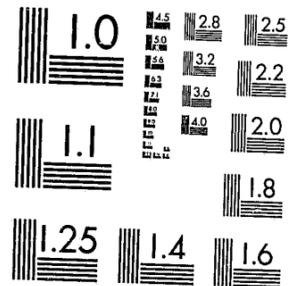


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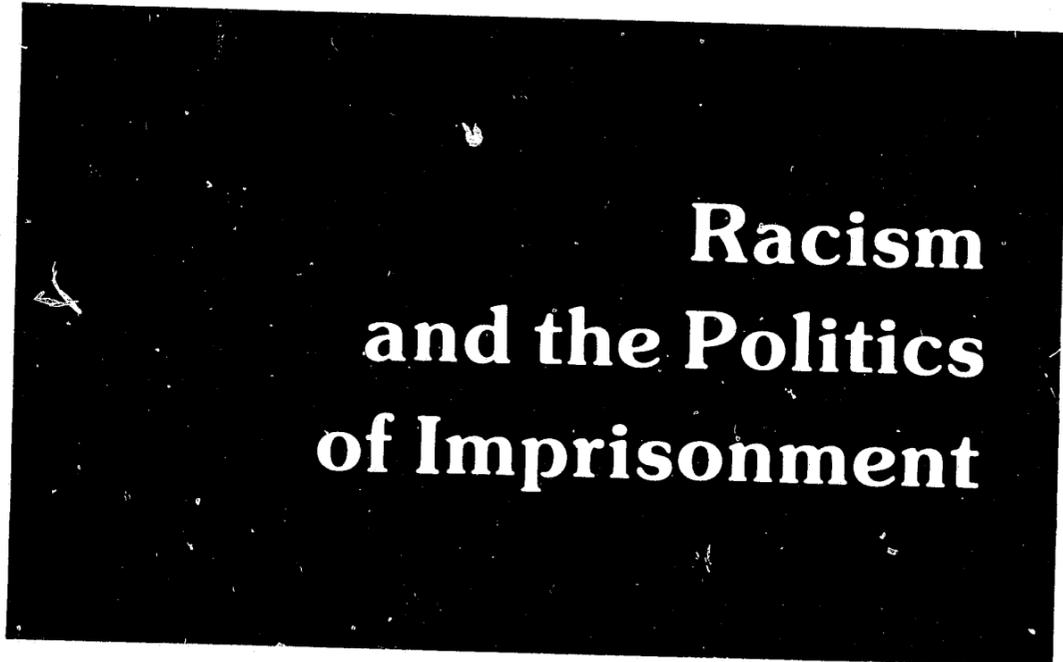
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7/13/81

POLITICAL PRISONERS:



**Racism
and the Politics
of Imprisonment**

***A Report by the
National Minority Advisory Council
on Criminal Justice***

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A REPORT BY
THE NATIONAL MINORITY
ADVISORY COUNCIL
ON CRIMINAL JUSTICE

POLITICAL PRISONERS:
RACISM AND
THE POLITICS OF IMPRISONMENT

AUGUST, 1980

NCJRS

MAR 19 1981

ACQUISITIONS

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This project was supported by Contract Number J-LEAA-009-79 awarded to A.L. Nellum and Associates, Inc. by the Law Enforcement Assistance Administration, U.S. Department of Justice, under the Omnibus Crime Control and Safe Streets Act of 1968, as amended. Points of view or opinions stated in this document are those of the National Minority Advisory Council on Criminal Justice and do not necessarily represent the official position of the U.S. Department of Justice.

FOREWORD

Political prisoners in the United States of America? Unthinkable?
Think again.

Better, read this important study by the National Minority Advisory Council on Criminal Justice of the Office of Justice Assistance, Research and Statistics (OJARS). It may cause you to think of political prisoners, indeed of justice itself, in ways you never have.

We tend to dismiss the possibility of political prisoners in our country as too foreign to our principles and practice--democracy, constitutional government, rule of law, due process, jury trial, assistance of counsel. We are angered and resent the charge. It is unpatriotic.

Who is Andy Young to say there are political prisoners in America? He enjoys fame, wealth, power, doesn't he? The Russians have political prisoners. The communists. Not us.

But then for rational discourse, we must define what we mean by political prisoner, whereupon we see we have no agreed definition. That is dangerous for a people who aspire to freedom through law.

Just as we ignored the plight of political prisoners in Iran under the Shah and today ignore their suffering in dozens of "friendly" countries that we somehow believe defend our "national security," so we ignore uncontroversial facts at home. Our prisons are full of poor people. Minorities, especially young Black men, are jammed into reformatories, jails, and prisons in numbers that prove justice is blind and, as Mr. Dooley would have added, "deaf, dumb, and had a wooden leg."

Far beyond the prisoners accounted for in this tract who are political by easier definitions, there are tens of thousands in our prison archipelago

because of bias in the law. It is still too often true that here a poor lad is sent to Borstal for stealing a loaf of bread and a rich man to the Senate for stealing a railroad.

If we dare to examine what we in fact do and apply a hardy definition that includes prejudice embedded in legal principles themselves, not just their political application or acts with a political purpose, honesty will require us to admit that most people in American prisons are political prisoners. Then we can act to achieve a fuller social justice.

Legal justice is not possible in the absence of social justice. Most prisoners on death rows today, numbering hundreds, did not have the effective assistance of counsel only because they could not afford it. How many hundreds of thousands of poor Blacks have spent long days and nights in pretrial detention, presumed innocent, but unable to make \$1,000 bail? Ninety percent of all persons executed for rape in the United States since 1932 were Black. Is it conceivable that the unbearable racial hatred this inescapably exposes is absent in convictions and sentences for other offenses? A judicial system that permits such discrimination is convicting political prisoners.

So it is not just the Kent State students, Algiers Motel survivors, Black Panthers at Chicago wounded when Fred Hampton and Mark Clark were murdered, the Vietnam Veterans Against the War at Gainesville, the Berrigans, or Angela Davis along with the cases accounted here. Our country has tens of thousands of political prisoners.

We should be thankful for a paper such as this that confronts us with hard facts. It will motivate all who love justice to eliminate political bias from our law and its application.

Ramsey Clark
May 2, 1980

PREFACE

There are two Americas: one that subscribes to the proposition that justice is equally administered in this country and one that challenges that belief. Our nation's people are also divided on the issue of political prisoners. Many people accept the view that there are no political prisoners in our nation's correctional institutions. Others adhere to the opinion expressed two years ago by former United Nations Ambassador Andrew Young in a Paris news interview, which ignited a widespread public debate on this issue.

Misinformation leads many in our nation to misunderstand important public issues. Assumptions about political prisoners in America are a case in point. Views on both sides of this debate are too often based on cultural perspectives rather than facts. America's majority views the police, courts, and prisons as law enforcement agencies that uphold the public's best interest governed by reason of law. Minorities, on the other hand, are influenced by a legacy of oppression and injustice in their experiences, which are not based on canons of law. Young's position, as an example, on the subject was shaped by his experiences in jails during the struggle for equality of the 1960s.

President Carter began focusing public attention on the issue of political prisoners in summer 1978 in his many foreign policy pronouncements decrying the plight and oppression of political prisoners in Russia, Uganda, and Chile. During that same period, many Americans began discussing the possible reality of political prisoners at home. By looking at the state of affairs abroad, we were forced to consider internal conditions at home. In the process, America learned, again, the wisdom of the age-old adage, "People who live in glass houses ought not throw stones," at least, not regarding this issue.

Two fundamental questions emerge regarding this debate:

How can we, as a nation, defend the human rights of people abroad when our own house is not really in order?

And how can we, as a nation, ensure justice for all at home when it has not been guaranteed for hundreds, perhaps thousands, of people of color who populate our jails and prisons?

The National Minority Advisory Council on Criminal Justice (NMACCJ) is charged by the Office of Justice Assistance Research and Statistics (OJARS), of the U.S. Department of Justice to collect "information that affords an understanding of the impact of criminal justice on minorities." The Council assumed its responsibility with the ambition of removing the blinders from the "woman of justice" and of simply presenting facts even of a subject as controversial as political prisoners. The NMACCJ assumed its difficult and unique assignment determined to present the facts without fear or political considerations based on the knowledge, insight, and testimony of people who appeared at Council hearings around the country. Our analysis of this issue was enhanced by the strength of scholarly research conducted by the NMACCJ subcommittee on political prisoners under the able leadership of Professor Lennox Hinds. We accepted the challenge from OJARS, but we were charged by the testimony of the people who petitioned the Council to assess and advise the public on this issue.

This report reflects a limited scope of analysis, but the Council was determined to express what we have learned from scores of public hearings, the testimonies of the people, and the expert consultants who supplemented our staff's services. A compelling force motivated the Council in attack in this issue. We were inspired by the hope that the public in general and

criminal justice officials in particular would gain greater understanding of the nature and gravity of this problem. We have sought to reflect the facts so that those who control and operate the criminal justice system at all levels not only will listen but also will be encouraged to act and erase the conditions that contribute to the practice of political prisoners. We have worked together over the past months with the primary objective of increasing the public's knowledge and positively affecting criminal justice policies in this area as they impact minorities.

Section One of this report briefly details the history of political prisoners in the nation, especially as it impacts minorities. The findings of our research cogently establish that this problem is not new, but grows out of racial and political practices of the past. Section Two links this historical perspective to today's realities and describes the status of minority political prisoners in many of our correctional institutions.

Resolution of this issue can only be achieved by the institutions of government if they are adequately inspired to guarantee justice for all. Likewise, we trust that this report will stimulate the conscience of this nation. We believe that all Americans are responsible for ensuring justice to any American denied its protection. We must all confront the conditions that created this hidden problem in order to eliminate its cause. The most important step toward the realization of justice for all is to know the facts and be governed by the truth. Then we can demonstrate our resolve to ensure justice for all people.

This report, which reflects our analysis, provides sufficient evidence that, indeed, political prisoners reside within our nation's bounds and require prompt national action. Our moral conscience and our commitment to the ideals of justice demand our immediate concern and devotion if we are to reverse past trends and guarantee, at last, equal justice for all.

ACKNOWLEDGMENTS

The membership of the National Minority Advisory Council on Criminal Justice to the Office of Justice Assistance, Research, and Statistics (OJARS) wishes to gratefully acknowledge the generous contributions of many people who assisted the NMACCJ in the realization of its study.

An invaluable source of exceptional assistance was Ms. Barbara Takei, a public policy analyst. Her work was the foundation on which much of this analysis is based.

The Council's membership applauds the capable and significant role assumed by the NMACCJ research staff provided by A. L. Nellum and Associates, Inc., of Washington, D.C. The leadership displayed by Alan G. Boyd, the staff director, facilitated completion of this report. The critical and scholarly support provided by Raymond S. Blanks, the staff's senior research associate, enhanced this study. Ms. Vernelle T. Nelson, the Council's administrative assistant, performed the plethora of technical services required. We appreciate the editorial assistance of Ms. Marjorie Moore of A. L. Nellum's staff.

Through the public hearings held around the country by the Council and the development of this analysis from an idea to the final revision was the helpful guidance and cooperation of LEAA's Project Monitor to NMACCJ, Ms. Peggy E. Triplett.

The Council is extremely grateful to the many people who shared their concerns and insights before the various NMACCJ public hearings. Their input focused our attention on this subject and encouraged our analysis of

this issue. To them, we owe sincere acknowledgment because their testimonies generated this report and tremendously increased the Council's knowledge and understanding of this criminal justice issue.

Finally, the Council is deeply indebted to Dr. Vincent P. Franklin of Yale University for his substantive research and writing and his untiring effort to see this document to its successful conclusion.

Political prisoners have often been torch-bearers who carried the light of truth into dark places and illuminated the hidden things of the existing social order. The old slave masters chopped off the heads of political offenders, the feudal lords boiled them in oil, kings and emperors exiled them, and the older capitalist governments of Europe sent them to prison.

Kate Richards O'Hare^{1/}

INTRODUCTION

In July 1978, U.S. Ambassador to the United Nations Andrew Young told a Paris newspaper that there are "hundreds, perhaps thousands of people I would call political prisoners" in U.S. jails. ^{2/} The ambassador's remark immediately was denounced throughout the country. U.S. Senator Barry Goldwater (R-Ariz.) called the remark "lies" and said Young should be fired. Goldwater's reaction inspired an abortive attempt to impeach Young led by U.S. Representative Larry McDonald (D-Ga.), a John Birch Society sympathizer. ^{3/}

U.S. Representative John Conyers (D-Mich.), speaking for the other side, suggested that no one familiar with the historical experience of

^{1/} O'Hare, author of Sometime Federal Prisoner #21669, was imprisoned for criticizing U.S. involvement in World War I.

^{2/} Washington Post, Thursday, July 13, 1978.

^{3/} Ibid., Friday, July 14, 1978.

Blacks and minorities in the United States was shocked by Young's charge. "Simply by reading the morning paper each day [one finds] violations of constitutional and civil rights by the Nation's highest officials, the FBI and the CIA." ^{4/}

But the controversy over political prisoners in the United States is not a recent product of the political activism of the 1960s. According to former U.S. Senator Charles Goodell, ^{5/} we now have and always have had political prisoners; throughout America's history political dissenters have been imprisoned:

^{4/} In fact, when Ambassador Young was being censured for his comments on human rights in the United States, several stories appearing in the Washington Post on July 13, 1978, provided a reminder of the widespread government abuses that had taken place in response to political dissent in the 1960s. The following are a few examples:

"Justice Department Vows Swift Probe of FBI Informant's Role" reports that the Justice Department is investigating charges that a paid FBI informant was responsible for the murders of civil rights workers in Alabama in the 1960s.

"Testimony Cites Hoover Approval of Black-Bag Jobs" reports former FBI director Patrick L. Gray and Assistant Director W. Mark Felt were charged with conspiracy to violate civil rights of family and friends of Weather Underground members. Attorneys for Gray and Felt argue that they were just following orders of J. Edgar Hoover, who personally authorized the series of break-ins and allegedly illegal wiretaps.

"Intelligence 'Reform' Sent to Floor" notes congressional debate of a bill to impose judicial safeguards on the use of wiretapping and bugging.

^{5/} Charles Goodell, Political Prisoners in America (New York: Random House, 1973), p. 9.

In the perennial struggle for political power and the inevitable conflicts that accompany change, dissenters and government alike have manipulated America's criminal process for political ends. It is through this intercourse of the political and criminal systems that 'political prisoners' are born.

Despite the fact that the First Amendment guarantees the rights to free protest and unpopular political views, U.S. history reveals that, when those in power perceive real or imagined threats to their economic, political, or racial order, they will pass repressive laws and use existing criminal statutes to suppress civil action. As criminologist Richard Quinney points out, "Civil liberties are thus parceled out to us at the discretion of the authority that we wish to dissent from, alter or destroy. All is on their terms, according to their rules and their application of the rules." ^{6/}

This situation is further complicated by the fact that, because authority in the United States has lain historically with whites, the power of the political and criminal justice systems have been used, consciously and unconsciously to oppress and limit the civil rights of non-whites. Oppressed non-white Americans have often actively protested this treatment, which partly explains why protest and dissent in American society have been closely associated with minority status.

Therefore, when we approach the question of how many political prisoners there are in U.S. jails, we must first explore the various meanings of the term "political prisoner" and what the historical

^{6/} Richard Quinney, Critique of Legal Order: Crime Control in Capitalist Society (Boston: Little, Brown, 1973), p. 145; see also, idem, "Crime in Political Perspective," American Behavioral Scientist 8 (Dec. 1964), p. 21.

relation between the dominant white majority and racial minorities in this country actually is.

CHAPTER I. RACISM AND THE CREATION OF POLITICAL PRISONERS

Although the term "political prisoner" is in common use, there are almost as many definitions of it as there are writers about it. One explanation for this diversity is that the meaning of political crime in American law is still undefined. This lack has led some commentators to actually deny the existence of political prisoners in America. This is not Russia. Others assume that constitutional guarantees and protections are absolute rights and reject the notion that discretion at various levels within the criminal justice system can undermine the objective application of the law. It is also interesting to note that even those prison administrators who oppose the idea that an inmate may be a political prisoner do acknowledge a "political prisoner phenomenon" in American jails that has significant impact on the way prisoners view themselves and others.

Most writers on political prisoners acknowledge their existence in the United States, but opinion differs greatly about to whom the term applies. Former Senator Goodell in his book Political Prisoners in America identifies only two groups deserving of the appellation "political prisoners": those imprisoned for acts of civil disobedience (draft-resisters, anti-war demonstrators) and victims of political repression (Black civil rights leadership, Communist Party members, Black militants). Goodell, however finds that he "cannot accept an ordinary burglar's attempt to disassociate himself from his conduct by claiming special status as a political

prisoner. ^{7/} Bettina Aptheker, on the other hand, in her essay "The Social Functions of Prisons in the United States," defines political prisoners as victims of government repression who commit politically motivated acts, victims of racist repression, and prisoners who become politicized as a result of imprisonment and who often suffer reprisals at the hands of prison officials and parole boards because of their views. ^{8/} Amnesty International, the Nobel Prize-winning organization that investigates political repression throughout the world, does not use the term "political prisoners" but refers to "prisoners of conscience" and defines them as those imprisoned for their beliefs, color, ethnic origin, or religion. ^{9/}

In their book Going to Jail: The Political Prisoner, Howard Levy, M.D., and David Miller, who were incarcerated because of their opposition to the war in Vietnam, restrict their definition of political prisoners to those imprisoned in the 1960s for selective service violations, destruction of draft records, and other anti-war activities. However, they further suggest that "the vast majority of inmates in American prisons are political prisoners" and argue that, given the political nature of the criminal justice system,

^{7/} Goodell, Political Prisoners in America, p. 11.

^{8/} Bettina Aptheker, "The Social Functions of Prisons in the United States," in If They Come in the Morning, Angela Davis, ed. New York: New American Library, 1971), p. 58.

^{9/} Amnesty International, Report, 1975-1976 (London, England: Amnesty International Publications, 1976).

the courts and prisons reflect the social class and racial biases of the society they serve. ^{10/}

Criminologist W. William Minor defines political prisoners as those imprisoned as a result of political crimes or those who may be victims of "political justice," which would include the discriminatory application of the laws, police practices, bail, parole, and other facets of the criminal justice system, because they are viewed as a threat to the established political order. ^{11/}

As these examples suggest, the definition of political prisoner varies but seems to fall into four general categories. These categories cover people imprisoned as the result of

1. Political repression on the part of the government (Minor, Amnesty International, Aptheker);
2. Politically motivated crime (Goodell, Levy and Miller, Aptheker, Minor);
3. Political disadvantages resulting from race and class subordination or resistance to biases in the criminal justice system and society at large (Levy and Miller, Aptheker, Andrew Young, Amnesty International); and
4. Prisoners who become politicized in prison and consequently suffer reprisals for their political views (Aptheker, Minor).

Regardless of the definition, however, an examination of the phenomenon in the United States will disclose a disproportionate number of members of racial minorities who are considered or consider themselves political prisoners. (The pervasive racism in American society and the social,

^{10/} Howard Levy and David Miller, Going to Jail: The Political Prisoner, (New York: Grove Press, 1971), pp. xv-xix.

^{11/} W. William Minor, "Political Crime, Political Justice, and Political Prisoners," Criminology 12 (Feb. 1975).

economic, and political oppression of non-whites by the political establishment throughout the history of this country have meant that racial minorities are far more likely to be imprisoned (for whatever reason) and to become the victims of discriminatory practices of the criminal justice system.)

A. Historical Background of Racism in U.S. Society

The existence of racial minorities--Afro-Americans, American Indians, Asian Americans, and Mexican Americans--throughout the history of the United States has impelled the dominant white majority to use economic and political power and the criminal justice system to maintain control and authority. The subordination of these groups was justified by a system of racial beliefs and ideologies that evolved gradually in white lower classes and spread to all sectors of the white community.

Although the initial antagonism in colonial times was the result of physical and cultural differences and competition for limited resources, white racism developed a reality of its own and became the social cement for evolving institutional structures in American society. In a report published in 1970 by the U.S. Commission on Civil Rights, racism is defined as "any attitude, action, or institutional structure which subordinates a person or group because of his or their color." Racial minorities are often the victims of racism "because they are not white in color, even though some are technically considered to be members of the 'white race' and even view themselves as 'white.'"

The Commission noted that white racism manifests itself in hundreds of ways but takes two basic forms: overt racism and indirect institutional subordination because of color.

Overt racism is the use of color per se (or other visible characteristics related to color) as a subordinating factor. Institutional subordination is placing or keeping persons in a position or status of inferiority by means of attitudes, actions, or institutional structures which do not use color itself as the subordinating mechanism, but instead use other mechanisms indirectly related to color. Institutional subordination is particularly difficult to define clearly in a few words. The very essence of institutional subordination is its indirect nature, which often makes it hard to recognize. ^{12/}

Examining the earliest forms of U.S. legal and criminal justice systems reveals them as important institutions in the maintenance of the social, political, and economic subordination of racial minority groups.

The first Africans entering European colonial society in the 1620s were not considered slaves because the slave status was no longer defined in English laws. Instead, they were considered indentured servants who worked in the colonies for a specific period of time (usually seven years) in return for their subsistence. Black and white indentured servants, for example, worked side by side to carve a viable monocrop agricultural community out of the southern wilderness in colonial Virginia. By the 1640s, however, laws distinguished between the Black and the white indentured servants and stated that when they broke the terms of indenture, whites had to serve a few additional years, but Blacks had to serve "forever." Gradually, the Virginia legislature outlined the slave status in law, and most Africans entering the colony came to be considered slaves.

^{12/} A. Downs, "Racism in America and How to Combat It" in U.S. Commission on Civil Rights, 5-6 (1970); reprinted in Derrick Bell, Race, Racism and American Law (Boston: Little, Brown, 1973), pp. 86-88.

After examining the evolution of the laws governing Blacks in seventeenth century Virginia, Judge A. Leon Higginbotham, in his book In the Matter of Color: Race and the American Legal Process: The Colonial Period, points out that "by 1705 Virginia had rationalized, codified, and judicially affirmed its exclusion of Blacks from any basic concept of human rights under the law The Black slaves' plight was one of daily imposition of brutality by the laws which sanctioned his enslavement; no part of the legal process was his ally, the courts not his sanctuary." Judge Higginbotham then goes on to detail the evolution of slave status in various other parts of colonial America. 13/

Freedom and independence for the American colonies were not applicable to the Africans and Afro-Americans enslaved in the "first new nation." In fact, the Constitution of the United States placed the power of the federal government solidly behind the continued enslavement of the Black population. Through the Fugitive Slave Clause, government was committed to noninterference with and the protection of the practice of slavery. Before the Civil War, attempts by Blacks to rebel against their condition were crushed by local and state military power and with support of the federal government. Mary Frances Berry, in her examination of constitutional racism in the United States, Black Resistance/White Law, concludes that during this period "the perpetuation of the slave system and the protection of white

13/ A. Leon Higginbotham, In the Matter of Color: Race and the American Legal Process, The Colonial Period (New York: Oxford University Press, 1978), pp. 58-60.

people against slave revolt had become a constitutional responsibility of the government." 14/

In the Dred Scott v. Sandford decision (1857), the U.S. Supreme Court ruled that the right to own slave property must be guaranteed in all the territories by the federal government. Chief Justice Roger B. Taney added in an obiter dictum that Blacks "are beings of an inferior order, and altogether unfit to associate with the white race, either in social or in political relations; and so far inferior that ... they had no rights which the white man was bound to respect; and...might justly and lawfully be reduced to slavery for his benefit." Even Blacks born in the United States were denied citizenship rights and were considered by the highest judicial authorities in the country fit only to be the slaves of the white majority. 15/

By the middle of the nineteenth century, white Americans, however, realized that slave labor and free labor could not co-exist in the same territory. Slave labor undercut and drove out free labor. But slaveholders were determined to open up all areas of the country to their "peculiar institution." The resulting clash over the expansion of slavery helped fire the Civil War that brought the freeing of the four million Blacks enslaved in the South. It also brought new forms of economic exploitation of the Black worker by wealthy landowners that were not merely codified through the

14/ Mary Frances Berry, Black Resistance/White Law: A History of Constitutional Racism in America (New York: Appleton-Century-Crofts, 1971), p. 32.

15/ Ibid., pp. 76-77.

legislative process but bolstered by a criminal justice system designed to ensure that Black labor be at the disposal of the planter class.

Immediately after the Civil War, southern legislatures passed the infamous "Black Codes" that limited the rights of the freed people to purchase and rent land, forced them to work (whether they wanted to or not), and kept them from exercising the rights and privileges of citizens. ^{16/}

Although these laws were eventually repudiated by Reconstruction governments installed during the military occupation of the former Confederacy, the planter aristocracy's return to power, which had the support of the white lower classes, saw new laws placing stringent limitations on the new citizens' rights guaranteed by the Fourteenth and Fifteenth Amendments to the Constitution.

Jim Crow legislation was passed by one southern state government after another, and the segregation in public and other accommodations became the southern American way of life, eventually even sanctioned by the U.S. Supreme Court in its Plessy v. Ferguson decision in 1896. By the end of the nineteenth century, the separation of the races was legal. For those Blacks who opposed or protested the discriminatory treatment, a criminal justice system was fashioned not merely to punish them but also to exploit their

^{16/} For a discussion of the Black Codes, see John Hope Franklin, From Slavery to Freedom: A History of Negro Americans, 4th Ed. (New York: Knopf, 1974), pp. 241-44.

labor for the benefit of the state and the capitalist class through an inhuman convict-lease system. ^{17/}

The subordination and exploitation that characterized contact between the Afro-American minority and the dominant white majority also characterized the relation between the American Indian, Mexican, and Asian Americans and the white population. To justify the theft of Indian lands, for instance, white Europeans adopted the belief that the American Indians were a savage, childlike race who had to make way for the more intelligent, progressive, and industrious white settlers. Initially some attempt was made to deal with the various Indian tribes as "sovereign nations" with whom the white colonists had to negotiate in order to obtain possession of the land. However, when the Indians objected to the terms being offered, they were removed.

In 1830 the U.S. Congress passed the "Indian Removal Act" by which lands in the East occupied by the tribes were exchanged for lands west of the Mississippi River. The American Indians held on to lands only as long as they were not desired by white settlers. Once the whites began to move west, Indians were placed on reservations. Under the terms of the General Allotment Act of 1887, also known as the Dawes Act, the President was authorized to allot individual parcels of land to American Indian inhabitants and to declare any unallotted reservation land as surplus and thus open to further white settlement. As was the case with Afro-Americans,

^{17/} Ibid., pp. 272-76; see also Pete Daniel, The Shadow of Slavery: Debt Peonage in the South, 1901-1969 (Urbana: University of Illinois Press, 1972).

American Indians who objected to these laws were imprisoned or, as was more often the case, exterminated. ^{18/}

B. Second-Class Citizens

Thousands of Mexicans became American citizens as a result of the War with Mexico in the 1840s. They, too, have been the victims of the racist discrimination by the whites who controlled political and economic life of the southwest. Characterized as lazy, immoral, and backward, Mexicans were pushed into a type of second-class citizenship that ensured little participation in the white-dominated political arena and much exploitation by white landowners faced with a chronic shortage of unskilled labor.

Mexican Americans were largely ignored (except by their exploiters) before 1925. Then the huge expansion in fruit, vegetable, and other agricultural goods production and the closing of the gates to foreign labor in the 1920s made Mexicans an important concern of the U.S. Congress that was then considering the restriction of further immigration from Mexico. Because of the lobbying efforts of large landowners in the southwest and the need to maintain the support of its southern neighbor, Mexican immigration to the United States was not restricted. However, the Mexicans who did emigrate found that they were not protected either from discrimination and exploitation of unscrupulous employers or from the physical violence of white mobs and the police. The second-class citizenship imposed on Mexican

^{18/} Lewis Carlson and George Colburn, eds., In Their Place: White America Defines Her Minorities, 1850-1950 (New York: Wiley, 1972), pp. 1-54; and Gloria Jahoda, The Trial of Tears: The Story of the American Indian Removals, 1813-1855 (New York: Holt, Rinehart and Winston, 1975).

Americans in the southwest in the twentieth century resembles in many ways the treatment of Afro-American citizens throughout the country. ^{19/}

Chinese and Japanese Americans are often pointed up as America's most successful racial minorities, even though contact between Asians and whites has been characterized by a great deal of racism and discriminatory treatment promulgated through the laws of the nation. The shortage of unskilled labor in California and several other western states in the late 1840s led to an influx of Chinese, who initially were welcomed by the resident population. By 1880, however, there were more than 200,000 Chinese in California and anti-Chinese agitation began to spread and intensify. The first Chinese immigrants who worked on the railroads, in the mines, and on the farms were not viewed as a threat. But the economic depression of the 1870s made the traits that previously had been considered positive--thrift, industry, hardwork--objects of condemnation by white settlers. Racist statements were heard more often as anti-Chinese whites claimed that "the Chinese are like a sponge; they absorb and they give nothing in return but bad odors and worse morals. They are a standing menace to the women of this country. Their very presence is contaminating. They have sown the seed of

^{19/} Carlson and Colburn, eds. In Their Place, pp. 117-162; Wayne Moquin and Charles Van Doran, A Documentary History of the Mexican Americans (New York: Random House, 1971); and Mario Barrera, Race and Class in the Southwest: A Theory of Racial Inequality (Notre Dame: University of Notre Dame Press, 1979).

vice in every city, town, and hamlet in this country. They encourage, aid, and abet the youths of the land to become opium fiends." 20/

In the Democratic and Republican Party platforms for 1876, anti-Chinese planks were inserted, and in 1879 California voted overwhelmingly for the exclusion of the Chinese. Agitation continued through the end of the century, and Congress passed Chinese exclusion laws in 1882, 1888, 1902, and 1904. It was not until 1943 that the Congress reluctantly voted to repeal the exclusion measures and allow a quota of 105 Chinese to enter the United States annually. 21/

The Japanese immigrated to the United States in much smaller numbers than the Chinese but were nonetheless victims of racist laws promulgated by the dominant white majority. Between 1865 and 1924, more than 30 million Europeans came to the United States, while only about 275,000 Japanese came to the western states. Yet as early as 1872 California passed anti-miscegenation laws forbidding intermarriage between whites and Japanese and other legislation aimed at prohibiting Japanese aliens from citizenship or land ownership. After the attack on Pearl Harbor, in one of the most disgraceful episodes in recent U.S. history, Japanese American citizens who were born and had lived their entire lives in this country were torn from their homes on the west coast and interned in "relocation" camps. This was done on the orders of President Franklin Roosevelt and his War Relocation Board and upheld by the U.S. Supreme Court in 1944, despite the total lack of evidence of involvement in anti-American sabotage or other activities. It was not until several years after Japan surrendered, 1952, that Congress

20/ Carlson and Colburn, In Their Place, pp. 163-210; Stanford Lyman, Chinese Americans (New York: Random House, 1974), pp. 54-118.

21/ Lyman, Chinese Americans, pp. 111-112.

passed legislation lifting restrictions on the immigration and naturalization of individuals of Asian ancestry. 22/

Throughout the history of English American colonies and the United States, groups defined as racial minorities by the dominant white majority have been the victims of both overt racism and indirect institutional subordination in American society. Not that discriminatory treatment was not dealt out individually by white settlers or on a whimsical basis; it was an integral part of the social systems that evolved throughout the history of the nation; and out of it were wrought the social, economic, and political conditions for Afro-Americans, American Indians, Mexican Americans, and Asian Americans. The legal system and the criminal justice system have joined in this context to ensure that these and other minority groups do not threaten the power and privileges of white Americans.

When members of racial minority groups, through civil disobedience and other politically motivated criminal activities, protest against the laws that sanction their oppression in American society, they have been imprisoned. Many, because they were exercising their rights rather than breaking laws, consider themselves political prisoners. Throughout the history of the United States, political prisoners have often been those individuals, minority and non-minority, who opposed those laws that subordinate and allow the exploitation of racial minorities by the dominant majority.

22/ Carlson and Colburn, In Their Place, pp. 211-247; and Roger Daniels, Concentration Camps USA: Japanese Americans and World War II (New York: Holt, Rinehart and Winston, 1971).

CHAPTER II. POLITICAL PRISONERS: VICTIMS OF RACIST AND POLITICAL
REPRESSION

While some legal scholars and researchers who have examined the phenomenon of political prisoners of this country question whether those imprisoned because of "race and class subordination" should be considered political prisoners, many more agree that those imprisoned for politically motivated crimes or civil disobedience ought to be considered as such.

Political crimes are generally considered violations of law motivated by the desire to influence existing policy or power relations between groups. Their major goals are usually of a broader social context, not personal gain. Such crimes can range from politically motivated acts of destruction, such as the anarchist who bombs a bank as a symbolic attack against capitalism, to non-violent acts of civil disobedience, such as a sit-in demonstration in protest of segregation. But politically motivated crimes are treated simply as conventional crimes. Sentences for conviction of these political crimes, however, are typically exceedingly harsh. ^{23/}

An act of civil disobedience is usually aimed at protesting against a specific law or policy. Its proponents typically reject violence, but break what they consider to be unjust laws for which they are open to arrest and punishment. Civil disobedients seek to communicate and beg justification.

^{23/} Minor, "Political Crime, Political Justice, and Political Prisoners," pp. 113-14; see also B.L. Ingraham and Kazuhiki Tokoro, "Political Crime in the United States and Japan: A Comparative Study," Issues in Criminology 4 (Fall 1969).

Imprisoned for challenging Jim Crow laws in the south, Reverend Martin Luther King, Jr. who had been targeted by government agents for attack, wrote one of the most compelling arguments in justification of civil disobedience:

I submit that an individual who breaks a law that conscience tells him is unjust, and willingly accepts the penalty by staying in jail to arouse the conscience of the community over its injustice, is in reality expressing the very highest respect for law. ^{24/}

At the time of its writing, King had been arrested for leading a march of civil rights protestors without a permit, a mere technicality.

Throughout the South during the period of the civil rights movement, otherwise neutral laws acquired special meaning and were used to silence dissent and penalize civil rights advocates and civil disobedients. To discourage protests against official segregation, marchers were convicted of loitering, trespassing, parading without permits, unlawful assembly, or conspiracy. The courts outlawed boycotts of Jim Crow establishments; laws prevented Blacks from voting; jails were used to imprison Black children; and law enforcement officers attacked marchers with dogs, firehoses, electric cattle prods, and baseball bats.

Legal philosopher Ronald Dworkin has noted that "some people hold the mindless view that conscientious disobedience is the same as lawlessness." Others recognize that disobedience may be morally justified but insist that it cannot be legally justified and therefore that the law must be enforced.

^{24/} Martin Luther King, Jr., "Letter From a Birmingham Jail," in Why We Can't Wait (New York: Harper & Row, 1963), pp. 84-86.

Yet, in many instances, prosecutors have discretion over enforcement and may decide not to press charges if the lawbreaker is young and inexperienced, is the sole support of a family, or turns state's evidence--or if the courts are clogged with more important cases. Professor Dworkin asks this question: if motives can count in distinguishing between thieves, then why not in distinguishing between those who act on a reasonable judgment that a law is invalid? 25/

Dworkin also points out that civil disobedience differs from other types of crimes but at the same time also differs from other politically motivated crimes. It should be noted that politically motivated violations of law often range from easily justifiable acts of civil disobedience to murderous acts of political terrorism. But because the term "terrorism" has been used so loosely in the United States, it often refers to an entire range of domestic political activism. For example, J. Edgar Hoover and therefore the FBI believed that domestic violence was terrorism, and as such the work of an international conspiracy, which justified the illegal conduct by government agents. 26/

Domestic agitation for social change defined as "terrorist activity" or "inspired" by terrorism gave intelligence agencies justification for massive surveillance programs that in turn required more personnel and greatly

25/ Ronald Dworkin, Taking Rights Seriously (Cambridge, Mass.: Harvard University Press, 1977), p. 208.

26/ Ibid., p. 215; and Morton Halperin et al., The Lawless State: The Crimes of the U.S. Intelligence Agencies (New York: Penguin Books, 1976).

expanded budgets. The efforts to discredit dissenters by labeling them "terrorists" not only led to dangerous abuses of constitutional rights of citizens by the U.S. intelligence community, but also created general civic confusion about the meaning of the term.

Terrorism has nevertheless been defined specifically. Researchers in the field of political movements use it to refer to the actions of groups such as the Baader-Meinhof Gang, the Red Brigade, and the Japanese Red Army which describe themselves as engaged in destabilizing activities on an international scale that will eventually lead to the downfall of weak capitalist states in the West. 27/

Although the United States has not experienced organized international terrorist activity, there are isolated groups and individuals here whose activities resemble terrorist groups outside the country. These domestic groups are often not interested in building a mass movement but, rather, are self-styled ultra-leftist "guerillas" who claim responsibility for sporadic bombing incidents or other acts of violence. 28/

Moreover, throughout the history of the United States political activists have often been the targets of political statutes used explicitly to imprison and harass them. Numerous individuals whose political views and attitudes are perceived as threats to state control and who cannot be

27/ For a detailed discussion of the definitions of terrorism, see Ronald Crelinsten, ed., Terrorism and Criminal Justice: An International Perspective (Lexington, Mass.; Lexington Books, 1978).

28/ For a discussion of domestic linkages to international terrorist groups, see Claire Sterling, "The Terrorist Network," Atlantic 242 (Nov. 1978), pp. 37-47.

charged under sedition, espionage, or anti-communist statutes, are charged with criminal offenses. They are often the effective political leaders of dissident racial minority groups. The agents of state power attempt to manipulate the criminal justice system to convict and imprison them in order to eliminate or discredit them, as was the case for Martin Luther King, Jr. 29/

Such political activists have traditionally been targeted by special programs that placed them under heavy surveillance to discover any criminal activities. When none can be discovered, those operating the programs attempt to provoke conflicts and violence to be used later against them. More than once government agencies have singled out particular minority organizations and specific individuals--such as the Black Panthers and Fred Hampton--for unique treatment to prevent their further development and influence.

On local and national levels, government has responded to verbal protests and passive resistance to racial and political subordination with the development, implementation, and refinement of illegal, unconstitutional, and repressive counterintelligence tactics. These are designed to discredit domestic organizations and their leaders. Official documents released by the FBI indicate that, in 1967, the government initiated a program to

...expose, disrupt, misdirect, discredit or otherwise neutralize the activities of Black nationalists, hate-type organizations and groupings, their leadership, spokesmen, membership, and supporters,

29/ Halperin et al. in The Lawless State examine the illegal and excessive domestic intelligence activities of the CIA, FBI, IRS, and military intelligence agencies as revealed in the U.S. Senate Hearings before the Select Committee to Study Governmental Operations With Respect to Intelligence Activities.

and to counter their propensity for violence and civil disorder.... Efforts of the various groups to consolidate their forces or to recruit new or youthful adherents must be frustrated.
30/

Apart from those on the specific Black and other minority groups targeted for surveillance purposes, dossiers were maintained on more than five thousand Blacks viewed as threats to national security. This list included such advocates of nonviolence as Roy Wilkins, Executive Director of the National Association for the Advancement of Colored People (NAACP); Roy Innis, head of the Congress for Racial Equality (CORE); and the Reverend Jesse Jackson, Director of Operation PUSH, a self-help group in Chicago; and the Reverends Martin Luther King, Jr., and Andrew Young, later Ambassador to the United Nations.

The surveillance did not stop with Black political leaders but included Black artists such as Harry Belafonte, Eartha Kitt, James Baldwin, and Ossie Davis, among others; athletes such as Muhammad Ali and Joe Louis, and ordinary citizens, students, and workers. Blacks singled out for surveillance, blackmail, eavesdropping, and often arrest and prosecution ranged from nonviolent disciples of Gandhi to articulate, aggressive opponents of the American system. Many were minority people who may have complained about injustice and racism in their communities. The illegal counterintelligence operation COINTELPRO generally referred to the expanded

30/ U.S. Senate, Final Report of the Select Committee to Study Government Operations With Respect to Intelligence Activities (Washington, D.C.: U.S. Government Printing Office, 1976), p. 20.

FBI effort to destroy the civil rights movement. In an official memorandum of March 1968, the following long-range goals of COINTELPRO were outlined:

- (1) To prevent the "coalition of militant Black nationalist groups," which might be the first step toward a real "Mau Mau" in America;
- (2) To prevent the rise of a "messiah" who could "unify and electrify," the movement, naming specifically Martin Luther King, Jr, Stokely Carmichael, and Elijah Muhammad;
- (3) To prevent violence on the part of Black nationalist groups, by pinpointing "potential troublemakers" and neutralizing them "before they exercise their potential for violence";
- (4) To prevent groups and leaders from gaining "respectability" by discrediting them to the "responsible" Negro community, to the white community, and the "liberals" [the distinction is the Bureau's], and to "Negro radicals"; and
- (5) To prevent the long-range growth of these organizations, especially among youth, by developing specific tactics to "prevent these groups from recruiting young people." 31/

As a direct result of COINTELPRO activities and other counterintelligence measures, thousands of Blacks were kept under surveillance, via such illegal activities as wiretapping and mail interception, as targets of political repression.

It is within this context of U.S. government lawlessness that the issue of political prisoners must be considered. The examples that will be discussed do not constitute an exhaustive list of U.S. political prisoners; rather, they are representative of the class of political prisoners that has been created by the legal subordination of racial minorities in American society.

31/ Nelson Blackstock, COINTELPRO: The FBI's Secret War on Political Freedom (New York: Vintage Books, 1976); and Church Committee Report, Book III, pp. 21-22.

A. Minorities as Political Prisoners

As a result of the United States' "glorious little war" with Spain in 1898, the island of Puerto Rico became an American colony. The inhabitants of that island soon found themselves subject to the beliefs, attitudes, and policies of North Americans who proceeded to establish control over the economic and political affairs of the island. They introduced a system of schooling modeled after an American plan. Colonial governors appointed to oversee the operation of affairs on the island allowed only token participation of the native Puerto Rican population. Despite the fact that Puerto Ricans became U.S. citizens in 1917, they began a significant independence movement at the end of the nineteenth century that continued to draw support from the more radical elements among the island population.

In 1950, under the terms of Public Law 600, Congress permitted the Puerto Ricans to draft their own constitution, provided it did not conflict with previously enacted colonial statutes. Puerto Rican nationalists who sought complete independence for their island launched a full-scale campaign opposing American rule and, as a result, were the victims of attacks by the local police aided by the U.S. National Guard.

On November 1, 1950, Oscar Collazo and Griselio Torresola, both members of the Puerto Rican Nationalist Party, carried out an armed attack on Blair House, residence of President Harry S. Truman while at the White House was under repair, which resulted in the death of one presidential guard and Torresola. Collazo was wounded in the attack and was later sentenced to life imprisonment.

Governor Luis Munoz-Marrin, the first native Puerto Rican executive official, was the major supporter of commonwealth status for the island and campaigned for the acceptance of terms authorized under Public Law 600.

Despite the fact that the law called for Puerto Rico to strictly comply with U.S. shipping regulations, to prohibit commercial treaties with other nations, and to sanction federal restrictions on local agricultural products, on June 4, 1951, 65 percent of the registered voters went to the polls, and the vast majority, 76.5 percent, cast their ballots in favor of the acceptance of Public Law 600. The vote on this referendum was subsequently used by the U.S. Government to substantiate its claim that the Puerto Ricans had freely chosen commonwealth status. In an election on March 3, 1952, the commonwealth constitution, written by Puerto Rican leaders and officials, was overwhelmingly approved by Puerto Rican voters.

On the day before the election ratifying the new constitution, four disgruntled Puerto Rican Nationalists--Lolita Labron, Rafael Cancel Miranda, Andres Figueroa Cordero, and Irving Flores Rodriguez--opened fire on the U.S. House of Representatives, shouting "long live free Puerto Rico," and wounding five congressmen. The suicide squad was captured, and all four were tried and convicted of five counts of assault with a deadly weapon. Labron was given 40 months to 10 years on each count, and the other three 5 to 15 years to be served consecutively. ^{32/}

Until very recently, these four Puerto Rican nationalists had the dubious distinction of being the political prisoners who had served the longest terms in U.S. prisons. During their incarceration, they were

^{32/} Kal Wagenheim and Olga Jimenez de Wagenheim, Puerto Ricans: A Documentary History (New York: Praeger, 1973), pp. 195-207; and Manuel Maldonado-Denis, Puerto Rico: A Socio-Historic Interpretation (New York: Vintage Books), 1972, pp. 189-209.

subjected to a deliberate program to isolate them from communication with friends, family, and supporters on the outside. They were often harassed by arbitrary rules, and their mail and visiting rights were severely limited; they were not allowed to correspond among themselves, and visitors coming from Puerto Rico were allowed to visit for only an hour or, in some cases, not at all. Publications containing news about the Puerto Rican struggle for independence were denied them. They were also placed in solitary confinement for peaceful protests against inhumane prison conditions.

The cruelest punishment of all, and simply an example of what these people were protesting, was meted out to Andres Figueroa Cordero who was placed in the "hole"--solitary confinement--in Leavenworth Penitentiary, when he was persistent in his complaints about bleeding from the rectum. He was kept there for six months before it finally became obvious to the prison doctors that he was suffering from more than hemorrhoids. He was then shipped to Springfield Medical Center, where it was discovered he had cancer of the lower colon, and a colostomy was immediately performed--too late. After two more operations, when it was apparent he did not have long to live, a successful application for his release on medical parole was made, although the chief medical officer refused to acknowledge that his condition was terminal. Then, in September 1977, prison doctors admitted that Cordero had only four to eight weeks to live and recommended a medical parole. Cordero refused release under those conditions and President Jimmy Carter granted him executive clemency.

The other three Puerto Rican nationalists were released in 1979 in a prisoner exchange with Cuba and returned to Puerto Rico to a hero's welcome.

33/

In the late 1950s and 1960s the most famous American political prisoners were the followers of Martin Luther King, Jr., who sought an end to the political disenfranchisement and economic repression of Blacks in southern states. King and his followers, Black and white, are still generally considered political prisoners, not merely because they committed acts of civil disobedience but because they were the victims of "political repression" by the government.

However, other Black leaders and movements have been the victims of government repression and not often publicized in the national and international media. In the case of the RNA-11, the government waged a concerted campaign to destroy an organization dedicated to the creation of a separate Black nation out of areas in the south.

The idea behind the "Republic of New Africa" (hence, RNA) was that a peaceful plebiscite held in the Black counties of Mississippi, Louisiana, and Arkansas would disclose a vote for self-determination and demonstrate Black support of the establishment of the independent Black nation of "Kush."

Advocates of the formation of the separate Black state began organizing their forces in the late 1960s under Imari Abubakari Obadele, who declared

33/ In the summer of 1979 a softening in relations between Cuba and the United States led to the prisoner exchange involving the Puerto Rican nationalists. Unfortunately, with the discovery of Soviet combat troops in Cuba late that summer, relations between the two nations again hardened.

himself president of the provisional government. Although there was not a great deal of evidence that Black residents in the area were seriously considering participation in RNA, the group became one of the targets of the FBI's COINTELPRO operation in 1971. In August of that year government agents and local police attacked the headquarters of the organization in Jackson, Mississippi, and in the shootout that followed one policeman was killed and an FBI agent and a policeman were wounded. All together 11 members of the group were arrested in the raids; they later came to be known as the RNA-11.

Subsequently charged with murder and "waging war against the state of Mississippi," the RNA members were tried and sentenced to different terms in the state penitentiary, despite motions to dismiss on the grounds that these attacks were part of an illegal conspiracy by the FBI and state officials to destroy the RNA movement. Several years after the conviction of Obadele and the others, and following the release of documents from the FBI COINTELPRO files that outlined the government plot against the RNA, writs of habeas corpus were filed with federal district courts, and eventually all of the RNA political prisoners were released, including Obadele. In one of the FBI documents recently released by the attorneys for the RNA dated September 8, 1971, less than a month after the shootout, the extent of the government's concern with the incarceration of the members of the group is revealed.

If Obadele can be kept off the streets, it may prevent further problems involving the RNA inasmuch as he completely dominates this organization and all members act under his instructions. It is the contention of the Jackson office that Obdale [sic] should be indicted with at least the aiding and abetting charge, particularly in regards to firearms violation, inasmuch, by his own admission, he controls all actions of the RNA.

It should be noted: there are no federal charges pending against Obadele and the other three arrested at 1320 Lynch Street (the other house). Although these four are charged with local violations of murder and treason, the state feels they have a weak case in regard to these four men and may not be able to sustain successful prosecution. 34/

Other memos also made it clear that any suggestion that there was insufficient evidence to convict the RNA-11 was, in the eyes of the FBI, "completely intolerable and unjustifiable."

In the cases of the Wilmington Ten and the Charlotte Three government agents and officials were accused of using paid informers to secure the conviction of civil rights activists in North Carolina. The Wilmington Ten became the subject of national and international concern after several of the witnesses instrumental in their convictions on charges of conspiracy and felony recanted and testified that they had lied about the participation of Reverend Ben Chavis and his coworkers in criminal activities.

Rev. Chavis had come to Wilmington in 1970 as a field organizer for the United Church of Christ's Commission for Racial Justice. Wilmington had been undergoing court-ordered public school desegregation, and Chavis and others were attempting to secure equal facilities and treatment for Black students in the newly desegregated schools. Their activities had led to an increase in terrorist activities by the local Ku Klux Klan and other white supremacist organizations, which had the tacit approval of local law enforcement officers.

34/ The RNA was investigated by Amnesty International and listed as "prisoners of conscience" in 1976. The FBI memo and other aspects of the case are examined in detail in Lennox S. Hinds, Illusions of Justice: Human Rights Violations in the United States (Iowa City: School of Social Work, 1978), pp. 258-263.

Then, in February 1972, Chavis and nine others were arrested for arson and conspiracy, and at the trials later that year their conviction was secured through the testimony of three witnesses (some with known criminal backgrounds) and the partisan behavior of court officers and state prosecutors. After Chavis and the others had been sentenced to a total of 232 years and then failed to gain release through appellate procedures, the first of the witnesses in March 1977, claimed that he had lied under oath and had been instructed what to say by the state prosecutors. Renewed demands for the release of the Wilmington Ten failed, and they remained incarcerated until 1978, when nine members of the group were freed through executive clemency. Reverend Chavis was finally paroled in 1980. 35/

The case of the Charlotte Three again provides an example of a situation in which the government was charged with political repression against individuals and groups striving for the social advancement of oppressed minorities. While these individuals were incarcerated, they were generally considered political prisoners by most writers in the area. Dr. James Grant became a political prisoner after his arrest and conviction with Thomas James Reddy and Charles Parker "at their 1972 trial by a jury of eleven whites and one Black solely on the basis of the unsupported testimony of two witnesses, both with long criminal records and both facing

35/ Michael Myerson, Nothing Could Be Finer (New York: International Publishers, 1978); and Hinds, Illusions of Justice, pp. 165-204, contains numerous documents and statements on the Wilmington Ten case.

potentially long sentences for their own admitted crimes, who were secretly paid \$4,000 each by the government authorities for their testimony."

The Petition for Pardon to the United Nations for the imprisoned trio went on to point out that "these witnesses were granted absolute immunity for their own admitted crimes and one of the witnesses was secretly promised by the prosecutor that he would not have to serve a 25-year probationary sentence for armed robbery, although the witness was in violation of the terms of probation." The allegations brought against the government were at times supported by recantations by the two witnesses, Walter David Washington and Theodore Alfred Hood. But the most significant issue was finally not whether the criminal witnesses were telling the true story, but whether the government had engaged in the political repression of these Black civil rights workers. Grant, Reddy, and Parker were labeled, according to a recently released Justice Department memo, "Black militants," and "many people properly view this case as one where young Black activists have been singled out for summary treatment in an effort to silence racial protest." The years spent in jail by Grant, Reddy, and Parker must be considered time spent as American political prisoners, as "enemies of the state." ^{36/}

Wounded Knee, South Dakota, is the historic site of the 1890 massacre of over 300 American Indian men, women, and children by a U.S. Cavalry expeditionary force. In February 1973, representatives of more than 75

^{36/} The Charlotte Observer, January 23, 1974, and March 26, 1974; Washington Post, August 30, 1974; Hinds, Illusions of Justice, pp. 205-251.

Indian nations met at Pine Ridge Reservation of the Sioux tribe to discuss their grievances with the Bureau of Indian Affairs (BIA) and the tribal government over the failure of the U.S. Government to honor its treaty obligations with these nations.

The leadership of the American Indian Movement (AIM) was asked to participate in the meetings, because the purpose of the organization was to fight for the civil rights of American Indians. On February 27, 1973, the meetings were moved to the village of Wounded Knee, but within hours the police had set up road blocks, cordoned off the area, and began arresting individuals as they tried to leave. According to the report filed by the International Indian Treaty Council:

The federal government brought in armored personnel carriers and an arsenal of weapons, including AR-15s, M-16s, 30, 50, and 60 caliber machine guns as well as grenade launchers, flares, CS gas and helicopters. BIA police, FBI and vigilantes ringed the area. Hundreds of thousands of rounds of ammunition were fired into Wounded Knee; flares were shot off, burning up the countryside, and gas was released to rout the defenders. On April 6, after holding off the government for 37 days, the residents of the Pine Ridge Reservation and the leaders of AIM signed a six-point agreement with White House representatives. ^{37/}

Unfortunately, the agreement was almost immediately broken when the government demanded that the Indians surrender their arms and submit to arrest. The siege then continued for another month before the people were allowed to leave. Several Indians were killed during the siege, and, after the agreement, 371 indictments were brought by the government against Russell

^{37/} International Indian Treaty Council, "Violations of American Human Rights by the United States: Wounded Knee, 1973," reprinted in Hinds, Illusions of Justice, pp. 278-299.

Means, Dennis Banks, Clyde Bellecourt, and other leaders of the Indian movement. Of these, 137 were pursued in the courts.

Many of the charges brought against these leaders, however, had to be dropped because evidence was lacking and because some of the charges were based on the testimony of Indians who later claimed that they were threatened or bribed by federal officers. Despite the low conviction rate in the Wounded Knee incident, several of the AIM leaders spent time in U.S. jails and thus considered themselves political prisoners and victims of the repressive actions of the local and federal government. ^{38/}

In examining this issue of political prisoners in U.S. jails, one finds that it is closely related to the larger issue of majority-minority group relations in American society. In virtually every instance of an incarcerated individual's making a claim of being a political prisoner, he or she is a member of a racial minority or active in a movement for minority rights and has engaged in civil disobedience or some other form of politically motivated criminal activity. In many instances, the individuals or groups also claim that they were the victims of a concerted campaign of political repression on the part of the local or federal government.

B. Politicized Prisoners

In recent years there has been a dramatic increase in the number of minority prisoners who have committed crimes against property or other crimes but who have become politically aware and active only after their

^{38/} Ibid.; see also, Letter of William Muldoon, July 9, 1975, on Events at Pine Ridge Reservation, South Dakota, June 26, 1975.

incarceration. Moreover, a national "politicized prisoner" movement has developed in an attempt to resist the inhumanity and racism found in most U.S. prisons.

Rather than erupting in the random violence and racial antagonism prevalent in the past, the tension and anger of prison life may now be channeled into organizing and protests over political issues or demands. At the same time, these so-called political uprisings are generally not eased by superficial prison changes or even increased repression because they are rooted deep within the larger society, in the nature of minority-majority group relations.

Although there have always been politically aware prisoners in U.S. jails, the politicized prisoner movement can usually be traced to the dramatic events surrounding the Attica State Prison uprising in September 1971. This incident marked the beginning of a new epoch in the struggle for prisoners' rights and was a significant manifestation of the "new consciousness" of many prisoners about themselves, the state, and the entire society.

The Attica rebellion began on September 9, 1971, and was the culmination of prisoners' dissatisfaction with intolerable and repressive conditions at the New York state prison. According to a state commission's report on Attica, "with the exception of Indian massacres in the late 19th century, the State Police assault which ended the four day prison uprising was the bloodiest one day encounter between Americans since the Civil War." Moreover, the agony was more intense for Black, Puerto Rican, and American Indian prisoners. Attica's guards and civilian staff were 100 percent white

and overwhelmingly from a rural background. They held enormous power over the minority prisoners but had little ability to communicate or even understand them. Prison guards, in most cases, did not speak Spanish, would not allow American Indians to practice their religion, and did not understand Afro-American culture. Many facilities in the prison were forcibly segregated, and whites were continually given preferential treatment in jobs and privileges. Minority prisoners were more likely to be victims of political and religious repression and physical abuse and were the leaders of the "Attica Liberation Faction" that presented a list of basic grievances and demands to prison officials as early as July 1971.

When the outbreak erupted in September, 50 hostages were taken, and a new list of 33 demands was issued. ^{39/} The leaders of the rebellion also met with an outside group of observers, ranging from journalists to community leaders, whose role it was to provide an additional check on the activities of the state and to bear witness to the events and represent these facts to the outside world. One of the prisoners' critical demands was complete administrative and legal amnesty for all those involved in the uprising. This became more important after one of the guards, William Quinn, who had been injured at the beginning of the revolt, died. Quinn's

^{39/} Among the 33 demands made by the inmates at Attica were
-Apply the N.Y. State minimum wage law to all work done by inmates.
-Allow true religious freedom.
-Institute realistic, effective rehabilitation programs for all inmates according to their offense and personal needs.
-Modernize the inmate education system.
-Provide a narcotics treatment program that is effective.
-Provide adequate legal assistance to all inmates requesting it.
-Provide a healthy diet; reduce the number of pork dishes; serve fresh fruit daily.
-Provide adequate medical treatment for every inmate; engage a Spanish-speaking doctor or interpreters who will accompany Spanish-speaking inmates to medical interviews.
-End approved lists for visiting and correspondence.

death meant that all the prisoners in the yard could technically be prosecuted for murder. The state's absolute refusal to grant amnesty became a major stumbling block in the negotiations.

On Sunday, September 12, the committee of observers joined with Corrections Commissioner Russell Oswald in appealing to Nelson Rockefeller, then governor of New York, to come to the prison as a part of their effort to save lives. Rockefeller refused. During the entire rebellion, armed forces, including state troopers, correction officers, and sheriffs, assembled outside the prison gates.

At 9:46 a.m., Monday, September 13, 1971, the state's police assault on Attica began. The assault was ordered by Commissioner Oswald with the prior approval of Governor Rockefeller. More than 2,000 bullets were fired at unarmed men in D-Yard. When the shooting was over, 43 men were dead, and 89 had serious gunshot wounds. Many bled to death because of the lack of available medical care.

The reprisals did not stop with the retaking of the prison. Prisoners were forced to strip naked and crawl through mud, then run a gauntlet through a tunnel where they were beaten by scores of prison guards, troopers, and sheriffs. There were accusations of torture and testimony that at least one prisoner was murdered in the aftermath. Cells were ransacked. Prisoners suspected of being leaders of the uprising were segregated for periods of at least eight months.

To justify and cover up their conduct, the state fed patently false information to the news media during and after the uprising. On the first day, the state claimed that William Quinn had been thrown out of a second

story window, despite the fact that they were all tightly barred. The state continued to invent versions of the death of William Quinn, particularly at the trial in 1975 where Dacajewiah (John Hill), one of the leaders of the prisoners, was convicted of killing Quinn. But perhaps the most vicious lie was the claim that the prisoners had killed hostages by slitting their throats and castrating them. Official autopsies later revealed that all those who had died in D-Yard had lost their lives as a result of the state's gunfire and that there had been no castrations. 40/

Since the Attica uprising, prison administrators throughout the country have been forced to recognize the increasing politicization of inmates and to address the so-called "political prisoner syndrome." One researcher on the subject explains that "the self-proclaimed political prisoner is of greatest concern to the custodial officer as a hindrance to the smooth operation of the institution." 41/ These officials blame the media and prisoners' rights groups for encouraging inmate militancy and the idea that the prisoner is a victim of society. In the official report of the New York State Commission on the Attica revolt, these prisoners' perceptions of the issue were noted.

Many inmates came to believe that they were "political prisoners," even though they had been convicted of crimes having no political

40/ For details on Attica, see Hinds, Illusions of Justice, pp. 346-96; and Tom Wicker, A Time to Die (New York: Quadrangle New York Times Books, 1975).

41/ Benjamin Malcolm, "The Self-Proclaimed Political Prisoner" in Proceedings of the American Correctional Association Annual Congress of Correction, Pittsburgh, August 20-26, 1972, p. 108.

motive or significance. They claimed that responsibility for their actions belonged not to them--but to a society which had failed to provide adequate housing, equal educational opportunities, and an equal opportunity to compete in American life. 42/

Despite vehement denials by some politicians and prison officials that poor and minority inmates have any legitimate reason to believe themselves to be political prisoners, the inequities of the American criminal justice system provide support, according to some specialists in the field, for the prisoners' interpretation of their situation.

The system of criminal justice is filled with examples of disparity in bails and sentencing, and there is no question in my mind that this is true. Can I as an Administrator claim there is equality and justice to a female prisoner serving a year for minor theft when the prisoner reminds me of a well-known figure serving two months for a half-million dollar swindle? Or to a male prisoner held under very high bail for robbery when a well-known policeman is on trial for a double murder, but is free during trial? The answer is absolutely not! And just a few examples like these give the self-proclaimed "political" prisoner all the ammunition he needs to recruit others. 43/

Moreover, the suggestion that poor and minority inmates who are incarcerated for property and other nonpolitical crimes should be considered political prisoners does appear justified, even if it can be demonstrated that once in prison these inmates become "politicized," and as a direct result of this politicization, they became victims of the repressive actions of prison officials.

In interpreting the Thirteenth Amendment to the Constitution, which prohibits slavery and involuntary servitude, the U.S. Supreme Court and lesser judicial bodies have ruled that the criminal has, "as a consequence

42/ The Official Report of the New York State Special Commission on Attica (New York: Bantam, 1972), pp. 117-18.

43/ Malcolm, "The Self-Proclaimed Political Prisoner," p. 108.

of his crime, not only forfeited his liberty, but all his personal rights except those which the law in its humanity accords him. He is for the time being the slave of the state." 44/

As late as 1962, the courts affirmed that "supervision of inmates...rests with the proper administrative authorities and...courts have no power to supervise the management of disciplinary rules of such institutions." 45/ This, in effect, gave prison authorities almost absolute control over prisoners. But does this give prison officials a right to abuse their authority and single out inmates for harassment and punishment because the officials find the political beliefs and attitudes of certain prisoners objectionable? Political repression in the form of provoking inmate conflicts, physical brutality, solitary confinement, and denial of privileges and parole has been a significant part of the operation of U.S. prisons, and poor and minority prisoners, who have become aware of the political basis of their incarceration, have often been the victims of these and other types of repressive actions.

C. Race and Class Prisoners

Given the history of minority-majority group relations and the operation of the legal and criminal justice systems in this country, the existence of a clearly disproportionate representation of poor minority members in the U.S. prison population cannot be attributed to the innately criminal nature of such impoverished people in American society.

44/ Ruffin v. Commonwealth 62 Va (22 Gratt.) 790, 796 (1871).

45/ U.S. Supreme Court quoted in Jessica Mitford, Kind and Usual Punishment (New York: Knopf, 1973), p. 249.

Racial minorities, regardless of social status, are much more likely to be the victims of police harassment, false arrest, selective indictments, mistaken identification, underprepared counsel, and insensitive and biased judges and juries than are members of the dominant white majority. Jessica Mitford in her examination of the American criminal justice system Kind and Usual Punishment (1973), points out that, "of the 1.2 million criminal offenders handled each day by some part of the United States correctional system, 80 percent are members of the lowest 12 percent of the income group." And because racial minorities, especially Afro-Americans, American Indians, Puerto Ricans, and Mexican Americans, are disproportionately poor, unemployed, undereducated, and deprived of adequate housing, health care, and other essential services, they are disproportionately confined to American prisons.

Negroes are more likely to be suspected of crime than are whites. They are also more likely to be arrested...After arrest, Negroes are less likely to secure bail, and so are more liable to be counted in jail statistics. They are more liable than whites to be indicted and less likely to have their cases...dismissed. If tried, Negroes are more likely to be included in the count of prisoners. Negroes are also more liable than whites to be kept in prison for the full terms of their commitments and correspondingly less likely to be paroled. 46/

With regard to American Indians, the U.S. Commission on Civil Rights in its reports on American Indian civil rights issues made the following points with regard to the relation between Indians and the American criminal justice system:

46/ Donald Taft, Criminology, quoted in ibid., p. 60.

Native Americans have more trouble than their white counterparts in raising money for bail and therefore have to spend more time in jail. 47/

The double standard of justice for Indians and non-Indians is reflected in the disproportionate number of Indians arrested for public intoxication; to the harsh treatment Indians receive from local law enforcement agencies, especially in towns bordering the reservation. 48/

Indians suffer from unequal protection and enforcement of the laws. Police harassment and brutality against Indians is a common occurrence. Indian prisoners suffer harsh and inhumane treatment while incarcerated in local jails; and in some instances, Indian prisoners are used for public labor in violation of peonage laws. 49/

Indians are seldom released on their own recognizance due to the belief that they might have to be extradited off the reservation. 50/

The U.S. Civil Rights Commission made similar arguments in its examination of the status of Mexican Americans in the Southwest:

Besides the usual complaints made by racial minorities about police brutality and harassment, Mexican Americans have an added problem: sometimes they literally cannot communicate with the police. A Commission report told of a young Mexican American who, while trying to quell a potentially explosive situation, was arrested because the police officers who did not understand Spanish thought he was trying to incite the crowd to riot. 51/

Many of the Spanish surnamed poor cannot raise the amount of bail and must remain in jail. By remaining in jail he loses his earnings

47/ U.S. Commission on Civil Rights, Native American Justice Issues in North Dakota (Washington, D.C.: U.S. Government Printing Office, 1978), p. 16.

48/ Idem, Indian Civil Rights Issues in Montana, North Dakota, and South Dakota (Washington, D.C.: U.S. Government Printing Office, 1974), p. 42.

49/ Ibid., p. 54.

50/ Idem, Justice in Flagstaff: Are These Rights Inalienable? (Washington, D.C.: U.S. Government Printing Office, 1977), p. 22-28.

51/ U.S. Commission on Civil Rights, Stranger in One's Land (Washington, D.C.: U.S. Government Printing Office, 1970), p. 38.

and often his job. His family suffers and may be actually pushed onto welfare. All of this happens before the man is tried. 52/

Excessive bail is used to retain custody of accused Mexican Americans or to harass them rather than assure appearance at trial. In one area, there were allegations that the misuses of bail by local authorities created a situation resembling involuntary servitude or peonage. 53/

An Albuquerque lawyer related an incident that illustrates the lack of confidence in the fairness of judgments and bias on the part of the jury. The lawyer proposed to enter a "not guilty" plea to a charge against his client. The young man said he would be better off with a guilty plea even though he was innocent. According to the lawyer, the client said, "There isn't a working man on the jury list let alone a Spanish American. I'm not going to get a fair shake in that court. 54/

Poor members of racial minority groups, who suffer from both race and class disadvantages in American society when incarcerated, often think of themselves as "race and class prisoners." The racial inequality perpetuated by the dominant institutional structures greatly increases the likelihood that Afro-Americans, American Indians, Puerto Ricans, and Mexican Americans will become involved in "criminal activities." This is because avenues for advancement and self-expression open to members of the dominant white majority are not open to these poor and oppressed racial minorities.

Moreover, once these individuals are imprisoned, they are more likely to be treated in a discriminatory fashion by prison officials. If it happens that, while in jail, these minorities become politicized and aware of the social and racial factors that very likely played a part in their

52/ Idem, Mexican Americans and the Administration of Justice in the Southwest (Washington, D.C.: U.S. Government Printing Office, 1970), p. 51.

53/ Ibid., p. 48.

54/ Ibid., p. 45.

incarceration, these newly politicized prisoners are likely to become the victims of political repression by prison authorities.) Therefore, in answering the question of how many political prisoners there are in U.S. jails, one would have to answer, given the pervasiveness of overt and institutionalized racism in American society, "Far more than the spokespersons for the government and the dominant white majority would care to admit."

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A noted criminologist, Dr. Chishom's work as an educator, human rights advocate, community organizer, and criminal justice practitioner has earned him numerous awards, honors, and other professional distinctions. Possessing a doctorate in correctional rehabilitation (University of Georgia), Dr. Chishom has shaped an impressive career that has included the following work: U.S. Marshal; Special Assistant to the President and Professor, Criminal Justice Department (University of South Carolina); Director of Minority Affairs for the Carter-Mondale Presidential Campaign; LEAA (Department of Justice) Policy Analysis team member; Coordinator for the Correctional Master Plan Study, Office of the Governor, State of South Carolina; Field Director for the National Urban League, Labor Education Advancement Program; Chairman of the Board (Community Organization for Drug Control, County and City of Greenville); Program Planner for the Metropolitan Police Department, Washington, D.C.; and a host of consultant assignments for federal, state and municipal agencies, educational institutions, and private organizations with interests and activities focused on manpower and training, curriculum development, juvenile offense, adult rehabilitation, drug abuse and mental health, and other issues in the criminal justice field.

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Mr. Baca, for more than 10 years, has been involved in corrections, in both the parole process and service to juvenile offenders. He has worked for the California Youth Authority and the Department of Corrections in a variety of positions including experience as a correctional caseworker, a parole agent, and a supervisor of parole agents. In those positions, Mr. Baca worked with and counselled young men and women of varied ethnic backgrounds and developed social, law enforcement, recreational, religious, and educational community resources concerned with the rehabilitation of offenders. Mr. Baca is currently employed at the California Department of Corrections in the Parole and Community Services Division and is responsible for training administrative and line staff. He has also served that department in supervising a caseload of narcotics addicts and felons and provided counseling for their families. In addition to his affiliation with NMACCJ, Mr. Baca is a past national president of the Mexican-American Correctional Association and is co-founder of the National Hispanic Correctional Association.

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Mr. Broomfield's involvement in law enforcement administration and criminal justice practices emerged from early career experiences as an administrator of human relations and social services delivery systems. In the 60's, Broomfield served as Executive Director of Action, Inc. (a social action agency funded by the Office of Economic Opportunity), directing work aimed at lowering police/community hostilities. He later served as an Intergroup Relations Specialist for the City of Dayton in charge of the city's division of the Human Relations Council. Within a few years, he became more intimately involved in police administration in Dayton, serving as an Administrative Assistant to the Director of Police; Director of Conflict Management Programs; Superintendent; and, finally, his present position as Deputy Director for the Dayton Police Department. In that time, he also participated in numerous law enforcement, criminal justice and human rights and services organizations throughout the country. He has lectured at universities in Ohio, Michigan, Missouri, Kentucky, and California and has consulted with both public and private organizations on subjects significant to the planning and implementation of community relations, affirmative action management, crisis intervention, police training, public safety, and community health programs.

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Mr. Diaz serves currently as Executive Director of the Cuban National Planning Council in Miami, Florida. A sociologist by training, he was formerly a family counselor for the Little Flower House of Providence in Brooklyn, New York, where he provided child placement services. He has worked extensively in the area of manpower and career development for various state and municipal agencies in New York City, including service as a special assistant to the Commissioner for Community Development Agency in that city. Among his publications is a study on "The Evaluation and Identification of Needs in the Cuban Community." Having earned a master's degree from Columbia University in community organization and planning, he also teaches a course at Barry College in Miami on Hispanics in the United States.

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A. Reginald Eaves, representative of the Fifth District and Vice Chairman of the Fulton County, Georgia, Commission, has served in state and local governments for the majority of his career. Mr. Eaves served as administrative assistant to the President of the Massachusetts State Senate. He later served as an administrator to the Boston Commission on Human Rights in the Office of the Mayor. For two years, Mr. Eaves was Commissioner of Penal Institutions for Boston and Suffolk Counties. He was also actively involved in community programs; he was executive director of the Roxbury Youth Training and Employment Center and later executive director of the South End Neighborhood Action Program. Mr. Eaves was Atlanta's first Commissioner for Public Safety where he initiated and/or rejuvenated programs in domestic crisis intervention, automation of a criminal justice information system, hostage negotiation, and crime prevention.

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Mr. Jasmine, a native of St. Louis, Missouri has been involved in criminal justice programs on various professional levels; including responsibilities as an inmate counselor, a probation and parole officer for adult inmates, a corrections grant manager, a pretrial intervention specialist, an alcohol and drug treatment counselor for federal prison inmates, and as a state governmental liaison to criminal justice agencies. During his 15 years in corrections, Mr. Jasmine has provided individual counseling for inmates of the Illinois Security Hospital for the Criminally Insane. He also assisted in vocational and rehabilitation counseling services at the Illinois State Penitentiary. He has worked with juvenile offenders as co-therapist and as an individual counselor. Working with the Missouri Circuit Court Probation and Parole Department, Mr. Jasmine supervised about 100 probationers and assisted in mediating their domestic difficulties and in locating employment opportunities for them. Mr. Jasmine was a grants specialist/manager for federally funded corrections programs at LEAA. He is currently Assistant Secretary to the Governor of New York and monitors the operation and management of the state criminal justice agencies.

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Mr. Joyner, a private attorney in North Carolina, has been extensively involved in criminal justice for the past twelve years. Although previously involved in elementary education and business administration, he obtained his law degree from Rutgers University. He was previously Director of Criminal Justice Programs and Community Organizations for the United Church of Christ's Commission for Racial Justice. He is a former co-chairperson of the Brooklyn Congress for Racial Equality and served as vice chairman of the North Carolina Association of Black Lawyers. Active in community and professional organizations, Mr. Joyner serves on various local, state and national groups.

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With academic background in Education Guidance and Counseling, Mr. Long has had twelve years of professional experience in the adult corrections field including institutions, parole and probation, community-based work-training release programs and volunteer programs. Additionally, he has extensive experience in developing and managing manpower programs for adult and juvenile offenders in the State of Washington. He presently directs the Corrections Clearinghouse for the Employment Security Department for the state where principal program thrusts include the department's Employment and Training Coordination Project, Career Awareness Project, Cooperative Career Exploration for Youth Project, and the Ex-Offender Work Orientation Project, all of which involve improved employment, training and supportive service opportunities for ex-offender or juvenile parole populations in the state. Prior to this work, for many years, Long served as a probation and parole officer for the State of Washington where, among other innovative accomplishments, he established a non-profit corporation for the purpose of selling prison art work to the general public. Long, who began his career in Seattle as a Community Worker for the Washington State Board Against Discrimination (now the Washington State Human Rights Commission), continues his affiliation with a number of human rights organizations; and, is similarly associated with vocational education and correctional groups.

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Ms. Payne serves as a member of the Illinois Law Enforcement Commission and on the Chicago Crime Commission as well as a variety of other civic and professional organizations. She was previously a writer in residence at the Institute for Education Leadership at George Washington University. She was formerly associate editor and Washington correspondent for Sengstacke Newspaper, an assistant to the vice chairman of the Democratic National Committee and a writer for various organizations, including C.B.S. She has travelled extensively throughout the world on journalistic assignments, including coverage of the war in Vietnam and the civil war in Nigeria. She was a special presidential envoy on several African tours for the U.S. Department of State. Ms. Payne is a noted lecturer on the college circuit, active in women's affairs and has received numerous awards for her journalistic achievement and civic involvements.

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