Mass Murderer G.W. Bush Executes Gary Graham

For weeks, GOP Presidential candidate George W. Bush has been telling the world that, in Texas, none of the 135 men and women executed under his administration has been innocent of the crime for which they were executed. Now, that has changed. On June 22, Governor Bush executed Gary Graham, also known as Shaka Sankofa, convicted 19 years ago of a murder which Graham said he did not commit.

Graham, Bush's 135th victim, faced death nine times in Texas, winning a reprieve the first eight because of the huge doubts about his guilt. His conviction was based exclusively on one eyewitness account, a woman who saw the shooting from inside her car, at night, in the course of less than a minute.

Two other eyewitnesses, employees at the Safeway who watched the shooter for 15-20 minutes inside the store, said Graham was not the shooter. They were never called to testify, because Graham, poor and black, had an incompetent attorney. There was no physical evidence against Graham, and the gun found on him at the time of arrest was not the weapon used in the shooting.

Some of the original jurors in the Graham trial have recently said that, today, knowing what they now know, they would have voted against the death penalty.

Gary Graham was not an angel. He was involved in low-level street crime, and pled guilty to that. But he wasn't guilty of the crime for which he was executed. Graham told ABC News, "This system is a disgrace to any civilized country, when you talk about the innocent people that are being killed here."

George W. Bush said that he believes in the death penalty because it "saves lives." There are 15 more people on death row in Texas scheduled for execution before the November Presidential election. If he believes in saving lives, there are 15 he could start with right there. The 135 he has already taken, testify that he is the nation's chief executioner, and a mass murderer.—*Marianna Wertz*

What About Gore?

That George W. Bush is the nation's chief executioner is not in doubt. That's what you get if you vote for him. But what about Gore?

Washington Post columnist Richard Cohen, a death-penalty and Bush opponent, had an unusually (for him) insightful column on this question on June 13, titled "Al with His Finger in the Wind." "If Gore were an American Indian of yore," he writes, "his name would be Al Finger-in-the-Wind. How silent is he? As silent as the dead. Never mind that Gore won't open up on Bush; he won't even lend his name to a Senate effort [The Innocence Protection Act of 2000] to ensure that inmates have access to any DNA evidence that might prove them innocent. . . . Gore is the very model of the very modern leader—self-proclaimed and daring to take the public where it already wants to go. I understand. The politics of the issue are simple. Alas, so is its morality."

In a June 14 interview with the *New York Times,* where he was forced to deal with the issue publicly for the first time, Gore said, "If there is a study that shows a large number of mistakes, that has to make you uncomfortable."

Uncomfortable? I guess so, particularly if you are innocent and strapped to a gurney with lethal drugs running through your veins.

Gore continued, "There are many who bring an understandable passion to the new debate over capital punishment that arises from their fundamental moral opposition to the penalty itself. I deeply respect that position. I do not share it. . . . I do think that that penalty should be available."

Gore said, finally, that he would support a Federal moratorium "if there were, in the Federal courts, the kind of record that Governor Ryan found in Illinois. . . . I do not believe the evidence show that's the case." Sounds a lot like Bush, doesn't it?

In fact, Al and George, the evidence *does* show that's the case. Read the Columbia University study.

Interview: Robert Wilkins

Stop D.C. Sentencing Bill, Keep Parole

On June 26, the District of Columbia City Council is expected to open debate on legislation that goes even further in its harsh sentencing provisions than the Gingrich Congress mandated in the 1997 Revitalization Act, under which the Federal government bailed out and took over several arms of District administration. The Sentencing Reform Act of 2000, if voted up as written, would, beginning in August, abolish parole for all felonies, eliminate rehabilitative programs for youthful offenders charged with violent crimes, and lengthen prison sentences, allowing judges to impose even longer sentences than required under current law.

Incarceration levels in the nation's capital are already

among the highest in the nation, with respect to African-Americans. Today, more than one in three black men ages 18-35 in the District are under some arm of the criminal justice system. District black men are incarcerated at a rate, per 100,000 population, that is 36 times that of white men *(as compared to 10 times nationally), and the District's overall incarceration rate is three times the national average.*

The Revitalization Act also mandated that at least 50% of all District offenders be housed in private prisons by September 2003, an unprecedented arrangement that "gives the private prison lobby a strong economic incentive to encourage an increase in the District's already long prison sentences," according to Robert L. Wilkins, an attorney with the D.C. Public Defender Service.

Wilkins has been an attorney with the D.C. Public Defender Service for ten years. He graduated from Harvard Law School in 1989, and has done human rights and civil rights work since during law school. He currently handles impact litigation and policy matters for the Public Defender's Service, and is the PDS Delegate to the District of Columbia Advisory Commission on Sentencing. Marianna Wertz interviewed him on June 12.

EIR: We're a national publication. Could you describe for our readers, who may not be familiar with the specifics of the fight over sentencing policy in Washington, D.C., why it's important that the recommendations of the Advisory Commission be defeated? What is at stake?

Wilkins: What is at stake is a movement toward increased incarceration, because studies show that when you abolish parole, the amount of time that people spend in prison increases drastically. What we're trying to fight for in D.C., is abolishing parole in a way that does not increase incarceration, and trying to have this done in as fair a way as possible.

EIR: In the Public Defender Service's paper on this issue, which you co-authored, you called for a greater emphasis on rehabilitation in prison, and said that parole enhances the safety in the prisons and reduces recidivism. Could you expand on that?

Wilkins: We do think that a parole-based system is a better sentencing system than a truth-in-sentencing/85%-of-time-served-based system, for all of those reasons. A parole-based system encourages rehabilitation, because inmates have something to work toward, and it basically forces the prison system to have programs in a rehabilitative focus, because everything is geared toward those programs and the person having an opportunity to get out on parole.

When you get away from that, with the truth-in-sentencing system, where the person serves 85% of whatever the number is that they get, there's no more incentive toward rehabilitation, and prisons become more violent, and there is less of a focus on programs to help people deal with their educational issues or drug-treatment issues, or anger-management issues, or other issues that they have that will help them be responsible members of society.

I wish that there were some way to save parole in the District of Columbia, and have the parole system work in the District of Columbia. But Congress *required* D.C. to abolish parole, for a long list of 37 felonies, and this Commission decided that it would just make sense to abolish parole for everything, so that there would be one uniform system. I don't think that there's any way to stop that juggernaut at this point.

EIR: In response to your recent commentary in the *Washington Post,* City Council member Harold Brazil (D-At Large) implicitly accused you of playing a "race card" in Washington, D.C., by claiming that the new sentencing policy would especially harm African-Americans. Do you have any response to that?

Wilkins: I think that it's very unfortunate that he can't acknowledge that the laws that send people to prison have a part to play in these racial disparities, just as much as police practices and prosecutorial practices. He acknowledges that *they* play a role in these racial disparities, but refuses to acknowledge that sentencing laws play a role. The Leadership Conference for Civil Rights, the NAACP, Human Rights Watch, and lots of people are looking at these racial disparities and their association with sentencing laws and policy. I don't understand why there are certain people here in the District who refuse to acknowledge that association.

EIR: The Revitalization Act requires that 50% of D.C. prisoners be housed in private prisons. We've taken an editorial stand opposed to privatization of prisons for many reasons. You said in your commentary that, in this context, it shows that "crime *does* pay."

Wilkins: I think it's a national disgrace that Congress put a provision that requires a 50% market share of D.C. prisoners to [be housed by] the private industry. I personally think that prison privatization is a terrible thing. It's even worse to basically subsidize it by requiring the District to give 50% of its business to private prisons, especially when there's no evidence that these private prisons do a better job, or a cheaper job overall, of housing prisoners, than government-run prisons.

Especially since private prisons have been notoriously bad, in many instances of late, at doing this; and especially since private prisons have no incentive to provide rehabilitative programming or any type of programming or services that will take away from their bottom line, which is making a profit off of these prisoners. It's actually in their economic interest to get return business: to return people to the streets worse criminals than when they started out, so that they'll come back and keep their prisons full and expand their markets and expand the need for more prisons.

So, there's any number of reasons why this is terrible policy and a disgraceful policy, that's got to be reversed.

EIR: My last question is on home rule for Washington, D.C. You oppose what's being imposed on the District in terms of its sentencing policy by the Congress. How do you see the fact that the District is controlled in this, and many other realms, by Congress, affecting citizens lives in the District?
Wilkins: I think all of this is significant, because it's happening not at the behest of the will and consent of the people of the District of Columbia, but at the behest of Congress and a Congress that doesn't represent the people of the District of Columbia. That's very troubling, because a local criminal justice system has to reflect the values of the people and it has to reflect the values of the people of the District of Columbia. In any democratic form of government, at essence, has to operate at the consent of the governed.

So, you have neither one of those things operating here in the District. Abolishing parole and forcing prison privatization in all of these things—forcing sentencing guidelines—is not based on the consent or the will of the people of the District of Columbia. In fact, it's in direct contradiction to the consent and will of the District of Columbia. That erodes public confidence in the justice system and in the government in general. It's not only bad policy, but it creates a bad atmosphere and disrespect for the system, by imposing these types of draconian and ill-advised measures on people, against their will.

Louisiana Acts vs. HMOs, as High Court Backs Right To Kill

by Marcia Merry Baker and Brian Lantz

On June 5, the Louisiana state legislature passed a resolution against the managed-care system, citing the current health-care emergency, thus joining in what is fast becoming a national drive to roll back the 1973 law which allowed the creation of health maintenance organizations (HMOs), and to restore traditional American health care in the public interest. Over the last six weeks, similar state and local actions have been taken, or are in preparation, in Alabama, Pennsylvania, Michigan, Nevada, Ohio, and California. These initiatives reflect the changing mood in the nation, *to end,* and *not to amend* the HMO deregulation of health care. For example, a Cleveland City Council Resolution which passed unanimously on May 22, urged the local Congressional delegation to investigate HMOs, and "to legislate the abolition of such groups if they fail to provide adequate health care services" (the full text was in *EIR,* June 2).

In hostile opposition to this growing shift in the country, the U.S. Supreme Court handed down a decision on June 12, in the case of *Pegram v. Herdrich,* acting to protect the rights of HMOs to selectively deny and delay care, citing the *supremacy of private profit* as the justification. The court ruled that patients could not use the Employee Retirement Income Security Act of 1974 (ERISA) to sue their HMOs in Federal court for using financial incentives to ration care, because "inducement to ration goes to the very point of any HMO scheme," and because allowing the remedy of such suits would, in effect, "be nothing less than the elimination of the for-profit HMO." The court also has two more decisions pending on similar HMO cases.

The Supreme Court's unanimous decision concerned a case in which a woman whose HMO's cost-driven delay in providing tests led to a life-threatening ruptured appendix. The court said that patients could not sue HMOs in Federal court, just because the HMO's decision to cut costs had adverse medical consequences. Such a ruling, said Justice David Souter, would go against Congress's intent, expressed for the past 27 years, to use for-profit HMOs to cut medical costs.

In fact, the expression "ration care" in the Supreme Court decision, is a Nazi-style cover phrase for the *characteristic* practices of HMOs, which were set up from the beginning to selectively decide who gets what kind of treatment, no matter if harm and death will result. The background on the HMO