

Paul

poverty law **Report**

A REVIEW OF ADVANCES IN THE LEGAL RIGHTS OF THE POOR

Volume 3 Number 1

A publication of the Southern Poverty Law Center

March 1975

Joanne Little released

RALEIGH, N.C. — Joanne Little, a black woman accused of killing a white jailer last summer after he tried to rape her, was released on \$115,000 bail Feb. 26.

She had been held in the maximum security unit of the state women's prison here since she surrendered herself to authorities Sept. 4.

Miss Little will be tried on a first degree murder charge April 14 in Beaufort County. Conviction carries a mandatory death sentence.

Her attorneys — Jerry Paul and Karen Galloway of Durham, and Morris Dees of the Southern Poverty Law Center — have secluded her until trial. "Right now Joanne is resting and relaxing, trying to recover from her ordeal. She was under a tremendous amount of pressure, and she needs to lead an obscure life," Mrs. Galloway said.

"She needs to be in the right frame of mind, and this is the reason for all the secrecy."

Miss Little, 20, will be tried for murder in the ice pick stabbing of jailer Clarence Allgood last Aug. 27. Allgood's body was found in the Beaufort County jail cell where Miss Little was awaiting appeal of a breaking and entering conviction. Except for a pair of socks, Allgood was naked from the waist down. Miss Little had fled.

* * *

In June 1974, Miss Little was convicted of breaking and entering in connection with a rash of break-ins at trailer homes near Washington, the county seat of Beaufort County. Her brother, linked to the break-ins, turned state's witness and testified against her. She received a seven- to 10-year sentence and appealed.

Instead of being sent to the women's prison in Raleigh, which is customary, she was held in the Beaufort County jail in Washington, called "Little Washington" by its residents. She was to be there 81 days, until about 3:30 in the morning of Aug. 27.

Most of her time there, Miss Little was the only woman prisoner. The jailers were men, and all were white. One of them was Clarence Allgood, 62, who had taken a job at the jail after giving up farming and driving a gravel truck. He worked the night shift.

There was little privacy in Miss Little's tiny cell. A closed-circuit TV monitor was directly across from her cell, and she did not know when it was on or off.

Allgood had been giving Miss Little small favors, allowing her sandwiches after the deadline and getting cigarettes for her. In the early hours of Aug. 27, he decided to call in the debt.

He pulled out an ice pick he kept in his desk drawer. He took off his shoes and pants in the corridor and opened the door to Miss Little's cell. He stood there wearing only a plaid shirt, an undershirt and socks.

Brandishing the ice pick, he demanded she submit to him. She refused. They struggled in the cell. The 5'3" woman — who later said she acted instinctively — wrested the ice pick from Allgood and stabbed him until he fell away.

Frightened, she grabbed some clothing and fled the jail, leaving Allgood bleeding but not dead. "If I'd known he was going to die, I wouldn't have left him like that," Miss Little told her lawyers.

A policeman bringing in a drunk missed her by 10 seconds; she saw his headlights in time to hide behind a building.

Miss Little sought refuge at a cousin's house but was turned away. A stranger took her in and hid her for a week, until she could contact Jerry Paul and arrange to surrender. She lay under a feather mattress as police and sheriff's deputies searched — four times — the shack where she hid. Once she almost suffocated when an

officer sat on the bed, questioning the stranger for half an hour.

Law enforcement authorities sought to have her declared an outlaw, which under North Carolina law would allow any person to kill her on sight. Some advisers urged her to flee the country rather than stand trial.

Instead, she sent word to Paul that she wanted to turn herself in — on the condition she wouldn't be held in the Beaufort County jail. Elaborate precautions were taken, and on Sept. 4, Miss Little surrendered.

William C. Griffin Jr., the district attorney who will prosecute Joanne Little, submitted her case to a Beaufort County grand jury — never mentioning that Allgood's body was half-naked and not providing the jurors with a copy of the medical examiner's report which supports Miss Little's story of self-defense. She was indicted for first degree murder.

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Jill Kremenz

Miss Little (center) confers with attorneys Paul (left) and Galloway

Right to treatment is sought

JACKSON, Miss. — A right to treatment lawsuit charging state mental health officials with allowing abusive and dangerous conditions at the Central Mississippi Retardation Center was recently filed in federal court here.

The class action suit was filed on behalf of plaintiffs "John Doe" and Richard Roe," two Retardation Center residents who sued under fictitious names from fear that use of their real names would subject them to humiliation, intimidation and embarrassment.

Both plaintiffs are from very poor families, as are the overwhelming majority of the Retardation Center's residents. A Mississippi family of even meager means will beg, borrow, steal or scrape enough money to avoid sending a child to the Retardation Center.

The Retardation Center is adjacent to the Mississippi State Hospital at Whitfield, Mississippi's mental institution. The center houses 850 persons, almost 300 of whom are children of school age or younger.

The suit was filed by the Jackson-based Community Legal Services with the assistance of the Southern Poverty Law Center.

There are two wards in each of the center's 10 residential buildings. In each ward are about 40 iron cots less than two feet apart arranged in three lines. Inmates are placed in these wards without regard to their illness, degree of impairment, dangerousness, physical handicap or need for attention.

Children of all ages are kept in adult wards, and as a result, younger and more docile inmates are subjected to harassment, beatings and sexual

assaults by the more aggressive inmates.

The Retardation Center is grossly understaffed, unable to provide even minimally adequate supervision for inmates.

To serve all 850 inmates, there is only one psychologist and one medical doctor, shared with the adjacent Mississippi State Hospital, and one consulting psychiatrist, who has an additional full-time practice in Jackson.

Tranquilizers are administered to almost all patients by untrained attendants or sometimes even by other inmates. When attendants believe severe punishment is necessary for a patient, he or she is moved summarily to the maximum security unit at the Mississippi State Hospital where they are kept with inmates who have been transferred from the state penitentiary and with criminal defendants who have been found incompetent to stand trial.

The plaintiffs . . .

WHITFIELD, Miss. — John Doe, 21, was born severely retarded. Three years ago, two Hinds County doctors ordered him committed to the Central Mississippi Retardation Center here.

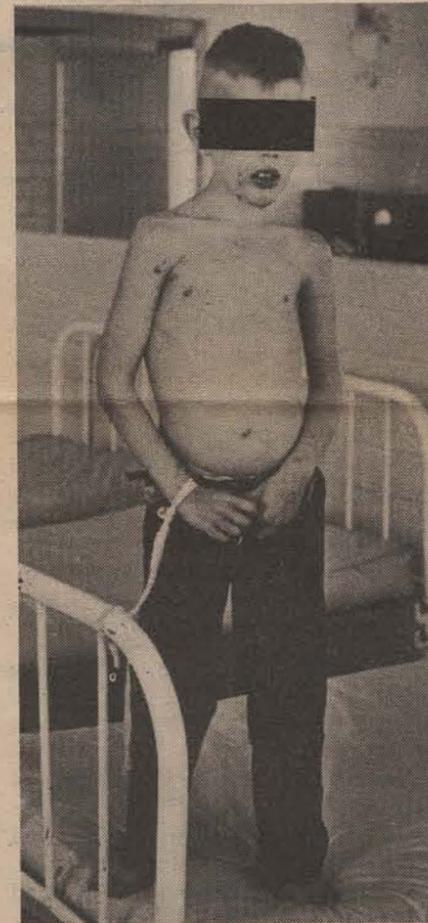
At that time John Doe could speak many words, communicate his needs, dress himself and control his bodily functions. Now, he has lost these abilities completely.

Although he has been incarcerated at the Retardation Center continuously since he became a patient there, he has never received any psychological evaluation or any other assessment of his needs. He rarely leaves his ward and receives no educational services or physical recreation. He has, however, been subjected to serious physical abuse — electroshock, beatings and excessive and unwarranted drugs. In November 1973, Doe's mother discovered his back was covered with large red welts, as if he had been beaten with a belt. In January 1974, she took him to the University of Mississippi Medical Center for a special examination because he seemed unusually sleepy and lethargic. Doctors informed her he had received an overdose of tranquilizers.

Richard Roe is also retarded, but an IQ test score of 61 places him well within the range of the educable mentally retarded.

But since his placement at the Retardation Center seven years ago, he has received no education services despite repeated requests by himself and his parents that he be taught to read and write.

With the exception of a short outdoor exercise period during fair weather, 22-year-old Roe has no supervised or planned activities. He spends most of his days wandering from ward to ward.



Wayne Cottingham

Mississippi retarded child is tied to bed

Sex discrimination is a police policy

MONTGOMERY, Ala. — A written policy of the Montgomery Police Department, entitled "General Duties of Policewomen," provides: "She shall perform such duties as may be assigned by her commanding officer which are best performed by a woman

. . ." This provision, together with other discriminating policies and practices, hopefully will fall as the result of a lawsuit recently filed by Southern Poverty Law Center attorneys.

The suit charges the Montgomery Police Department with discrimination against women in recruiting, hiring, assigning, and promoting employees and potential employees.

The plaintiff in the class action lawsuit is a 24-year-old woman who is employed as a clerk-typist with the police department. She applied for the position of policewoman in May 1974. (The department currently classifies policemen and policewomen separately.) The complaint alleges that she is fully qualified and has not been hired as a police officer solely on account of her sex.

Of the 316 sworn officers (excluding school patrol personnel) currently in the Montgomery Police Department, only 11 are women. This represents less than four per cent of the force. Moreover, of the 11 women officers, 10 are assigned to the Youth Aid Division. The eleventh is assigned to the complaint desk, although she has been with the department 10 years.

No female police officers serve in the patrol division, traffic division, detective division, administrative division, or on the bureau of special investigation.

Only one of the 11 female officers is in a supervisory position. She is a corporal, which is the lowest supervisory rank in the department.

Although the Montgomery Police Department, along with other city and county departments, is currently under a court order not to discriminate on the basis of race, this is the first suit against local officials charging sex discrimination. The race discrimination suit was also filed by Center attorneys.

Southern Poverty Law Center members and donors may have received more than one copy of recent fund-raising letters. Every effort is made to eliminate duplications from the mailing list used to solicit funds for Center cases and projects, but complete elimination of duplicates is impossible.

The Center uses mailing lists of organizations, magazines and other groups. Since Center supporters tend to be very activist people coming to the aid of many progressive causes, their names may appear on many lists. Without a computer merging of these lists, which is very expensive and time-consuming, there is no way to eliminate duplicates. When a Center member or donor receives more than one fund-raising appeal, we ask that the extra appeal be passed on to a friend.

Some members have written that multiple mailings seem a waste of funds. Experience has proven that it would be about ten times more costly to eliminate duplicates than to send extra appeals. This is especially true when Center supporters pass extra appeals to friends. One Center supporter received five identical appeals, passed them to five friends, and obtained five new supporters for an important Center case.

poverty law Report

Volume 3 Number 1

March 1975

The Poverty Law Report is published bi-monthly by the Southern Poverty Law Center, 1001 S. Hull St., Montgomery, Alabama 36101.

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'I can't stand to see nobody else cry'

RALEIGH, N.C. — As Joanne Little left the women's prison here last last month, she burst into sobs and fell into her mother's arms as a horde of reporters and photographers surrounded her.

Joanne is a small, shy, soft-spoken woman, and the events of the past months — coupled with the harsh glare of public attention — have been painful for her.

"I am only a lonely woman who tried to find herself. But it didn't take this — concrete, steel, bars . . . I walk in lonely tears," said Joanne in a poem written in prison.

Prison did not embitter Joanne, and despite her own fears, she spent her empty hours cheerfully helping others.

Her cellmate was a 46-year-old Indian, the mother of 11 children, who couldn't sleep at night. Joanne sat up with her. "I got so sleepy, my head ached, but I can't stand to see nobody else cry," she said.

The woman didn't know how to write, so Joanne tried to teach her. "I'd cut out a picture from a Christmas card and staple it beside a word. Sometimes I'd get her to write a page full of a word, but when I'd go back over it with her, she would have forgot it," Joanne said.

When the Christmas season arrived, Joanne volunteered to decorate her prison dormitory. She built the Nativity scene with cardboard, curtain rods, clothes hangers, toilet paper and pine straw. When she saw she had paint left over, she used it on her cell walls to discourage the roaches. The orange, blue, white and brown color scheme did not please prison officials, and she had to use steel wool to return

the walls to institutional green.

The monotonous prison days offered Joanne ample time to brood about her plight. But she chose not to pity herself, and turned to religion for comfort.

In her Bible she wrote: "This Bible was given to me . . . to help me endure the stress and hardships I was going through. It has helped me to make a lot of decisions and has comforted me when I had no one to turn to . . ."

"I'm no Christian or anything, but I (am) praying everyday and night that I may get closer to God . . ."

The trick to surviving in prison is to "keep the mind occupied to the fullest extent," Joanne wrote in a letter while in prison.

Joanne, the oldest of nine children, grew up in rural Beaufort County. She quit school at 15 but later attended a high school in Philadelphia, Pa., where she lived with relatives. When she returned home for her senior year at the Washington, N.C., high school, school officials told Joanne she would have to repeat a grade. "I wouldn't accept it," she said.

Instead, she worked in restaurants and a garment factory. "Then one night at home a bunch of people were sitting around talking, and somebody said you'd have to have some sort of trade or you couldn't make it five years from now . . . That's when I decided to try to learn sheetrock finishing," she said.

She worked for nothing to learn the traditionally male occupation, and she is proud of her success. She had begun earning a paycheck and was working in Chapel Hill and Raleigh when she was charged with breaking and entering.

The chain of events since has scarred Joanne's life forever. She has difficulty discussing her trauma, and sometimes finds it easier to express her feelings in her poetry. From "Joanne Walks with Dignity":

*I, a black woman, stood proudly up
for self.
For without pride, dignity, what is
there left;
I struggled in self-defense; now
I'm caged, behind a prison fence.
Is this the destination for all unfor-
tunate poor blacks —
Or is this the reason?
Let's look at the facts.
But I am a woman who did what I
thought was right,
Hoping now that law-abiding citizens
realize that we must fight;
So now I take my stand,
But I thank God I didn't fall into the
wrong man's hands . . .*



Raleigh News and Observer

Joanne Little

Indiana class action seeks bail reform

FORT WAYNE, Ind. — A class action suit seeking reform of Indiana's bail system was recently filed in federal court here. The suit claims Indiana's bail laws, similar to those across the country, discriminate against poor people because they have the effect of denying pre-trial release to indigents solely because of their inability to buy their freedom. If successful, the suit could set a legal precedent in eliminating America's unjust bail practices.

The suit was filed by Ivan E. Bodensteiner, an attorney with the Indiana Center on Law and Poverty at Valparaiso University's School of Law, with assistance from the Southern Poverty Law Center.

Plaintiffs Keith C. Mudd and Jerry Whitlow, both 19, are charged with burglary. They are in the Allen County jail here awaiting trial because they and their families are poor and could not raise the \$5,000 bond set for each by Allen County Circuit Court Judge Herman F. Busse. When they appeared in court in early January to request a bond reduction, they were told they could not be represented by a public defender if bond was lowered and met. Both men have been released on their own recognizance and met scheduled appearances, on a previous arrest. Their case, not unusual, illustrates how a system of "justice" works to oppress the poor.

The bail system was devised to allow the accused, who is supposedly innocent until proven guilty, freedom until conviction or acquittal, while simultaneously securing the appearance of the defendant. Under Indiana law, as in other states, all offenses except murder and treason, when proof is evident or the presumption strong, are bailable.

In Indiana, as elsewhere, the accused may post bond in three

ways: by pledging property equal to the amount of bond; by paying the full amount in cash or bonds; or by paying a premium rate to a bail bondsman who insures the amount. In addition, a defendant may be released on his own recognizance; that is, allowed to go free on his word that he will present himself in court at the time of his trial.

In Allen County, a peculiar injustice exists. If a defendant is charged in the county's Superior Court, he may be released on his own recognizance under a special program operated by the Bail Services of Allen Superior Court. If a defendant's case is processed in Allen County Circuit Court, he may not participate in an "own recognizance" program because none exists. The two courts have concurrent jurisdiction, and the choice of court in which a case is processed is entirely at the prosecutor's whim. As a result, a defendant charged with burglary in Superior Court will likely be released until trial without posting bond. If he happens to be charged in Circuit Court, bond must be posted. If the defendant is poor, his only choice is incarceration until trial.

Statistics prove that pre-trial detention has a detrimental effect on the disposition of a defendant's case. A New York study found that 57 per cent of persons released on bail were not convicted while only 27 per cent of those detained were not convicted. A recent study of Montgomery, Alabama, municipal Court convictions revealed 58 per cent of persons who made bond were fined and only six per cent were sentenced to jail. Only 14 per cent of those who did not make bond were fined, and 37 per cent were sentenced to jail. The remainder were bound over to the grand jury, acquitted or their cases otherwise disposed of.

Little released

(Continued from page 1)

Bail was set for \$100,000. Her breaking and entering bail was \$15,000. Because she was indigent, there was no way Miss Little could buy her freedom through a bondsman. Or pay for a proper defense.

Georgia state senator Julian Bond, president of the Southern Poverty Law Center, learned of her case and quickly offered to help. Through an appeal to concerned persons across the country, the Center raised money for her bail, and funds for her defense — expected to run into thousands of dollars — have begun to come in.

Paul, Mrs. Galloway and Dees are working without fee for Miss Little.

Despite the national attention which has focused on Miss Little's case, the attorneys do not see her case as a political trial. "An Angela Davis, she is not," Paul said.

Rather, the attorneys view the forthcoming trial as a test of a poor person's basic legal rights.

"In cases of political crimes — for example, Angela Davis' case — large numbers of people come together and make a defense. But what about the ordinary people, the average defendant? How do we bring justice to 99 per cent of the people facing justice

in this country?" Paul says.

In the Joanne Little case, he said, "We start out with that kind of a defendant."

Griffin, the district attorney, has no sympathy for Miss Little's case and intends to fight for the death penalty. He is a strong advocate of capital punishment, seeing the death penalty "not as a deterrent, but as punishment."

Miss Little's attorneys have been denied one motion to move her trial from Beaufort County, but they intend to file another before April 14. "It'd take then five minutes to convict her down there," Paul said. He says racist feelings are running so hot in Beaufort County that a fair trial is impossible.

* * *

Though not a "political" case, Miss Little's plight does raise several important issues: the discriminatory use of the death penalty against poor people and blacks; the selection processes which fail to produce juries of true peers; the right of a poor person to an adequate defense; the right of a woman to defend herself against rape.

In addition, her case will help bring to light the barbaric conditions suffered by women in American prisons.

(Continued on page 4)

New trial won for N.C. men

TARBORO, N.C. — Southern Poverty Law Center attorneys have won a major victory in their struggle to free three young black men sentenced to die for the rape of a white woman. On Jan. 31, the North Carolina Supreme Court threw out the three's rape conviction and ordered a new trial.

The reversal came on an error made by the prosecution during jury selection.

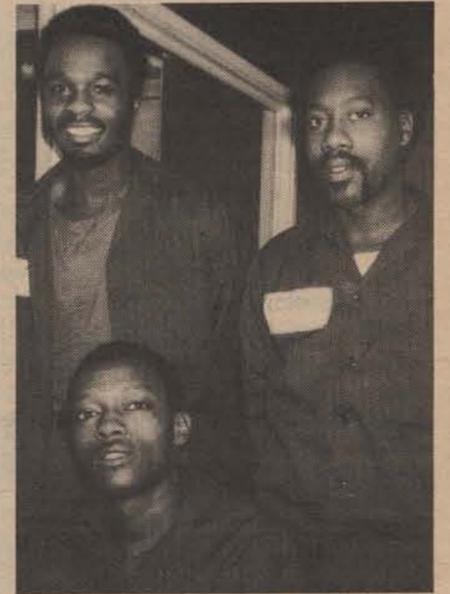
Jesse Lee Walston, 24, Vernon Brown, 23, and Bobby Hines, 25, re-

ceived a mandatory death sentence after their conviction in December 1973. They were confined for over a year in North Carolina's death row pending the outcome of their appeal. Friends since childhood, the three men are now in the Edgecombe County jail in their hometown here awaiting a new trial. It has been set for April 14.

Walston, Brown and Hines will again face the death penalty, this time with a cruel twist added. Since their 1973 conviction, the North Caro-

lina legislature has revoked the death penalty for rape where life is not threatened. But it has refused to make the new law retroactive. As a result, the three young Tarboro men now face execution for what is no longer a capital crime.

North Carolina leads all other states in the number of prisoners sentenced to die. As of Jan. 1, 69 persons awaited execution there. Nearly two-thirds of that number are black males. Two are women. All, as on death rows elsewhere, are poor.



Morris Dees

Brown (l-r), Walston, Hines

Holder-in-due-course upheld

NEW ORLEANS, La. — The U.S. Court of Appeals for the Fifth Circuit here has refused to hold an Alabama holder-in-due-course law unconstitutional. The decision means that a group of black Eufaula, Ala., homeowners victimized by a dishonest house repair contractor must continue to make payments on the shoddy work.

Southern Poverty Law Center attorneys filed a suit on behalf of Robert L. Hardy and other impoverished families in the small southeastern town of Eufaula. Their homes were subjected to foreclosure when a crooked building contractor sold their

mortgages to a Florida banker and skipped town without completing the work he had contracted to do. The holder-in-due-course law absolves the banker of responsibility for the defective work.

The homeowners stopped payment on their mortgages and J.C. Gissendaner of Gissendaner Mortgage Co., who bought the mortgages from contractor William Bell, threatened them with foreclosure. They filed suit asking the court to overturn Alabama's holder-in-due-course law which protects creditors like Gissendaner. U.S. District Court Judge Robert E. Varner of Montgomery denied their request,

and the appeals court agreed with his decision.

Center attorneys will appeal the ruling to the U.S. Supreme Court.

The plight of the black homeowners came to the Center's attention through Mrs. Viola Hart, one of those whose home was threatened by foreclosure. Mrs. Hart, 71, died last year, but because of the litigation, she was able to live out her life in the home she struggled 30 years to buy.

Forty-six other states have holder-in-due-course statutes identical to Alabama's, and poor people in those states often suffer results like the Eufaula homeowners.

Harris is sentenced to die

BAY MINETTE, Ala. — An all-white, all-male jury has found Johnny Harris — a black life-term prisoner — guilty of first degree murder after a week-long trial here. It is a verdict which automatically calls for his death in the electric chair.

Southern Poverty Law Center attorneys, who represent Harris, have appealed the verdict, and Harris' execution has been postponed.

Harris, 35, and four other black inmates were charged with murdering a white guard during an uprising at Atmore Prison Farm's segregation unit on Jan. 18, 1974. Already serving a life term, Harris was the only one of the five eligible for indictment under a century-old, seldom-used death penalty statute.

He is the first Alabamian to be sentenced to die since the U.S. Supreme Court's 1972 capital punishment ruling. Alabama's last execution was in January 1965.

Under an 1868 Alabama law, any person serving a life term must be sentenced to die if he is convicted of first degree murder. Until the state legislature enacts a new death penalty code, it is the only way a person can be sent to death row in Alabama.

None of the other four inmates charged with stabbing the guard to death were serving life at the time of the incident, and thus none of them qualified for indictment under the death penalty statute. Three of the other four have been tried and convicted on a lesser murder charge. One awaits trial.

Alabama Attorney General William J. Baxley, a young man who aspires to be Governor, is a strong law-and-order man and a firm believer in capital punishment.

Baxley chose to make Harris' case a test of Alabama's capital punishment law, and he personally prosecuted at the trial.

Center attorneys won a change of venue for Harris, and they were able to have a racist circuit court judge disqualified from hearing the case after he made a racial slur in open court. Their protests against the all-white jury, however, went unheeded.

Baldwin County, the site of Harris' trial, has an 18 per cent black population. Only four of 120 persons summoned for possible jury duty in the Harris case were black. Baxley systematically struck each of them during jury selection.

During last month's trial, the Atmore warden testified he saw Harris actively participating, knife in hand, during the 1974 riot. However, in a 15-page statement given to a state investigator a year ago, only a few weeks after the incident, the warden never mentioned Harris. He did name several of the other inmates charged with murdering the guard.

A white guard, who was captured and wounded by inmates during the uprising, in his testimony placed Harris in the cell where the other guard was later found dead, and said that Harris was there at the time inmates killed the guard. Yet the guard, who said he had known Harris longer and better than any other inmate in the

segregation unit, failed to put Harris at the death scene in his statement given to the investigator 30 days after the disturbance.

Instead of attempting to tie Harris to the facts of the case, Baxley spent much of the trial dramatically describing scenes of hard-core black revolutionaries at work inside Atmore prison. Despite the warden's testimony that Harris was no part of any revolutionary group, Baxley tried to imply that image to the jury through innuendo.

'Don't free that nigger'

"Help him strike the jury, but don't help him free that nigger."

The speaker was Baldwin County Circuit Court Judge Telfair J. Mashburn. The scene was his courtroom. The "nigger" was Johnny Harris, a black man on trial for his life.

The remark came as Mashburn directed a local lawyer to assist Southern Poverty Law Center attorney Morris Dees in jury selection for Harris' trial. When Dees later asked Mashburn to remove himself from Harris' case, the silver-haired judge protested he was "only joking" when he made the racial slur.

No one thought Mashburn's "joke" was very funny. The Alabama Criminal Court of Appeals, after hearing the south Alabama judge attempt to explain himself, ordered him to step down from the case.

Mashburn never denied the accuracy of the quote, though he did maintain he had said something closer to "Negro." He said he was merely telling the local attorney that his job was to help select the jury and not anything more.

"If I was going to pull some nefarious action to get somebody convicted," Mashburn told the appeals judges, "certainly I wouldn't do it in the presence of the attorney. I'd do it in the privacy of my chambers."

Indiana

(Continued from page 3)

A San Francisco study showed 71 per cent of persons detained were convicted while only 43 per cent of those released were convicted. All studies found that this discrepancy was not contingent upon such factors as the seriousness of the charge, weight of evidence, aggravated circumstances, prior criminal charges, personal history and amount of bail.

If a defendant is jailed, he is unable to assist his attorney in locating needed witnesses and encouraging them to testify in his behalf. Physical custody pending trial may have a negative psychological effect on a jury; a defendant escorted by jail guards already appears "guilty."

Bail is not even the best means to insure the appearance of the accused for trial. Those released on their own recognizance are just as likely — if not more likely — to appear for trial. In Allen County itself not one of 136 individuals released on their own recognizance in 1974 have yet failed to appear for trial.