On August 28, 2011, SAFE California – a coalition of death penalty abolitionists, crime victims and law enforcement officials that includes FCLCA – announced its intention to place an initiative to eliminate the death penalty in California on the 2012 ballot.

The decision to press forward with a signature-gathering campaign came after legislation introduced by Senator Loni Hancock (D-Berkeley), Senate Bill 490, failed to advance. Senate Bill 490 would have abolished California’s death penalty, subject to approval by the voters. Under current law, persons convicted of first degree murder with a finding of one or more special circumstances must either be sentenced to death or life without the possibility of parole.

An opportune time for change

While FCLCA opposes the death penalty in all circumstances, some who support the death penalty in principle have come to express doubts over its application. For many voters, capital punishment evokes strong sentiments that do not lend themselves to reason and/or moral arguments. Rather, it is those voters who are questioning the application of capital punishment and who have concerns about its costs who will ultimately determine the outcome.

In recent years the public discourse surrounding the death penalty has shifted dramatically. New York, New Jersey, New Mexico and Illinois have all ended capital punishment. Questions have been raised over the long delays in capital trials, the arbitrariness and racial bias in arriving at death penalty verdicts and the irreversible possibility of executing the innocent.

Recent study confirms the death penalty’s enormous cost

As state and local governments grapple with tight budgets and make deep cuts to education and the
13 executions and often takes decades from the date of the conviction until execution.

If California were to somehow figure out how to execute one condemned prisoner per month, it would take a staggering 60 years to execute the current death row population. Most would eventually die of natural causes before the state could execute them, resulting in a de facto sentence of life without the possibility of parole.

In fact, that is what is happening now. While the State of California has executed 13 prisoners since reinstating the death penalty in 1978, 78 prisoners have died on death row, 54 of natural causes, along with 18 suicides and 6 deaths that the California Department of Corrections and Rehabilitation (CDCR) classified as “other.”

Where does the money go?

The Alarcon-Mitchell study breaks the $4 billion in additional costs into four categories: 1) pre-trial and trial costs - $1.94 billion; 2) state automatic appeals and state habeas corpus appeals - $925 million; 3) federal habeas corpus appeals - $156 million; and 4) the increased incarceration costs - $1.02 billion.

Pre-trial and trial costs include factors such as the lengthier jury selection process in capital cases; the added cost of a two-phase trial in capital cases, one to determine guilt or innocence, the other to determine the penalty; as well as the costs of expert testimony.

Lengthy delays are caused by the lack of qualified attorneys to handle death penalty appeals. Alarcon and Mitchell conclude that it would cost $95 million per year to hire enough qualified attorneys to speed up the appeal process and make it comparable to other states, money that the Legislature has been unwilling to appropriate.

Efforts to “speed up” executions unjust and unworkable

Lengthy delays are especially hard on the survivors of murder victims as well as for condemned prisoners, 32 of whom have died while their federal habeas appeals were still pending. According to Alarcon and Mitchell, in 70 percent of federal habeas appeals, federal courts have granted relief, either in the form of a new trial or in reconsideration of the penalty. Moreover, with the passage of time witnesses disappear and memories fade, which makes it difficult to conduct thorough reviews.

Opponents of SB 490 argued that they have supported legislation to speed up executions, but these have included dubious measures such as reducing standards for attorneys who handle capital appeals (SB 378, by Bill Morrow, R-Orange County, 2005); requiring all attorneys who represent indigents for the State to have experience in handling capital appeals, even if they have no experience in handling capital appeals (SB 315, by Tom Harman, R-Orange County, 2007); and requiring California’s over-burdened superior courts to handle the automatic appeals (afforded to defendants by the California Constitution) instead of the California Supreme Court (SB 1025, also by Tom Harman, 2010). Were these changes adopted, they would increase the likelihood of wrongful convictions and the possible execution of the innocent.

...since 1978 California taxpayers have spent $4 billion to fund a dysfunctional death penalty system.
The real possibility of executing the innocent

To date, there have been 273 post-conviction DNA exonerations in the United States. According to the Death Penalty Information Center, there have been 138 death row exonerations, including three in California, since 1973. While DNA evidence is conclusive in establishing innocence, it is not a panacea because it is only present in a small percentage of cases.

The larger import of DNA evidence is that it has provided us with a new window into the criminal justice system and demonstrates that mistakes occur more frequently than was previously believed. The California Commission on the Fair Administration of Justice (CCFAJ) 2008 report found that mistakes are usually attributed to faulty eyewitness identification, false confessions and the use of jail house “snitch” testimony.

While legislative attempts to improve eyewitness identification procedures and to require the recording of police interrogations of homicide suspects have been unsuccessful, Governor Brown recently signed SB 687, by Mark Leno (D-San Francisco) into law. This bill will prevent the use of uncorroborated testimony by jailhouse informants.

Voters unaware of true costs

Voters have expanded California’s death penalty without being informed of the impact on the state’s budget. Alarcon and Mitchell point out that between 1978 and 2000 California voters expanded the number of death-eligible crimes six times. Information provided by the Legislative Analyst’s Office in the Voter Information Guides stated that the fiscal impact of these initiatives would be “none,” “unknown,” “indeterminable,” or “minor.”

As a result of the expansion of death-eligible special circumstances, 87 percent of the homicides prosecuted in California are eligible for a death sentence.

Of course prosecutors do not seek death sentences in 87 percent of those cases but it does give them considerable latitude in determining when to seek a death sentence, which helps to explain the huge growth in California’s death row population.

Our challenge: Convince the public it’s time to end it!

Proponents of capital punishment routinely tout results of a July 2010 California Field Poll which found that 70 percent of California voters support the death penalty. Lost in the hyperbole is the fact that the same Field Poll also found that support for capital punishment drops to 41 percent when given the choice between the death penalty and life without the possibility of parole.

The SAFE California Act provides the voters with this choice.

Californians now have the benefit of 33 years of experience with capital punishment. Given the Legislature’s unwillingness to spend millions of dollars merely to re-open old wounds. While we empathize with these concerns, unfortunately current law goes too far with respect to juveniles.

After the bill fell short on the Assembly Floor, Senator Yee took amendments exempting juveniles when the homicide involved a public safety official or in cases involving torture. These amendments did not satisfy Republicans who labeled the amendments a “cynical, political, ploy.” Senate Bill 9 ultimately did not have enough votes to pass in the Assembly this September, but we will not give up.

FCLCA will be talking with Human Rights Watch (the sponsor of the bill) and Senator Yee about how to effectively advance the bill in the second year of the legislative session, which starts in January 2012.

FCLCA Newsletter SEPTEMBER 2011

– Jim Lindburg

<JimL@fclca.org>
The Testimony of Marietta Jaeger-Lane
A mother’s spiritual journey leads her to speak out against capital punishment

After the kidnap and murder of her young daughter by a serial killer, Marietta Jaeger-Lane struggled to balance her rage against her belief in the need for forgiveness. Through this struggle, she was led to become activist for death penalty abolition: a co-founding board member of Murder Victims’ Families for Human Rights and co-founder of Journey of Hope... From Violence to Healing. (more information at http://www.murdevictimsfamilies.org and journeyofhope.org.)

As we in California gather our strength to pass an initiative to abolish the death penalty, we wanted to share with you her beautiful, poignant, and inspiring words.

In 2007, Marietta Jaeger-Lane testified before Montana’s Senate Judiciary Committee in support of Senate Bill 306, An Act Abolishing the Death Penalty and Replacing it with Life Imprisonment without Possibility of Release. This is her testimony.

I am Marietta Jaeger-Lane, formerly of Michigan, now living in Three Forks, Montana, for eight years.

While my family and I were camped at the Missouri River Headwaters Park here in Montana thirty-four years ago, my seven-year-old daughter, Susie, was kidnapped from our tent during the night. Fifteen months later, the FBI identified and arrested a local man responsible for my child’s disappearance.

Concrete evidence proved her life had been taken. Though the death penalty was applicable in this case, at my request the County Prosecutor offered the alternative sentence, in capital cases, of mandatory life imprisonment without parole.

Only then, did the young man admit to the rape, strangulation death and dismemberment of my child as well as the deaths of a young woman and two young boys in the same area, but at different times. There was evidence that this man had caused more children’s deaths around the state, but the County Prosecutors in those instances were insisting on the death penalty. The young man would only confess to the deaths that occurred in Gallatin County, where he was being offered life imprisonment. Clearly, Montana’s death penalty had no deterrent value in all those deaths, except to deter confession of guilt.

I honestly and readily admit that, initially, I ran the gamut of outraged reaction. I wanted to kill the kidnapper with my bare hands. However, I am a Catholic-Christian who has learned to look to the nonviolent and life-giving, final Word of God enfleshed in Scripture – Jesus – for God’s idea of justice – healing and restoration.

Also, my knowledge of psychological well-being asserted that hate was not healthy – spiritually, emotionally or physically. Though I struggled with rage and revenge, I became convinced and committed to my best and most healing, freeing option of forgiveness.

Victim’s families have every right to the normal, valid, human response of rage. However, to legislate that gut-level desire for blood-thirsty revenge has the same deleterious effect on the community as it does on individuals. In all the years since, that I’ve been working with murder victims’ families, I consistently see that those who have realized their revenge in the form of execution find that they are still left empty, unsatisfied and unhealed afterwards. They have been victimized again, this time by the “system” they sought to give

We violate and demean our own honor and dignity by taking on the same mindset as the person who caused our grief, by killing a restrained, defenseless person, however deserving of death we deem that person to be.

I honestly and readily admit that, initially, I ran the gamut of outraged reaction. I wanted to kill the kidnapper with my bare hands. However, I am a Catholic-Christian who has learned to look to the nonviolent and life-giving, final Word of God enfleshed in Scripture – Jesus – for God’s idea of justice – healing and restoration.

Also, my knowledge of psychological well-being asserted that hate was not healthy – spiritually, emotionally or physically. Though I struggled with rage and revenge, I became convinced and committed to my best and most healing, freeing option of forgiveness.

Victim’s families have every right to the normal, valid, human response of rage. However, to legislate that gut-level desire for blood-thirsty revenge has the same deleterious effect on the community as it does on individuals. In all the years since, that I’ve been working with murder victims’ families, I consistently see that those who have realized their revenge in the form of execution find that they are still left empty, unsatisfied and unhealed afterwards. They have been victimized again, this time by the “system” they sought to give
them “justice.” Capital punishment does not bring healing and closure to the victim’s family; instead it desperately disappoints the families and it degrades, dehumanizes and debilitates us as a society.

The capacity for concern and compassion is what sets us apart from the rest of creation. Our laws should call us to higher moral principles than the practice of primitive acts of more killings to resolve our conflicts, hatreds, fears and frustrations. We violate and demean our own honor and dignity by taking on the same mindset as the person who caused our grief, by killing a restrained, defenseless person, however deserving of death we deem that person to be.

Concerning the claim of “justice for the victims’ family,” there is no number of retaliatory deaths which will compensate to me the inestimable value of my daughter’s life, nor would they restore her to my arms. In truth, to claim that the execution of any offender will be “just retribution” is to insult the immeasurable and irreplaceable worth of the victim. For the state to kill in retaliation for my daughter’s death is to violate and profane the goodness, sweetness and beauty of her life.

The loved ones who have been wrenched from our lives by violent crime deserve more beautiful, noble and honorable memorials than pre-meditated, barbaric state-sanctioned killings, creating yet more victims and more grieving families. If we are to call ourselves a moral, civilized society, we must insist that all life – every person’s life – is sacred and must be preserved. Our government policies and practices should predicate the same.

If people are genuinely concerned for the victim family’s plight, there should instead be a clamor for the legal and social measures which will provide the real support systems these families need in their time of anguish and loss – financial assistance, therapeutic counsel, trial information and resolutions, etc.

Please hear me: I am not advocating forgiveness for violent people and then release to the streets. I know better than most that there are people who should be separated from the community in a humanely-secured manner for the protection of all. Montana already has an adequate provision for that protection in Capital cases – mandatory life imprisonment with no chance of parole – a full life sentence which allows for the possibility of reflection, repentance, rehabilitation and restitution and which retains our dignity and status as a moral, civilized society. Montanans cannot let our personal fury and fears be exploited, making us reliant on a system which is far more expensive than lifetime-incarceration, is too often unjust or mistaken, does not heal grieving families and which exacerbates the problem. Every time we utilize state-sanctioned killing, we communicate to society that killing is an acceptable way to solve our problems. A glance at media headlines confirms what we are role-modeling and teaching our children. Thus the violence continues and we become that which we deplore – people who kill people – a horrendous insult to the memory of all our beloved victims.

The concern and goodness of the people of Montana are largely responsible for the fact that I am standing strong and healthy now. When my daughter was kidnapped from our tent, they came to the campground from all over the state and cared for my family in myriad ways for many weeks. I want to believe that these same compassionate, generous people of our great and beautiful state of Montana have the moral resources, the principled wisdom and the good-spirited will to say: “Don’t kill in our names and with our tax dollars! Let us honor our beloved victims with laws that are a healing and humane response to our most violent crimes!”

For the state to kill in retaliation for my daughter’s death is to violate and profane the goodness, sweetness and beauty of her life.
It was the summer of 2009. I was on my second day of work for the U.S. Census Bureau, knocking on doors in rural South Carolina. My cell phone rang. It was my supervisor. “Patrice, headquarters called me and told me to send you home immediately and to take back all government property,” she said. “I don’t know why.”

She knew me as a 61-year-old gray-haired mother, a former Washington Post reporter, an author and motivational speaker. She knew nothing about me 40 years ago, when I was a 21-year-old heroin user. I knew exactly why they were sending me home: I am a convicted felon.

In 1970, I spent part of a summer in jail for a drug charge and received five years probation. But that was just the beginning. In the decades since, I have learned what it’s like to try to change your life in a fearful society that believes it’s safest to lock up or discard anyone who has ever made a criminal mistake or had a problem with addiction. And I have learned that there’s another way – a way that offers the possibility of restoring dignity and hope both to the people who make mistakes and those victimized by crime.

Throwaway People

The U.S. Department of Justice reports that one in 32 adults in the United States is behind bars or on probation or parole. One quarter of the prison population is locked up for nonviolent drug offenses, according to the Center for Economic and Policy Research.

Each time a person is locked away behind bars, it leaves a void in a family, neighborhood, or community. Most often, the burden of incarceration falls on communities of color. The Drug Policy Alliance (DPA), a leading organization promoting alternatives to incarceration, writes, “The war on drugs has become a war on families, a war on public health, and a war on our constitutional rights.”

“We are exiling millions of mothers, fathers, brothers, sisters, sons, and daughters – making them missing persons,” says Carol Fennelly, director of Hope House, a Washington, D.C.-based nonprofit organization that helps children stay connected with incarcerated parents.

I was lucky. I was becoming an addict when I was convicted. The system that sent me to jail did nothing to address my drug problem: It put me on probation and ordered me to pay more than $2,000 in fines, which only made me more bitter. I was a single mother who could not find a job because of my criminal record. I did not see any connection between the high fines and my behavior. I did not see how I was expected to dig myself out of the hole I was in.

Anyone labeled an “offender” or “ex-con” has a difficult time finding employment. Even though I served a short sentence, once I got out of jail, I could not find a job. I didn’t know how to answer the question, “Have you ever been convicted of a felony?” Some days I lied; some days I told the truth.

If I lied, I usually got fired within two weeks when the results of the background check came in. If I told the truth, I didn’t get past the interview.

I searched for a job for at least three months before I finally received a break: A woman at a mental health center took a chance and hired me to work as a clerk in the business office in spite of my criminal record. Over the next several years, I took creative writing courses at night, got accepted into a journalism training program, and eventually became a newspaper reporter.

But I have never forgotten that those doors probably would never have opened without the woman who was brave enough to give me a chance.
Finding Real Justice

Years later, as a reporter at The Washington Post, I wrote my autobiography, Laughing in the Dark, and started giving motivational speeches and running workshops for women in prisons around the country.

The more time I spent in prisons, the more I came to believe that there had to be a way to keep our streets safe without throwing people away. Everywhere I turned, I saw myself. I met women, most of them mothers, serving too much time for crimes (embezzlement, check fraud, prostitution, burglary) committed because, like me, they had a drug problem.

Then I discovered what I had been looking for – an alternative to incarceration called restorative justice.

In restorative justice, all of the parties impacted by an offense – offender, victim, and community – are involved in determining a resolution that addresses the harm caused by the crime. Restorative justice acknowledges that crime is about more than breaking the law: Therefore, the resolution is about more than simple punishment.

In North America, restorative justice has roots in the very communities that have been hurt most by the prison system. There is evidence that similar approaches were used by West African slaves brought to the Sea Islands of South Carolina and Georgia and by Native Americans.

While researching restorative justice, I found cases such as one in Norfolk, Va., where a youth stole his parents’ car, crashed it into another woman’s car, and ran. Instead of serving time in juvenile detention, a restorative justice program allowed him to work and pay the woman back for damage to her car and income she lost while her injuries prevented her from working. The youth and the victim met, and he was able to see the connection between his bad decisions and the harm he had caused. It struck me that he received what I missed. He was given work to help him pay his restitution. The process was respectful to everyone: The young man left changed but not labeled a criminal.

I had to put all of the pieces together myself: find a way to repair the harm I caused, forgive myself, and be a part of the community again – a process that took years.

I met Morris Jenkins, a criminal justice scholar at the University of Toledo. Jenkins’ work demonstrates how communities have historically resolved crime. The Sea Islands have preserved much of the unique Gullah culture of the West Africans who were brought there as slaves generations ago. Jenkins found that before there was a bridge from the islands to the mainland, the island people used restorative justice to settle civil disputes and some criminal complaints. “They called it the Just Law,” Jenkins told me recently. “One of the ladies in her 90s told me a story about how they used to have these community meetings at faith houses – little shacks, not churches. They would bring together the offender and his folks, and victims and their folks, and the elders – and they would come up with a resolution.”

As I investigated these stories, I realized restorative justice offered everything my experience with the corrections system did not. I had wanted to change my life, so I could be a good daughter, sister, and mother. But I didn’t know how to change. Being on probation, paying restitution, and being disregarded when I applied for a job did not address my desire to be a good person or help boost my self-esteem. The punishment and judgment against me crippled me even more.

Once I committed my crime, I never felt as if I was part of a community. No one saw the power in getting me to realize the harm I had caused to my family. My parents were ashamed. I disappointed friends and neighbors who had helped me over the years. I knew that some of them probably even felt I had brought shame to our close-knit neighborhood. No one ever considered finding a way for me to give back, to feel forgiven and accepted again. I had to put all of the pieces together myself – find a way to repair the harm I caused, forgive myself, and be a part of the community again – a process that took years.

Transforming the System

Over the years since I discovered restorative justice, the number of programs has grown slowly. Today, as federal and local governments search for ways to save money, more attention is being paid to alternatives to incarceration. Many restorative justice programs are now operating in partnership with the court system.

My friends, Ivy and Saleem Hylton, receive clients referred by the Court Services and Offender Supervision Agency in Washington, D.C. The couple co-founded Youth and Families in Crisis, which runs innovative restorative justice sessions in Prince George’s County, Md.

The Hyltons have seen incredible changes in former perpetrators of violent crimes who have attended their restorative justice sessions. They teach relaxation and meditation to clients to give them tools for controlling their emotions and refocusing their attention. Using a restorative justice practice from Native American traditions, they hold discussion circles in which each person has an opportunity to speak without interruption and learns to truly hear and respect others, often for the first time.

I stand before these students and the women who are locked up as an example of the distance one person can travel in a lifetime.

(Continued on next page)
I spoke with Antonio Addison, who spent 15 years in prison for a murder conviction: He believes participating in the circles and learning to meditate has saved his life.

“We started with prayer and then the circle,” said Addison. “Some spoke up; some were not open. I would share my deepest emotions. The only peace I had felt in my life was when I was in the hole in prison, in solitary.”

Addison found he could create a feeling of peace by using sounds introduced to him at the sessions, such as the sound of the ocean or soft bells. “I would play the CDs to relieve stress before I went to sleep. Then I started using them when I got upset or angry, and I found they relieved me of those things so [my emotions] didn’t build up and explode.”

In one year, with the Hyltons’ help, Addison accomplished something he could not do in 15 years of incarceration: He is able to control his anger before it explodes into rage. Now, at 41, Addison is married, has two-year-old twins, is a supervisor for a major utility company, and gives back by volunteering with the Hyltons, encouraging new participants by sharing his story and answering their questions.

**Restoring Hope and Imagination**

Five years ago I co-founded a nonprofit organization, The Brown Angel Center, which helps women transition from prison to the community. We run workshops for the women in the Mecklenburg County Jail in Charlotte, N.C. A couple of months ago, I was teaching the women about restorative justice. They sat silent, intrigued.

“We need that here,” one said.

“It makes so much sense,” said another.

At the jail, the women are waiting to be sentenced or to begin long prison terms. They are separated from their children, and some have already lost custody because their sentences are too long to allow them to continue parenting. One thing hasn’t changed since I started speaking in prisons 16 years ago: Most women I meet are incarcerated for nonviolent crimes. Restorative justice would help them; prison time does not.

Meanwhile, restorative justice practitioners say we have just begun to use our creativity to develop inventive programs to address crime. I speak at colleges around the country, encouraging a new generation of leaders to consider applying their talents to create a new model of justice. I stand before these students and the women who are locked up as an example of the distance one person can travel in a lifetime.

Dressed in my best business suit, I hold up my mug shot to illustrate to them that you can never know what a person might become, what potential they have within. My photo shows me at 21, a baby-faced girl with a large afro and a sign hanging around her neck that says, “Charlotte Mecklenburg NC, 19 Jun 70, 70 – 90.”

“This is what a drug addict looks like,” I say. “This is what a teacher looks like. This is what an author looks like. This is what a mother looks like.”

Patrice Gaines wrote this article for Beyond Prisons, the Summer 2011 issue of YES! Magazine. Patrice is the author of Moments of Grace: Meeting the Challenge to Change and Laughing in the Dark: From Colored Girl to Woman of Color – A Journey from Prison to Power. She is based in South Carolina.
An Interview with Jeanne Woodford
San Quentin’s former warden now takes a leading role in abolishing the Death Penalty

Jeanne Woodford is the Executive Director of Death Penalty Focus, a national nonprofit organization dedicated to educating the public about the death penalty and its alternatives.

Jeanne served in the field of corrections and law enforcement for over 30 years. She was appointed Warden at San Quentin State Prison in 1999, overseeing four executions during her tenure there. She was later appointed by Governor Arnold Schwarzenegger as the Undersecretary of the California Department of Corrections and Rehabilitation, where she oversaw an eight billion dollar budget, brought accountability to the department through data-driven decision-making, and advocated for rehabilitation programs and a sentencing commission for California. She also served as the Chief Adult Probation Officer for the San Francisco Adult Probation Department, retiring from this position in 2008 to work on criminal justice policy and reform.

She recently spoke to FCLCA about the SAFE California Act.

Jeanne, your organization, Death Penalty Focus, is one of dozens of groups belonging to the coalition backing the SAFE California Act. The Act is described by its supporters as a 2012 ballot initiative that “would replace California’s $4 billion death penalty with life imprisonment without the chance of parole and free up hundreds of millions of dollars each year for local law enforcement, victim compensation and schools.”

Why has the coalition decided to introduce this initiative now?

California’s budget crisis has resulted in a reduction in social services, in teachers and in police officers on the street. Yet in this time of crisis we continue to fund an inept process. The recent report in June by Federal Judge Arthur Alarcón and Professor Paula Mitchell, which used information that no one had had access to before, showed the enormous cost of the death penalty: California has spent $4 billion on the death penalty since it was reinstated in 1978.

The death penalty system in California is broken and there’s growing support for this change including from law enforcement. Over a hundred current and former law enforcement officials, prosecutors, judges and corrections officers have already signed in support of replacing the death penalty with the alternative of life without the possibility of parole.

Many people don't realize that 46 percent of all murders and 56 percent of all rapes in the average year in our state go unsolved. The SAFE California Act takes $30 million per year of the dollars saved on the death penalty, for three years, and puts it into a special fund that will be used to solve more murder and rape cases. The SAFE California Act will prevent crimes, because the best way to reduce crime is to solve it. If 46 percent of murders are unsolved, people feel they can get away with it.

There is also an increasing awareness of how imperfect our criminal justice system is: too many exonerees have been found to be innocent after serving years in prison. People have been wrongfully convicted because of faulty eyewitness identification and the testimony of jailhouse snitches. Sometimes they are exonerated through DNA evidence. But DNA is present in only 20 percent of cases. There is still the real possibility of executing an innocent person. Who knows what other technology might be out there that in the future could exonerate individuals on Death Row?

Some people say we just need to “speed up executions.”

To “fix” the death penalty – to involve more courts and more attorneys – the California Commission on the Fair Administration of Justice Report in 2008 said we would have to spend $100 million a year. This would mean even further cuts in social services and public safety.

How can FCLCA supporters help this initiative get on the ballot and win?

The initiative has now been submitted to the Attorney General for a title and summary. We can begin signature gathering after October 15. The more signatures we can gather early on, the better, and this is one very important way volunteers can help.

Tell us about your own journey from corrections to working for reform.

I was working inside the system for reform – Gov. Schwarzenegger brought me in to bring rehabilitation to the Department of Corrections. But from the inside, I saw the inability of government to get there.

I saw the death penalty in a way that was up close and personal. I know how it works and more importantly, how it doesn’t work. As warden of San Quentin, I carried out four executions, and I vividly recall my staff asking “did we make the world safer tonight?” We all knew the answer was no. I have regrets – I didn’t believe in the death penalty – but I believed our job was to carry out the law. The public needs to remember that we ask human beings to carry out this punishment.
Reforming Solitary Confinement at Pelican Bay Prison

By Eric Moon, the Healing Justice program coordinator of the American Friends Service Committee (AFSC).

Corrections, the name used for the prison system, is a field of politics in which changes have, historically, come slowly. Activists for prison abolishment and reform soon learn the need to keep on keeping on. After all their days and years and decades of perseverance, a recent Tuesday in August will shine far down the long corridor of that struggle.

Inspired by a three-week hunger strike started at the Security Housing Unit of Pelican Bay State Prison in Northern California, and quickly supported by more than 6000 prisoners in a dozen additional prisons, Assemblymember Tom Ammiano, chair of the Assembly Public Safety Committee, convened a public hearing for oversight of the California Department of Corrections Security Housing Units (SHU).

The Prison Hunger Strike Solidarity coalition supporting the strikers welcomed the Sacramento hearing and worked with Assembly staffers to schedule witnesses: former SHU prisoners, their families, criminology researchers and activists.

The California Department of Corrections and Rehabilitation (CDCR) was represented by Undersecretary for Operations Scott Kernan.

The three-hour hearing by the State legislature commenced with two panels of SHU critics, followed by Kernan, and closed with a long queue of “public comment” from family members and activists. On the first panel, Rev. Will McGarvey spoke for the Bay Area Religious Coalition Against Torture, drawing comparisons between California SHUs and prison abuse at Abu Ghraib and Guantanamo Bay.

Readers who derived their images of solitary confinement from films like “Cool Hand Luke” or “Shawshank Redemption” – where an exceptional inmate screws up and is brutally isolated, for a limited time, to “get his head straight” – have a lot to learn about modern use and abuse of solitary. Modern-day Department of Corrections doles out solitary confinement on an industrial scale, in a movie more like some horror flick: people check in, but nobody ever checks out.

Nearly 4,000 inmates in the SHUs in California’s prisons endure harrowing conditions of extreme isolation in soundproof cells measuring only six feet by eight feet, leaving only to exercise for about an hour a day in windowless “dog runs.” Ninety percent of SHU inmates are confined in these concrete tombs, not because of any misbehavior in prison, but because of a one-time administrative decision labeling them “affiliated” with one of six large gangs.

And they stay there. Once so labeled, they leave the SHU cells only by dying, by paroling, or by snitching (i.e., providing information about alleged gang ties).

And they stay there even longer. At Pelican Bay State Prison, 435 inmates have been locked down in the SHU for more than a decade, and 78 have been in for more than two decades.

In the second panel of witnesses, Laura Magnani, regional director of the American Friends Service Committee, followed up Rev. McGarvey’s critique, quoting the United Nations convention against torture (to which the U.S. is a signatory): Torture is “any state-sanctioned action by which severe pain or suffering, mental or physical, is intentionally inflicted for obtaining information, punishment, intimidation, discrimination… No exceptional circumstances whatsoever, whether a war or threat of war or political emergency… may be invoked as a reason for torture.”

When his turn came, Undersecretary Kernan, who had met with hunger strike representatives before they suspended their strike on July 21, seemed decidedly defensive: “I’m not talking about having
another study,” Kernan said at a legislative hearing. “I’m
talking about having some substantive changes. And I’m
talking months, not years.”

The exceptional excuse that CDCR officials like to cite is
their federally instigated and funded war on gangs, a war proven so disastrous as to invite comparison with the fed-
eral “war on drugs.” Kernan volunteered that yes, there
probably was more gang activity today than in 1989, when Pelican Bay State Prison opened.

Contrary to the UN convention, the CDCR assumption
seems to be that having once labeled someone a gang
member, there is pretty much nothing the state can’t do to
him. It is time for California voters and taxpayers to decide
whether we share that assumption.

As we monitor CDCR’s “substantive changes” over the
next “months, not years,” we need to see fundamental, not
superficial concessions. The following reforms are vitally
needed.

(1) A bill enabling press access to any SHU prisoner, not
just those picked to agree with CDCR officials. Sunlight is
the best disinfectant, as the old adage goes.

(2) Regulations providing due process rights to prisoners
before gang labeling. This decision is currently made by a
single CDCR staffer.

(3) Regulations limiting the length of time any prisoner can
be consigned to solitary, before getting a chance to demon-
strate changed attitudes and actions.

(4) Procedures whereby someone can be transferred out of
the SHU that will not require snitching on others.

(5) No retaliation by the CDCR against prisoners who
did engage in the nonviolent action of going on a hunger
strike. Already, the CDCR has issued disciplinary notices to
hundreds of participants, saying their involvement in the
hunger strike constituted a “disturbance.”

Readers are urged to contact their legislators asking that no
such retaliation be allowed, and that implementation of the
changes is the best way to assure justice in the face of these
harsh conditions. FCLCA

Our thanks to Street Spirit, a publication of the American
Friends Service Committee (AFSC), for allowing us to
reprint this article published Sept. 1, 2011. For more infor-
mation see www.thestreetspirit.org and afsc.org.

YOU MADE YOUR POINT.

This year you sent a message to your legislators over 1,000 times through FCLCA’s ACTION CENTER.
You met with legislators here in Sacramento and in your hometown.
Your contributions allowed our lobbyist to advocate for you in the halls of the Capitol.

THINGS ARE CHANGING BECAUSE OF YOU. BECAUSE WE WORK TOGETHER.

And things are only going to get busier in 2012.

SAFE CALIFORNIA Initiative – It’s time to end the death penalty.
   We need to get the signatures to get it on the ballot and get it passed!
Life without the possibility of parole for juveniles –
   It’s time to pass Senate Bill 9, Fair sentencing for youth.
   AND SO MUCH MORE.

Our goal this fall is to raise $40,000 to continue the work you’ve made possible.

Will you help?
We invite you to contribute $10/month or more as a sustainer.
Your sustaining support gives us the foundation to move forward for (at least) sixty more years

Give online at fclca.org or send in our envelope.
Whatever you can contribute, we’ll receive with gratitude and appreciation.
Because there will never be a time that a voice of conscience – your voice – will not be needed at the
Capitol. Because silence is not an option.
Thank you for your partnership and support.
more dollars annually to “fix” the death penalty and its unwillingness to ask the voters to abolish it – or to greatly reduce the number of crimes that are eligible for a death sentence for fear of being labeled “soft on crime” – our challenge is to make voters understand that California’s dysfunctional death penalty is broken beyond repair.  

– Jim Lindburg <JimL@fclca.org>

WHAT YOU CAN DO

FCLCA will be working to help gather signatures to qualify the SAFE California Initiative for the ballot and to help pass it in November 2012.

Want to volunteer?

Call our office at (916) 443-3734 or email us at fcladmin@fclca.org.

Visit our Action Center at fclca.org and sign up for our Action Alerts to learn how you can help.

For more information on the initiative see taxpayersforjustice.org.

PHOTO CREDITS:

pp. 1 & 3 SAFE California
p. 6 Diedra Laird for YES! Magazine
p. 10 Street Spirit
All others istockphoto.com