institutions.

In recent weeks, PETA's publicity campaign to stop the atrocities at the Carl Robinson Correctional Facility has prompted the Connecticut Department of Correction to accept PETA's recommendations for protecting the woodchucks. Inmates concerned about cruelty to animals that may exist at any penal institutions should contact Stephanie Boyles, PETA, 501 Front Street, Norfolk, VA 23510.



The Mackey Awards Process

By Fred Schaeffer

JPC will be making the first-ever Virginia and John Mackey Awards for Leadership, and for Training, in restorative, criminal, or social justice.

We are alerting leading organizations in the appropriate justice field(s), so that any one associated with them may submit a nominee. Nominations may only be submitted by individuals. We are alerting the public as well. Nominations must be submitted *no later than October 15, 2007...*

The Mackey Leadership Award is to an individual or group for groundbreaking activity in restorative, criminal or social justice. The award winner will have initiated a new process (including research) that has a reasonable potential for significant improvement, or has led to a longstanding and significant improvement, in the above areas of justice. Generally, preference will be given to an individual.

The Mackey Training Award is to a group or an individual seeking to train or already engaged in training individuals who will advocate in the criminal

justice, restorative justice, or social justice fields. The award may be to an individual for his or her own training, or to a program that trains many individuals. Generally, preference for this award will be given to a program or organization that trains groups.

Like the Nobel Award, only one winner will be selected each year in each category. For 2007, each winner will receive \$1,000, as well as public recognition in the media.

The Reverend Virginia and John Mackey were outstanding advocates of criminal justice and social justice in the Greater Rochester area and beyond. Ginny's role was often more public, while John's was more behind-the-scenes. In the 1970s, in response to serious problems in the criminal justice system and to the violent conclusion of the Attica Prison Uprising, Ginny founded JPC. The Commission addressed major issues involving law enforcement, the courts, and jail and prison reform. Ginny authored a major national document and was instrumental locally in founding the Task Force on Courts, the Center for Dispute Settlement, community service sentencing, merit selection of the Public Defender, and many others. When Ginny died in 2001 and John in 2004, JPC received some funds that make possible the Mackey Awards.

Questions about the awards may be directed to Fred Schaeffer, JPC Mackey Awards Committee, at 585-244-2074.

Congress Urged To Repeal or Amend Portions of the PLRA

By Joel Freedman

In its report last year, "Confronting Confinement," The Commission on Safety and Abuse In America's Prisons concluded that "problems of sexual and physical abuse of prisoners, the failure to meet their basic medical and mental-healthcare needs, and sordid conditions of confinement continue unabated in many prisons and jails across the country."

Among its recommendations, the Commission urged Congress to revise the Prison Litigation Reform Act (PLRA). At the time the PLRA was enacted in 1996, prisoners in America were annually filing almost 41,000 civil rights actions in federal court. The law was enacted to eliminate

what was described as “frivolous” prisoner lawsuits. Although only 15 percent of the prisoners’ lawsuits prevailed in the five years preceding enactment of PLRA, less than 5 percent of prisoners’ lawsuits were thrown out as factually or legally frivolous. But Congress conducted no studies and held only one hearing before passing PLRA, which moved through the legislative process as a rider to an appropriations bill. PLRA has caused so much confusion and prompted so much litigation about its own meaning that one Federal Court of Appeals concluded that “When Congress passed the PLRA, the watchdog must have been dead.”

As a result of the PLRA, prisoner lawsuits in Federal court have declined by nearly half when the increase in the prison population is taken into account. The year before the law took effect, the rate of filing was 37 civil rights actions per 1,000 prisoners; five years later it was 19 per 1,000. Although one of the intents of PLRA is to increase the likelihood of success for prisoner lawsuits deemed meritorious, the proportion of successful suits declined after its enactment.

Since 1996, court monitoring of prisons diminished. The U.S. Justice Department, too, has become increasingly more reluctant to exert its authority, under the 1980 Civil Rights of Institutionalized Persons Act (CRIPA), to initiate investigations and lawsuits to correct egregious abuses in penal institutions. In fiscal years 2003 and 2004 combined, the Justice Department initiated only six investigations and filed only one civil court action dealing with adult jails or prisons.

The Commission urged Congress to amend the PLRA by (1) eliminating the physical injury requirement, (2) eliminating the filing fee for indigent prisoners or make it reflective of the prisoner’s earning power, and eliminating the restrictions on attorney fees, (3) lifting the requirement that correctional agencies concede liability as a prerequisite to court-supervised settlement, and (4) changing the “exhaustion” rule, which bars prisoners who have not fully “exhausted” all available grievance procedures in the institution where they are incarcerated. “If the grievance procedures are meaningless or unnecessarily cumbersome or strict, an exhaustion rule simply undermines access to justice,” the Commission said. “These four changes to the PLRA would increase the ability of federal courts to both deliver justice to individual prisoners and to provide the authority necessary to force reform of

facilities where people are in danger or subject to abuse,” the Commission concluded.

Earlier this year, the American Bar Association’s Criminal Justice Section issued a report supporting the Commission’s recommendations to Congress regarding the PLRA. “Without access to the courts, the legal rights accorded prisoners are ephemeral and unenforceable - meaningless words and empty promises,” the report said.

Passage of Another Death Penalty Bill Called Cynical

From New Yorkers Against the Death Penalty

On July 16, the New York State legislature responded to the tragic death of a police officer shot in the line of duty by passing its third death penalty bill this year. Below is a statement on the Senate’s action by David Kaczynski, Executive Director of New Yorkers Against the Death Penalty. (July 16 2007) “We join all New Yorkers in grieving for the recent loss of Police Officer Timoshenko, and other officers and troopers who have died in the service of all of us.

“But State Senate Majority Leader Joseph Bruno knows that today’s passage of a death penalty bill all but identical to one passed earlier this year is a cynical and empty gesture that has no chance of becoming law.

“He knows, as New Yorkers have learned, that the death penalty does not represent swift or sure punishment. No one has been executed in New York in 44 years.

“It is unconscionable that Senator Bruno has led his chamber in this cynical exercise without addressing the plague of wrongful convictions that has seen 26 New Yorkers exonerated and freed after serving long sentences for murders or rapes they did not commit.

“The principal effect of the death penalty is to create a lot more work for lawyers at the taxpayer’s expense without any public benefit. A mandatory sentence of life imprisonment without parole for those who murder police is a tough sentence fully enforceable in New York State. It protects those who protect us without wasting untold millions of dollars on a decades-long appeals process and without risking the execution of an innocent person.

“The death penalty is a system that buries its worst mistakes. Trying to reinstate the death penalty before tackling the plague of wrongful convictions is a cynical gesture aimed at diverting attention from other issues before the legislature.

“Senator Bruno knows the measure will not become law, no matter how many times he gets his conference to pass it.

“New Yorkers have learned we can live without the death penalty. It is time for Senator Bruno to catch up with the people he represents.”



Stop the Execution of Kenneth Foster, Jr.

On August 30, 2007, Texas, the state that executes more people than any in the country, plans to deliver a lethal injection to Kenneth Foster, Jr.

... Kenneth's case is unique. He killed no one. The state of Texas will be the first to admit this. It seems unthinkable that a man who did not even touch the gun that ended the life of Michael LaHood, Jr. on August 14, 1996 in San Antonio, Texas would be sent to his death for such a crime.

What makes this possible is the Law of Parties. A number of states have laws that enable prosecutors to hold those merely present at the scene of a crime legally responsible. Texas is the only state that applies this statute in capital cases, making it the only place in the United States where a person can be factually innocent of murder and still face the death penalty.

The only remaining option to stop this execution is with the Texas Board of Pardons and Paroles and Governor Rick Perry. In order to convince the Governor and the BPP to act, we

need to convince members of the Texas Legislature to urge Perry and the BPP to stop this execution.

Please use this form to send every member of the Texas Legislature an email asking them to contact Governor Perry about stopping Foster's execution. In order for your letter to be effective, you must compose it in your own words. Each email that a legislator receives must be different and personal. Form letters are not effective. Here are the key points to weave in:

1. Express your sympathy for the family of Michael LaHood. Explain that you are not seeking to excuse the manner of his death or to downplay the suffering his death has caused. Point out that the person who actually shot Michael LaHood, Mauriceo Brown, was executed last year.

2. Express concern at the use of the law of parties in this case, noting evidence that the shooting was the spontaneous act of Mauriceo Brown, and that all those involved in the crime have said that there was no conspiracy to rob Michael LaHood, which would make Kenneth Foster innocent of capital murder.

3. The Court of Criminal Appeals denied relief on August 7 in Kenneth's case (the vote was 5-3 with one judge not participating). The Court says that this case is now in the hands of legislators and the Governor. Say that you know that legislators have no direct power to stop the execution, but that they can use their influence and access to help persuade Governor Perry to stop the execution.

4. The 5th Circuit stated in a published opinion that the Court of Criminal Appeals got it wrong when they affirmed his death sentence.

5. IT IS MOST IMPORTANT FOR LEGISLATORS TO KNOW that the Texas Legislature passed an Act that forbade the judges of the Court of Criminal Appeals from considering new evidence in death penalty cases, even if the judges unanimously believed the new evidence would spare a life. This Act, passed in 1995, prevents judges from giving relief to people who they believe are not to be subjected to death.

Thank you for taking action.

Constructive Encounters

By Joel Freedman

Some time ago, I went to Attica Correctional Facility to talk with three inmates about their work with juvenile offenders brought into Attica for a glimpse of their possible futures.

I met with Del and Dennis. When I requested that Richard be called out, I did not know that the youth assistance panel was then meeting with the youths. When Richard turned down my visit, I could understand why.

Richard, one of the youth program's original planners, wrote me: "The kids come first and if there is anything I can say that might help one of them to stay out of a place like this then it's worth it."

Del later told me how he tackled this situation during the forum: "I jumped on this and brought it into the open. Here is a man with 17 years in prison and he is giving up a visit so that he can be with the youths. The youths sat right up and gave that some thought."

Dennis told me that the goal of inmate volunteers is to "break through to some of the youths by simply speaking their language and by being able to really understand their experiences." Richard added that his involvement in the youth assistance program helped "my own personal growth."

Gerald, a pen-pal of mine serving a life sentence at the New Mexico Penitentiary, tried to counsel juvenile offenders in an encounter group at the prison. He talked with them about the horrors of prison and tried to persuade them to lead law-abiding lives before it was too late.

In death as in life, Gerald conveyed his message. His final letter to me concluded, "You take care, Joel, keep in touch." Three days later, Gerald was found hanging in his cell, a towel stuffed in his mouth and throat. Prison officials said that Gerald committed suicide. His family are convinced that Gerald was a victim of foul play by persons unknown.

Several years after my first meeting with the Attica prisoners involved in the youth assistance program, I personally observed an encounter between youths from a juvenile residential center and Auburn Correctional Facility inmates who tried to educate the youths to the realities of imprisonment and to deter them from lives of crime.

Dramatic, compelling, caring and sharing, confrontational, harshly realistic, sad, intense, emotional, worthwhile, vibrantly alive - These words describe my reaction to the encounter session that I observed.

Sitting in a circle, prisoners and youths related to each other and to their own life situations. At the end of the session a youth counselor noted on his evaluation form: "What an amazing session. This is the kind of session that should be able to last as long as the energy is there. These are some of the kids who need it most. They would definitely benefit from a return visit."

Words of wisdom from the prisoners to the teenagers: "A friend is someone who leads you away from trouble, not into trouble — You don't go anywhere but into the gutter with drugs — Booze gives you false courage — How would you feel if that old lady you mugged was your grandmother and I mugged her — Nobody plans to come to prison. It happens because people have attitudes like yours — Think of yourselves instead of trying to impress each other."

The youths also observed a re-enactment of a prisoner burning alive after being "torched" by another inmate. They listened to accounts of "the way life is" in prison.

It was a heavy session and the men on the Youth Assistance Panel really put their hearts and souls into it. The jovial attitudes and wisecracks by the youths, observable prior to our tour of E Block and the encounter session in the prison chapel, were not evident at the end of the day. "It was different from any other experience I've had," one of the teenagers told me.

All these programs are an offshoot of the 1978 TV documentary *Scared Straight*, which in April 1979 received the Academy Award for the year's best documentary.

This hour long program, which captivated the press and the public, followed 17 juvenile offenders as they learned first hand about the realities of life at Rahway, New Jersey State Prison. The descriptions of sodomy and violence, the sounds of cell doors slamming shut, and the menacing language used by the prisoners to frighten the juveniles were unforgettable. "Please don't make me hurt you," a lifer told one teenage boy, "because if I have to break your face to get my point across, I'll do it, you little dummy." Another prisoner yelled: "You see them pretty blue eyes of

yours? I'll take one out of your face and squish it in front of you."

Claims that 80 percent of the 8,000 juveniles who had visited Rahway were "scared straight" by the encounter were later disputed by research conducted by Dr. James Finckenaue, an associate professor at Rutgers University School of Criminal Justice. The study said that such claims were greatly exaggerated and the Rahway program must not be regarded as a miracle cure for juvenile crime. Concluded Finckenaue's report: "There are no panaceas. No cure-alls. There are no simplistic solutions. It is not possible to simply scare kids straight."

Most juvenile assistance programs do not involve the degree of prisoner intensity seen on *Scared Straight*. Granted that such programs are not cure-alls, nothing else in our criminal justice system is a cure-all. Even if such programs make a difference for only some participants they are still worthwhile.

Prisoner-youth offender encounter groups are beneficial to some of the youth participants and would be even more valuable if other preventive services were upgraded or developed. They also give incarcerated people an opportunity to help others which, in turn, reinforces the rehabilitation of the prisoners involved in youth assistance programs. And the community benefits because such programs are not expensive to run and are an innovative response to crime and violence in our society.

I commend the people in our nation's prisons who continue to make a positive difference in the lives of juveniles in need of guidance.

Thoughts On The Investigation of Texas' Juvenile Facilities

By Joel Freedman

Since 2000, the U.S. Department of Justice has investigated alleged civil rights abuses at juvenile correctional institutions in Arkansas, Arizona, California, Hawaii, Indiana, Louisiana, Maryland, Michigan, Mississippi, Nevada and Texas.

Usually, such investigations tend to fade away, and the abuses continue. But in Texas,

which has America's third-largest youth detention system, Governor Rick Perry approved a state investigation into the Texas Youth Commission's juvenile detention facilities. Focusing on complaints of sexual and physical abuse of inmates and other improper conduct by staff at these facilities, the state's investigation appears to be serious and thorough. Since March, four superintendents have been suspended, eight staff members have been arrested, 19 have been fired, and termination proceedings are pending for 62 others. And Texas authorities are currently investigating whether guards broke the upper arm bones of at least 60 juvenile offenders when the guards yanked the youth's arms upward while their limbs were shackled behind their backs.

Elsewhere, however, these kinds of abuses are usually swept under the proverbial rug at juvenile facilities - as well as at adult prisons and jails, at nursing homes, and at state hospitals and developmental centers for the mentally ill and mentally retarded. Over the past two decades, many of my *Justicia* writings have described horrific abuses and other serious shortcomings that are so commonplace in far too many of our penal, geriatric and mental institutions.

My sensitivity to these institutional abuse issues began one spring day in 1965, when I found myself sitting in the waiting room of the Administration Building of a state psychiatric hospital in Foxboro, Massachusetts. I was waiting to see the superintendent about a summer job as a social service aide. I had just completed my sophomore year at Florida State University.

Earlier that year, I had changed my major study area from hotel/restaurant management to social welfare. I had some vague notion that I wanted to help people. My parents lived in Sharon, only five miles from Foxboro State Hospital. If I secured a job at Foxboro, I would not return to restaurant/country club work of previous summers.

Dr. John T. Shea interviewed me for twenty minutes. There were no summer social-service positions, but would I be interested in working as a ward attendant? Starting gross pay was \$67 a week. I was 19 years old. I had no family to support. I wanted the adventure of a new experience. An inner voice convinced me to accept the job offer. As I drove home from my interview, I was anxious to start work on L-One, a ward housing mostly elderly men with dementia and multiple physical disabilities. I was, like most

people, unfamiliar with the miseries of such places.

During the summer of 1965, I witnessed sadistic treatment of patients by some personnel, neglect of patients' privacy, hygiene and medical needs, overcrowded and unsanitary conditions, and other aspects of institutional inadequacies that I was to later learn were not unique to Foxboro State Hospital. That summer, I began to suffer from insomnia at night. I'd often drink myself to sleep. I was bothered not only by the abuses at Foxboro, but also by my own reluctance to protest. At most, I'd let other attendants know that I didn't like patients to be mistreated, and they were careful when I was around. But when I happened to witness physical abuse of patients, I did not report it.

For the next four years I was a summertime attendant at Foxboro while I completed my undergraduate and graduate social work program during the other seasons of those years. In 1969, before leaving Massachusetts to begin a career as a social worker at the Canandaigua, New York VA Hospital, I wrote my first letter to the editor. The Quincy (Massachusetts) Patriot Ledger published my letter about conditions at Foxboro. I also contacted state officials and legislators. Before long, a legislative investigation of Foxboro was off and running. And, for the past 40 years, I have remained concerned about goings-on at all our institutions. Many of these places are even worse than Foxboro State Hospital.

The institutions in Texas are particularly deplorable. Yet it is in Texas that we are seeing some responsible action by public officials, in response to evidence of widespread abuse in Texas' juvenile detention system. The housecleaning endeavor affecting the Texas Youth Commission, while long overdue, is a good start in the right direction. Hopefully, once the investigation has been completed, the results of the investigation will include serious recommendations that will be accepted and implemented to help prevent future abuses. According to Jerome Miller, former commissioner of the Massachusetts Department of Youth Services, "as time goes by, many of these systems trend toward repression and brutality". There is no place or need for such atrocious "systems" in any society that regards itself as humane and enlightened.

JUDICIAL PROCESS COMMISSION

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

*We welcome your letters and *Justicia* article submissions by email or postal mail.*

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 – 2006 ANNUAL REPORT

June 25, 2007

Dear Friends,

Your support, whether given in volunteer hours or in financial assistance has helped us serve more people reentering our community than ever before. Each Monroe Community College student intern, WEP worker from the Monroe County Department of Human Services, probationer and parolee, and retiree pitched in serving as case managers, mentors, and administrative support workers. When we totaled the numbers the small contributions added up to a rather large number. Together we aided more than 1,000 parolees and probationers, doubling the amount of people served in 2006.

Sufficient staffing continues to be our main challenge. We temporarily lost AmeriCorps participants but gained one late in the fall of 2006.

With the help of a professional grant writer, we aggressively pursued local and national foundation funding. Two grants were awarded and two are pending. This has allowed us to articulate who we are and what we do in a more powerful way. I am confident that over time we will see returns for this effort.

As a result of our working relationship with Jason Hoge, many more customers will be knowledgeable about their records and employment rights. After talking with attorneys from the Reentry Project, Monroe County Legal Assistance Center (MCLAC), larger numbers of employers will understand that they cannot discriminate against those with criminal records.

As the level of excitement increases in the developing field of reentry employment law, more than a dozen Volunteer Legal Service attorneys will be trained in the fall. JPC and MCLAC have submitted a proposal to VESID to provide rap sheet and certificate services to those with records; if accepted, this could bring in additional revenue and staffing.

On a final note, office computers were upgraded to accommodate a database management system to help with evaluation and use with funding requests.

We are very grateful to you for your involvement and support. You have had a growing impact on individuals and systems in our community.

Sincerely,

Yolanda Asamoah-Wade, Esq., Chairperson

Vision

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Programs

Probationer and Parolee Support Services, PAPSS

Case Management – staff and volunteers provide one on one support, coordinated employment services and advocacy for individuals coming out of the criminal justice system. In 2006 we assisted 1,041 persons. Because of insufficient staff and an unworkable database (since replaced) we were only able to enter 484 customers into the computer. We were able to contact 140 customers by phone or mail to document their status. Eighty-seven percent were successful: 53% were working, 16% in school/training programs, 12% in treatment programs and 6% in supportive housing programs. Eight percent were in prison/jail and 5% were other (hospitalized or deceased).

"Thanks for the encouragement and the landscaping resume. The day after I left your office I had a job trimming trees." Harold age 38

"Thank you for the resume and bus passes. I have found a good paying administrative position in business and I am very pleased. Included are some bus passes for you to give to the next participant to use." Betty age 55

Rap Sheets - JPC helps individuals with criminal records to obtain their official New York State Rap Sheet from the NYS Department of Criminal Justice Services. Many employers, housing providers and educational institutions are requiring individuals to disclose their criminal records and many individuals don't really know what is on their rap sheet; many rap sheets contain harmful errors.

JPC assisted customers in applying for 210 rap sheets over an 8 month period, between November 2006 and June 2007. Forty-one percent or 86 were reviewed and/or corrected; our goal is to review 100%.

Certificate of Relief from Disabilities and Certificate of Good Conduct - JPC case managers, legal staff and customers work together to prepare materials for judges/parole board to review and approve. If granted, a Certificate will help them gain employment, housing, or licensure.

We applied for 25 Certificates of Relief from Disabilities or Good Conduct and had 14 approved to date. Others are pending.

Faith Community Adult Mentoring Project (FCAMP)

Trained volunteer mentors are matched with parolees and probationers to help them find work and become successful taxpaying citizens. In 2006 sixty mentors were trained. There are currently twenty-seven active mentors. On average this group mentored 3 or 4 individuals a year – so 100 parolees and probationers benefited.

In 2006 and 2007 four mentors established re-entry services in their own faith communities. Their efforts to date include an ongoing mentoring program at Blessed Sacrament Church that is part of a free supper program, a support group for young women involved in the criminal justice system and a halfway house scheduled to open this fall in Rochester.

Public Policy Group (FCAMP) – Twelve activists met twice monthly developing strategies, fact sheets and reports pushing for more reentry resources for prisoners returning to Monroe County. This was a racially diverse group that included parolees and mentors, people directly affected by the issues, as well as citizens active in faith communities and interested in social justice and reentry issues.

Group members Precious Bedell and Bob Seidel authored a widely circulated report projecting the costs and reduced recidivism rate when providing housing, treatment and case management services to those returning from jail or prison. Dozens of educational sessions were held with elected officials. The group drafted legislation for reentry services in Monroe County for passage in Albany. **Note:** our beloved facilitator, Kris Miller Blazac, moved on and a professional facilitator is being sought so the group may continue to press for the much needed services for a marginalized and stigmatized population.

Correspondence with local jail inmates, New York State prisoners, and prisoners from around the United States – JPC receives complaints of abuse, discrimination, inadequate health care, reentry and legal needs. Letters also include requests for information, e.g. about the new civil commitment law for sex-offenders and addresses for advocacy groups. One-third were asking about availability of transitional services in Monroe County, including a description of JPC's services. Two-thirds requested referral information for legal services and/or governmental organizations that investigate complaints or other advocacy groups that aid prisoners with complaints of abuse, discrimination and health needs.

"I am writing on behalf of my son who was sentenced to 90 days at a drug treatment facility. Prior to this recent incarceration he did time at Wyoming Correctional Facility and Willard. He wrote to me complaining of cruel treatment against him by a corrections guard and false accusations to extend his stay. My husband and I contacted JPC. JPC staff took action by contacting the 2 facilities and soon thereafter my son was released and the guard transferred to another facility." Warren, age unknown

"I believe my aunt contacted you regarding several concerns, one of them being the problem with harassment I had been receiving from an officer here. First, if you have taken any action, I would like to thank you, so thank you. The facility had been contacted by someone in Albany and the situation seems to have gone away. I was contacted by the watch commander who listened very carefully to what I had to say. Now the offending officer has to keep his distance. So far I am extremely happy with the results. Now I can serve my time in peace." Joe age 23

Reconciliation Network: Don't Kill In Our Name

This group is dedicated to abolishing the death penalty in New York State. For the past 11 years up to thirty protesters have gathered each month in front of the Hall of Justice to remember those executed in the United States and their victims. Suzanne Schnittman facilitates the monthly vigil against the death penalty and serves on the statewide group, New Yorkers Against the Death Penalty (NYADP) in Albany. She and other members of NYADP visited state legislators encouraging them to abolish capital punishment in New York. New York State's death penalty law was found unconstitutional 2 years ago but the recent deaths of three New York State troopers has reignited interest in imposing capital punishment in New York.

Reconciliation Network sadly marked the passing of founder and mentor Clare Regan in December 2006. This summer we encourage you to visit and talk with your state legislators about this issue. Watch the bi-monthly publication of **Justicia** for detailed information and updates.

The Virginia and John Mackey Awards

JPC made significant progress toward creating a Mackey Leadership Award and a Mackey Training Award. The Leadership Award is for ground breaking activity in restorative, criminal, or social justice. The Training Award is for those offering or seeking training to advocate in these fields. These annual awards will be made to individuals and programs that best honor Virginia and John Mackey's vision for social justice and restorative justice. The focus will be in the Rochester region, but will be open to those elsewhere in New York. We expect to make the first announcement that solicits nominations from the public in the fall.

The awards are being made possible by a gift given to JPC by the Mackeys. John and the Reverend Virginia Mackey were outstanding advocates of criminal justice and social justice in the Greater Rochester area and beyond. In the early 1970's, in response to the serious problems in the criminal justice system and to the violent conclusion of the Attica Prison Uprising, Ginny founded JPC with Lois Davis. She also authored a major national document on **Restorative Justice: Toward Nonviolence** (1990) and was instrumental locally in founding the Task Force On Courts, the Center for Dispute Settlement, community service sentencing, merit selection of the Public Defender, and many other lasting endeavors.

Justicia – Our bi-monthly publication goes to 3,700 people. Writer Jack Bradigan Spula edits the newsletter. It contains articles and reports on re-entry, the death penalty, prison conditions, restorative justice, etc. This is a volunteer publication and the only one of its kind in the region.

What Divides Us: Understanding Our Fear of Differences Workshop –

This workshop raises awareness about white privilege/racism utilizing videos and discussion. During the spring of 2007, this workshop was provided to 23 individuals, over nine weeks at Restart Substance Abuse Program, Catholic Family Center. Contact James Caldwell at JPC for further information.

Collaborative Partners:

AmeriCorps
Catholic Family Center
Cephas
Drug and Alcohol Treatment Program, Monroe County Correctional Facility
United States Probation and Pre-trial Services
Reentry Project, Monroe County Legal Services Center
Monroe County Reentry Project
Monroe County Probation and Community Corrections Department
New Yorkers Against the Death Penalty
New York State Parole
New York Interfaith Coalition of Advocates for Reentry and Employment

Rochester Friends Meeting
Rochester Correctional Facility
Safer Monroe Area Reentry Team (SMART)
Training and Employment Assistance Program, Monroe County Department of Human Services
VESID
Volunteer Legal Services

Key Funders:

Catholic Family Center
Downtown United Presbyterian Church
Fred and Floy Wilmot Foundation
Presbytery of Genesee Valley
Rochester Area Community Foundation
Individuals and Faith Communities

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Mary Boite, MLS (Library Services)
JPC Reconciliation Network and JPC Personnel Committee,
Organizational Affiliations: Co-organizer, International Human Rights Day

Jack Bradigan Spula
Editor *Justicia*

Laurie Hamlin
JPC Treasurer, Employment: Computer Programmer, Monroe County Board of Elections

Shermond Johnson
JPC Faith Community Adult Mentoring Project, FCAMP
Mentor, Organizational Affiliations: President of Prison Ministries, Redeem Bethel Community Fellowship Center

Bob H. Jones MD, Retired
JPC FCAMP Planning Committee and Mentor

Gail Mott
JPC Secretary and JPC Reconciliation Network
Organizational Affiliations: Co-organizer, International Human Rights Day and member
Downtown United Presbyterian, Justice Ministry

John Mourning
JPC Personnel Committee, JPC FCAMP Mentor and Planning Committee Member, Organizational Affiliations: Deacon, First Church of God, Clarissa Street

Harry Murray, PhD
Employment: Professor of Sociology, Nazareth College

Fred Schaeffer
JPC FCAMP Public Policy Group and Mentor
Organizational Affiliations: Former President of Metro Justice, Employment: Retired Senior Analyst at Kodak

Suzanne Schnittman, PhD
JPC Reconciliation Network
Organizational Affiliations: board member
New Yorkers Against the Death Penalty

Mary Sullivan
Sister of Mercy, Employment: Professor Emeritus, Rochester Institute of Technology

Yolanda Wade, Esq.
JPC Chairperson and Personnel Committee
Employment: Monroe County Legal Aid

Valerie White-Whittick
JPC FCAMP Mentor and Case Manager
Organizational Affiliations: Seventh Day Adventists Personal Ministry Leader, Prison Ministry Bible Instructor and Board Member, Employment: Xerox Retiree

Louise Wu Richards
Colgate Rochester Crozer Divinity School student
and Peace Activist

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Monroe Community College

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Kamilah Richardson
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AmeriCorps

Esther Rowe
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JPC Needs Your Financial Support

We at JPC hope that you are returning to work, to school and to your daily routine with a renewed sense of purpose after a wonderful and refreshing summer.

Here the work continues all year as staff and volunteers meet with hundreds of people who turn to our programs in an effort to rejoin the community as productive and healthy citizens.

As you return to your busy life please consider that work with a check. This is a tough time of year for us and we are busier than ever. With your generosity we will be able to meet some of our most urgent demands. We specifically need funds to keep our Case Manager on the payroll. Working directly with customers she is a vital part of our team. As always we appreciate whatever contribution that you can make at this time. Please enclose your gift in the envelope provided.

Interested in learning about how to effectively help parolees and probationers?

JPC APPRENTICESHIP MENTOR TRAINING

September 10 and 11th
Monday and Tuesday, 5:00 to 9:00 PM,
Hospitality thanks to the Rochester Friends Meeting

84 Scio Street
Rochester Friends Meeting
(Near the Eastman Theatre)

Training Topics:

- Local, State and Federal representatives discuss their agencies role in the criminal justice system.
- Project guidelines and boundaries.
- Mentor reflections and requirements.
- Active listening skills.
- Health issues.

Reservations required in advance by Friday, September 7 at noon. Call 325-7727 or email info@rocjpc.org. Interested volunteers should have 2 hours a week to give, be willing to commit to 1 year of apprenticeship service and provide written information about the outcomes.