

# The Sentry

A Publication of Death Penalty Focus



On Nov. 30th Religious and Political Leaders From Across California Spoke at Press Conferences in Support of Clemency for Stanley Williams. Above: SF Supervisor Ross Mirkarimi Speaks to the Press

## Schwarzenegger Blinks - Again By Mike Farrell

Governor Arnold Schwarzenegger failed the test of leadership yet again by sending Stanley Tookie Williams to his death on December 13<sup>th</sup>, this time demonstrating he is not only a coward but a bully. The coward part, sadly, surprised no one since his political base was teetering after a pummeling at the polls and his appointment of a Democrat as Chief of Staff. But the bullying, apparently intended to guarantee his embrace by the death-lovers, was a hideous thing to see. The brutal, contemptuous tone of his statement denying clemency said that death was not enough. The document not only demonstrated Schwarzenegger's (or whoever actually wrote the ugly diatribe's) ignorance of the concept of clemency -- simply regurgitating the state's case and sneering at mercy -- it added insult to injury. It was as if some muscle head walked up to Mr. Williams, shackled, bound, forced to his knees with head bowed, and kicked him a couple of times before his lackeys plunged in the needle.

But where's the surprise? Two years ago Schwarzenegger refused to even consider clemency for Kevin Cooper despite serious questions about the evidence, only to be then embarrassed by the 9<sup>th</sup> Circuit Court of Appeals' decision to stop that execution and insist further testing be done. Apparently chastened by this experience, Schwarzenegger at least offered a clemency hearing in front of his Board of Prison Terms for Donald Beardslee before ordering that brain-damaged man to his death. So now, faced with the extraordinary, international level of support for mercy for Stanley Williams, what choice did he have? Clearly he couldn't simply sniff and turn thumbs down as he had tried with Cooper, and just as clearly a public clemency hearing like

Beardslee's would turn into a huge, media-filled demonstration of support for Williams that he couldn't afford. So for this one he decided on a private clemency hearing where he could pretend to take the matter seriously -- and avoid all the public fuss -- before he did the kicking and sticking.

But what Schwarzenegger doesn't understand, and what his cruelty may have in fact accidentally assisted, is that state killing in America, euphemistically called capital punishment, is dying. It's dying at the hands of people like Arnold Schwarzenegger and Stanley Tookie Williams, and those less visible like Harold Wilson, Larry Griffin and Ruben Cantu, because Americans can no longer square their sense of fairness with a system more devoted to politics than justice.

Embarrassed at having their better angels buried by a campaign of fear and loathing, our juries are increasingly reluctant to respond to the impassioned cries of politically ambitious prosecutors and so-called "victim's rights" groups seeking blood.

Stunned at the geyser of innocents pouring forth from our death rows, Americans see Harold Wilson of Pennsylvania and the 121 who preceded him to freedom after years of waiting for the executioner, as proof of dysfunction in a system they had been repeatedly assured represented "the people" fairly, honestly and honorably. Wilson, the 6<sup>th</sup> person to be exonerated in Pennsylvania alone, was initially the victim of a now-officially-acknowledged racist practice that excluded blacks from his jury. He was finally freed this past November as a result of DNA testing after enduring

### New Jersey Senate Passes Bi-partisan Bill to Suspend Executions, California to Consider Similar Bill in January 2006

On December 15, 2005, members of the New Jersey Senate voted 30-6 to temporarily suspend all executions in the state and to examine flaws in the death penalty system. Legislators expressed concern about the risk of executing the innocent and racial and geographic bias in the administration of the death penalty. California will consider a similar measure to temporarily suspend executions, the "California Moratorium on Executions Act" (AB1121), on January 10th.

The New Jersey moratorium bill now moves to the Assembly for a scheduled January vote. If the bill passes the Assembly and is signed by the Governor Richard J. Codey (D), New Jersey will become the first state in the country to legislatively mandate a suspension of executions. Illinois continues to operate under a

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Death Penalty Focus is a non-profit organization dedicated to abolishing the death penalty.

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## Activists and Artists Gather in San Francisco to Support DPF



Pictured Above Left: Lance Lindsey, Elizabeth Zitrin, Malaquias Montoya, Mike Farrell, Dolores Huerta, Clint Mitchell, and Assemblyman Mark Leno attend DPF's *Together for Justice* art and wine event in San Francisco. Pictured Above Right: Mike Farrell presents Dolores Huerta with the *Together for Justice* Award for her legendary social justice work.

## New Jersey: Continued from Page 1

moratorium ordered by former Governor George Ryan (R), and Maryland briefly suspended executions as the result of an order from former Governor Parris Glendening (D).

New Jersey's action comes amidst a growing chorus of concern across the country about the death penalty. Texas prosecutors recently reopened the case of Ruben Cantu after the *Houston Chronicle* ran an investigative series that revealed Cantu was likely innocent of the crimes for which he was executed. Cantu, who was a juvenile at the time of the crime, was only 26 years old when he was executed in 1993. In Missouri, prosecutors are re-investigating the case of Larry Griffin, who was executed in 1995, in light of evidence that he, too, was innocent. "The evidence cannot be ignored: we have committed the ultimate mistake and executed an innocent person in this country," said Natasha Minsker, Director of Death Penalty Policy for the ACLU of Northern California.

In the last month, serious concerns about the death penalty have been raised by successful gubernatorial candidates in Virginia and New Jersey, the U.S. Conference of Catholic Bishops, the editorial board of Alabama's largest newspaper, and the President of the Ethics and Religious Liberties Commission of the Southern Baptist Convention. In both California and North Carolina, the legislatures have empanelled

bi-partisan commissions to study the flaws in the criminal justice system, including the administration of the death penalty. The *California Commission on the Fair Administration of Justice* began meeting in August 2005 and has until December 31, 2007 to report its finding to the Legislature and the Governor. The Commission, which spent the first half of 2005 raising operating funds because the Senate-created Commission was given no public funding, is expected to begin holding public hearings in the later part of 2006.

"More and more Californians are beginning to recognize that executions must be temporarily halted to ensure that innocent people are not being wrongfully convicted and sentenced to death for crimes they did not commit," said Stefanie Faucher, Program Director of Death Penalty Focus. "New Jersey's problems are not unique. California is no stranger to wrongful convictions, incompetent lawyers, racial bias, and other systemic problems."

According to the *Los Angeles Times*, the Public Policy Institute of California conducted a survey of registered voters in February 2004 and found that when given the choice between having first-degree murderers executed or jailed for life without chance of parole, only 38% of respondents preferred the death penalty. The poll also found general support for the death penalty had dropped to just 57% among Californians.

16 years on death row.

Off balance from the steady drip of what seems a near-daily death-row exoneration, decent citizens were staggered by the news that St. Louis' Chief Prosecutor Jennifer Joyce had agreed to reopen the investigation that convicted and ultimately executed Larry Griffin in the state of Missouri over ten years ago. Faced with the confounding results of an investigation by the NAACP Legal Defense and Educational Fund, Joyce must now deal with the odious task of explaining, rationalizing or justifying her state's murder of an innocent man.

And no sooner did Griffin's name slip from the news under the guise of "further investigation" than down came the thunderbolt of Ruben Cantu. A 17-year-old gang-banger in San Antonio, Texas, Cantu was tried, convicted and executed in Texas' killing factory in 1993 on the testimony of the sole witness to the crime, a 19-year-old undocumented immigrant who has now revealed he was pressured by police to name the boy.

Texas, America's busiest and most boastful executioner, is reeling at this development. The district attorney at the time, according to the Houston Chronicle, said it was a mistake to prosecute Cantu for capital murder and admitted that the criminal justice system allows people to be convicted based on mistaken or corrupted evidence. He has since disavowed all belief in the use of the death penalty.

Upon learning of the new developments in the Cantu case, the forewoman of the jury that condemned him said, "the bottom line is an innocent person was put to death and we all have our finger in that." The Houston Chronicle has suggested the possibility of granting Ruben Cantu a posthumous pardon like the one granted in August of this year by the state of Georgia to Lena Baker, another too-late discovered innocent, a black woman executed after her self-defense claim was ridiculed in the racially

charged South of 1945.

But is "Oops, sorry" and a momentary doff of the official cap enough when the state goes smugly through its deadly ritual and takes an innocent life? Does that return these people to their loved ones? Are their relatives beneficiaries of the false promise of "closure," as huckstered by prosecutors in search of a "successful" prosecution? Or is something more owed the innocent victims of political killing in a society that claims to believe in equal justice under law?

The inescapable fact that "we all have our finger in that" festers as cases of rank injustice pile onto the American conscience and death's apologists find themselves under ever-increasing pressure to scare up ways to justify a colossally expensive system shot through with racism, bias against the poor, police and prosecutorial misconduct, ineffective court-appointed defense attorneys and the inevitable: simple human error.

With the 'deterrence' rationale moldering in its grave and the soul-destroying banner of 'retribution' yanked up in a desperate attempt at replacement, queasy Americans long for the leader who will point the way to save them from themselves.

But from what corner will leadership appear? Major religions long opposed state killing nominally, with Christians uncomfortably aware of Jesus' fate, but most in America cowered in silence rather than risk the ire of their constituents. That is until Pope John Paul II made it a personal issue and ignited the discussion. Following his lead, the U.S. Conference of Catholic Bishops renewed their commitment to break the cycle of violence and "abandon the illusion that we can protect life by taking life... The use of the death penalty," they said, "ought to be abandoned not only for what it does to those who are executed, but what it does to all society." Not to be outdone, Dr. Richard Land, President of the Ethics and Religious Liberties Commission of the Southern Baptist Convention and heretofore a strong death penalty supporter,

said "if you're going to be committed to it, you have to be as committed to its fair and just application, and it's not been applied fairly and justly in this society."

But religious principles dim in the face of worldly reality, so where is the political leadership? Beyond a few token gestures on the national scene, cowardice trumps. At the state level, as conventional wisdom has it, "in politics the death penalty only cuts one way: you kill." This spinelessness was put into bold relief by the extraordinarily courageous act of Illinois' Governor George Ryan, a self-described conservative Republican who, sickened by the egregious failure of his state's system, resurrected the decaying ideal of Executive Clemency and emptied his death row in a single stroke in 2003, pardoning four men he found innocent and commuting 167 others to life without parole. Sadly, Ryan's act spawned little willingness to emulate his courage and the piteous plague rolls on. In California, then-Governor Gray Davis demonstrated his heartlessness by refusing to intervene in the executions of the likely innocent Thomas Thompson and the shell-shocked Manny Babbit, two for whom clemency was designed.

So the search for a leader with the integrity of a George Ryan continues as Californians suffer the embarrassment of a bad actor proving to be just as inept a leader. Our 'non-politician' stumps the state and plays the press, smiling and flexing his muscles in meaningless contradictions like re-naming the Department of Corrections the Department of Corrections and Rehabilitation with one hand and denying its reality with the other. Yet when the true test of leadership arises this macho-man, famous for deriding "girlie men," blinks, unwilling to admit that this dying system demeans us all, and meekly joins the ranks of cowardly politicians who sell their souls, choose politics over justice and turn us all into killers.

Driving back to the East Bay from San Quentin Prison at 1:30 a.m., I'm nauseated. I just spent the last five hours with 2,500 people participating in a peaceful vigil for Stanley Tookie Williams. The steel slits of the Richmond-San Rafael Bridge animate the image of the dark San Francisco Bay below like a zoetrope. One of the seventeen media witnesses to the execution is on the radio. He talks about how the first needle easily slid into Tookie's arm, but how the second needle took over ten minutes to lodge properly in Tookie's other arm. The reporter meticulously recounts Tookie's protracted last minutes: a female voice shouted the death warrant, translucent chemicals pumped into Tookie's veins, his head arched up, his fist in Black Power, his head down, his repose.

I grimace, remembering the speaker at the protest outside the prison gates saying at midnight that sometimes lethal injections take fifteen, even twenty minutes to kill, and that we should all be calm and prayerful during that time. The reporter on the radio continues detailing the execution: the motionless people around him, the thickness of the glass that separated the execution chamber from the thirty-nine execution witnesses. How it all resembled a normal medical procedure. I can't listen any longer.

Last month, I viewed miniature models of state-sponsored execution chambers at the U.S. Holocaust Memorial Museum in

Washington, D.C. My stomach is now revolting as it had then; I open my car window for air.

The reporter's comparison of the execution to a medical procedure reminds me of how Americans are anesthetized to violence today. Our society focuses on the meaningless details: how many cc's of heart-attack-inducing drugs were pumped into Tookie, how many minutes he took to die, the ages of his victims, where he shot them, etc.

We must instead look at acts of violence within their larger context. More-productive questions to ask are: Why is this violence occurring? What's its origin, and how can we stop it? For, as Gandhi says, violence only begets more violence. It is hypocritical of California to lend itself to the evil it condemns: murder. Capital punishment is antithetical to the goal of reducing violence, in that it only creates more violence.

A heavy burden weighs upon my conscience knowing that a small percentage of my taxes went to buy the needle that killed a five-time Nobel Peace Prize nominee. I detest the manifestly odious acts carried out in my name, with my money, by the capital punishment system, in the war in Iraq, by the Western Hemisphere Institute for Security Cooperation, and in the secret CIA prisons overseas reported in the *Washington Post* for which Vice President Dick

Cheney is lobbying to legalize torture.

I do not like the culture of violence in the United States where still a majority is for state-sponsored murder. Not until violence is delegitimized like slavery, will the United States live in peace. The system of capital punishment risks killing the innocent. As the recently-published book, *Surviving Justice*, points out: since the 1976 reintroduction of capital punishment, more than 120 inmates on death row nationwide have been exonerated. These exonerations, many based on DNA evidence, expose the most Kafkaesque of horrors—the risk of wrongful execution. To prevent this, California lawmakers will decide on January 10, 2006 the fate of 647 death row inmates with Assembly Bill 1121, whether or not to impose a moratorium on executions.

I share much compassion for all those affected by violence—the victims, perpetrators, lawmakers, and people of California. I know that abolishing the death penalty will be one more step toward stopping the cycle of violence as Tookie tried to do with his redemptive 180 degree turn away from gang violence and toward youth outreach. Let us hope that Tookie's is the final death our tax dollars support.

*Matt Werner is a senior at UC Berkeley. He helped edit Surviving Justice: America's Wrongfully Convicted and Exonerated, recently published by McSweeney's.*