

The Education Of Willie Ferguson

At 20, when this photo was made, Willie Ferguson (left) was in the Montgomery City Jail. The theft charges he faced meant nothing to Willie, who cannot read, write, hear or talk. Willie can learn, but incredibly he reached adolescence without having received any special education. By that time he was considered a behavior problem, and the state school for the deaf couldn't help him. Southern Poverty Law Center staff attorney Ira Burnim (right) filed a lawsuit which removed Willie from jail and sent him to Texas to a special school where he is turning into a star pupil. The lawsuit will also result in a program inside Alabama for other children with handicaps similar to Willie's. See story, page 4.



Bill Stanton

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KLANWATCH
**Intelligence
Report**

Arguments against a federal death penalty

EDITOR'S NOTE: The following article is adapted from remarks prepared for testimony before the U.S. House of Representatives Subcommittee on Criminal Justice, which has been holding hearings on a proposed federal death penalty. At this writing, it did not appear that the measure would be adopted in the current session.

By JOHN L. CARROLL

Mr. Chairman and Members of the Subcommittee, I am the Legal Director of the Southern Poverty Law Center in Montgomery, Ala. The SPLC is a privately funded, non-profit, public-interest law firm which seeks to protect and advance the legal rights of poor people and minorities.

Since 1976, when the United States Supreme Court handed down its decisions clearing the way for the resumption of executions in this country, the Poverty Law Center has represented numerous capital murder defendants at all levels of our judicial system. I personally have appeared in more than two dozen capital cases and currently represent seven defendants on appeal.

In addition to direct representation, the SPLC's death penalty defense efforts have been directed toward developing trial techniques and strategies which can help the average lawyer do a competent job in a capital case. I and other SPLC attorneys regularly lecture at seminars and conferences such as those conducted by the National College for Criminal Defense. I am the co-author of "Trial of the Penalty Phase" and "Motions for Capital Cases," which are two of the most widely used reference manuals for death penalty defense today. I have also written articles in legal journals on the trial of the capital case.

The experience and other study I have just related leads me here today to speak in opposition to the death penalty provisions of H.R. 5679.

It is my understanding that this Body has already heard or will hear testimony discussing in detail some of the powerful moral questions bearing on whether or not



CARROLL

Randall Williams

we as human beings shall assume the awesome responsibility of deciding who shall live and who shall die, as well as some of the more technical, even "practical" aspects of this question, such as whether or not the death penalty is a deterrent to future crimes.

For that reason, I have chosen to address just four problem areas which, in my opinion, clearly demonstrate that no death penalty law can ever be fairly administered, that no matter what kind of legislation is passed, no matter what steps Congress takes to remove capriciousness and arbitrariness from the capital process, inequities will still remain. Briefly, these four areas of concern are the matters of race, finances, lawyer competence and human error. I will address each in turn.

Race

The first problem is the old spectre of race. It continues to haunt us, especially in the South. In Florida, to take an example where important recent research has been conducted on this question, an individual is seven times more likely to be executed if his victim is white than if the victim is black. (See Criminal Justice Issues, Commission for Racial Justice, United Church of Christ, March 1982.) Several other recent studies in Florida indicate that, of the total number of persons arrested between 1973 and 1977 for committing a murder during a felony act, 31 percent of those persons with white victims were sentenced to death, while only 1 percent of those with black victims ended up on death row.

When the figures are broken down even further, they show that 47 percent of the black persons with white victims were given the death sentence, while only 24 percent of the whites with white victims were sentenced to death, and but 1 percent of the black-on-black incidences resulted in a death sentence. At the time of the study, no one could even remember when a white assailant with a black victim had been given the death penalty.

(Since these studies were released, two prosecutors have asked for and received death verdicts in such cases, but the judge in one case immediately decided that the verdict was unwarranted and decreased the sentence to life in prison. For more information, see Zeisel, "Race Bias in the Administration of the Death Penalty: The Florida Experience," *Harvard Law Review*, Vol. 95, No.

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Conference airs problems of the poor

The threat of chemicals in the workplace, the economic struggle for survival of pulpwood cutters, and the burden of regressive tax systems on the poor were just a few of the topics discussed at a unique conference hosted by the Southern Poverty Law Center in late March.

SPLC staff attorneys had organized the conference hoping to hear from representatives of grass roots level organizations about problems facing poor people which might be solved by fresh legal approaches. In conversations spread over two days, plenty of problems were aired and many ideas were tossed around.

"The conference turned out to be what we thought it would, a good opportunity for the Center's legal staff to get together with leaders in the grass roots movement to find out about today's problems, particularly in light of cutbacks. We wanted and got a good base from which to start seeking legal solutions," said SPLC Legal Director John Carroll.

For example, Dub Gulley of the North Carolina Occupational Safety and Health Association (NCOSH), gave a sobering analysis of "slow death," the gradual disability of workers due to exposure to harmful chemicals over a lifetime of work.

"We use over 200,000 chemicals in the workplace today and we have standards — which means serious knowledge — for about 2,000. That's 1 percent," he said.

Gulley said that often the employees who work at the poorest paid and dirtiest jobs suffer the most. He said it might be 20 or 30 years before the health problems really show up, before the worker begins to say, "I can't breathe anymore. My lungs are scarred over because of the asbestos I

was asked to work around in the shipyards."

His comments, as did most of the presentations during the conference, touched off a spirited discussion of the types of legal action that might protect workers on their jobs — as well as those, usually poor people, who live in areas adjacent to factories.

"We're not a legal aid organization or a political group," noted SPLC co-founder Morris Dees. "But one of the things we look for is a way to pioneer a legal theory, to use the law in a way to shape public policy and industry. Sometimes there's a way to merge the law and politics to affect the community."

Such an example was given by another speaker, Tom Israel of the Southern Woodcutters Association. The 1,200 Mississippi members of Israel's organization are among the poorest of all American workers, earning an average of \$7,000 annually at backbreaking, dangerous jobs.

Through a combination of effective organizing and shrewd political action, the Woodcutters Association recently won passage of legislation which sets standards for the way woodyard managers, who are essentially labor contractors, measure the wood brought for sale by the pulpwood cutters.

Prior to passage of the legislation, pulpwood cutters were routinely cheated of as much as 20 percent of each load they hauled, Israel estimated.

Most people are surprised to find, he said, that timber is one of the biggest industries — and projected to get bigger over the next two decades — in the South. He said timber is both the largest provider of manufactur-

ing jobs and the largest crop in Mississippi.

Yet the 15,000 people who work in the woods harvesting this crop exist in a modern version of sharecropping. They are usually dependent on the woodyard dealer for loans to buy their saws, battered trucks and supplies, and must accept the price he offers for the wood they cut.

Because the giant paper companies who buy the wood from the woodyard do not directly employ them, the woodcutters are not eligible for company-paid social security, workmen's compensation, medical insurance and other benefits.

The lack of these benefits is significant in an industry whose tools include sharp axes and unshielded saw blades. "It's rare to go to a meeting of our association where everybody has all his fingers," Israel said.

Other speakers drew similar portraits of problem areas for the poor and needs which seem especially great at this time.

The SPLC attorneys said they obviously could not hope to bring litigation in all the potential areas mentioned. But the discussions generated ideas and established contacts which could lead to cooperative work for the future.

Other participants in the conference were Barbara Majors of the Survival Coalition, New Orleans, La.; John Brown, Jr. of the Southeast Alabama Self-Help Association, Tuskegee Ala.; Bill Edwards of the Alabama Coalition Against Hunger, Auburn, Ala.; Sophia Bracy Harris of the Federation on Community Controlled Day Care, Montgomery, and Lavonette Cromartie of the Southern Rural Women's Network, Jackson, Miss.

Prison overcrowding contributes to parole controversy

One of the most controversial prison-related matters in Alabama in recent years has been the parole to another state of Richard Mark Ellard, a twice-convicted murderer and rapist.

Ellard was not actually released from prison. He was serving a life term in Alabama, but had also been convicted and given a life sentence in Georgia. Because of serious prison overcrowding in Alabama, the Board of Pardons and Paroles granted Ellard's parole — he had served nine

years — so he could be released to Georgia to begin serving his life sentence there.

Soon after Ellard was transferred to Georgia, the Alabama attorney general, who is running for reelection this year, set up a public outcry against the parole board. He threatened to sue the board unless it revoked Ellard's parole and returned him to Alabama.

In the process, the attorney general virtually halted the release of any other prisoners by parole from

Alabama's bursting at the seams prisons.

At that point, the issue became important to the Southern Poverty Law Center, which represents the class of Alabama prison inmates in an on-going lawsuit about prison conditions, including overcrowding.

Alabama's prisons have been so neglected for so long that U.S. Dist. Judge Frank Johnson ruled them unconstitutional in 1975. In the most sweeping orders ever issued concern-

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Deaf youth advances in special school

Nine months ago, 21-year-old Willie Ferguson had the communication skills of a toddler. Because he was born deaf, he never learned to speak. And because he somehow slipped through all the cracks in the educational system, he never learned to use sign language or to read or write.

Today Willie knows approximately 500 words of sign language, all learned at a special school in Texas where he was placed as the result of a lawsuit by the Southern Poverty Law Center.

Under the terms of an agreement reached in early May with the State of Alabama, Willie will be allowed to stay at that school at least through the end of 1982. SPLC staff attorney Ira Burnim thinks that may be the first time Alabama has ever agreed to provide such special education services beyond the age-21 cutoff without a federal court order forcing it.

In his 21 years, Willie has had more attention from Alabama's criminal justice system than he has from its educational system. By the time Willie first came to the attention of the latter, he was an adolescent with behavior problems.

Alabama has a school for blind and deaf children — the Helen Keller School at Talladega — but Willie's behavior there got him kicked out. The school could not handle a young man who knew his way around the streets but had missed out entirely on "socialization."

Back home in Montgomery, Willie liked to go bike riding, and when he was ready to go he would take any bike nearby. Eventually he graduated to cars. A person who has been socialized would recognize Willie's behavior as stealing. Only Willie knows what he thought about it, but by mid-1981 he faced four felony charges.

Burnim argued that Willie couldn't be tried in a court of law, because he couldn't understand the charges against him. Willie's problem is not that he is stupid, but that he simply never learned to communicate.

Burnim figured the State of Alabama owed Willie an education rather than a prison sentence and he filed a lawsuit to that effect against the Department of Education. A judge agreed and by mid-1981 Willie was at the Ranch Treatment Center in Austin, Texas, which has a program for "young people with behavior problems and skill deficits that

other institutions can't handle."

The recent agreement simply extends Willie's stay there and commits the State of Alabama to developing a similar program for him in his home state. Burnim said other children with handicaps similar to Willie's will then benefit from his lawsuit.

According to Vicki Todaro of the Ranch Treatment Center, Willie was asocial, not anti-social. "He had never experienced the explanations

tolerance level is like that of a five-year-old."

Life on the Ranch is not all work. After six weeks of training, Willie recently went on a wilderness survival camping trip — and caught a four-pound carp. He has also won three ribbons in various running events at Special Olympics competitions.

To his friends at the Southern Poverty Law Center, one of the most



Willie Ferguson, on a Texas-bound airplane in 1981.

Ira Burnim

of how the world works and what is expected in the way of acceptable behavior the way a hearing child would," she said.

"He's made close to phenomenal communication progress. When he came here, all he had was meaningless gestures — a wild throwing about of the arms mixed with some homemade signs he had picked up," Todaro said. "He would vocalize very loudly, and even used appropriate inflections of tone and facial gestures. He thought he was communicating, but of course he wasn't, and that was extremely frustrating to him."

The Ranch staff treated Willie by first getting him to trust them, and then he was gradually involved in more and more learning experiences. "During the last eight months, he's learned sign language about as quick as you can expect from anybody," Todaro said.

He has also participated in vocational workshops, though the point is not to "provide a real-world job skill as much as it is basic job behavior, things like showing up on time, staying on the assigned task and accepting criticism. He's had nothing but good reports though his frustration

amazing things about Willie's stay at the Ranch Treatment Center has been the discovery that with a hearing aid he can distinguish sounds.

But, Todaro said, hearing doesn't mean instant understanding. "He's never heard sound before, so all he hears now is a lot of noise. To Willie, it's a big blooming confusion out there. From infancy the rest of us began learning sound discrimination, how to tell important sounds from those that aren't," she said.

Willie must thus learn sound discrimination. He listens, for instance, to tapes of alternating dog and train noises and gradually learns to distinguish between them. Todaro said he will require several years of that type of training.

At his current pace, Willie will become more and more socialized. He will be gradually prepared to move into a group home.

"It takes a long time when you're dealing with people who have lost so much," Todaro said. "But when you consider someone like Willie who could have ended up in prison or who might have been shot in the back because he couldn't hear a policeman yell for him to stop... I think he's pretty remarkable."

Arguments against a federal death penalty

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2, December 1981, pp. 456-468.)

Other statistical studies indicate that the Florida example is the rule and not the exception. One study of those on death row in Georgia, Texas and Ohio, as well as Florida, from 1973 to 1977 suggested that blacks who killed whites were 18 times more likely to receive the death penalty as whites who killed blacks. (See article by Drs. William J. Bowers and Glenn Pierce in the October 1980 issue of *Crime and Delinquency*.)

Such research speaks for itself, but I can also bring you first-hand testimony that black defendants in the South generally have a far tougher row to hoe than do white defendants charged with similar crimes. Even the handling of jurors by judges and prosecutors is substantially altered when the defendant is black. Throughout the South, prosecutors in cases where the defendant is black and the victim white routinely use their peremptory challenges to remove blacks from the jury panel, thereby insuring that the black defendant is tried by an all-white jury. There is no reason to assume that federal prosecutors in Southern jurisdictions will act any differently.

Finances

The second problem I would like to address is that of money. Simply put, few defendants can afford adequate representation in a death penalty trial. Presently 18 U.S.C. § 3006A, commonly referred to as the Criminal Justice Act, provides for fees for appointed counsel and money for certain types of expert witnesses in federal criminal cases. But this law is inadequate to allow an indigent or even a working- or middle-class person the resources that he must have if he is to receive fair treatment at the hands of the law. I remind you that a death penalty trial is unlike any other legal proceeding and from the defense standpoint is extremely expensive.

These cases require large amounts of lawyers' time and a battery of assorted experts if the trial is to be more than a mere formality. At a minimum, I regularly hire investigators and use paralegals to track down documents and witnesses that may be important in fashioning the proper defense for a client. I also regularly hire jury selection experts who help me choose jurors who will give the defendant the fairest trial possible.

In addition, it is sometimes necessary to engage expert help — fingerprint and ballistics specialists, pathologists, crime scene analysts and the like — to assist with the analysis of the state's physical evidence. This assistance, in my experience, can make or break a case.

Finally, depending on the circumstances, it is often necessary to hire other experts to help with selected aspects of the case. I routinely use sociologists to conduct surveys of community attitudes when a change of trial venue (location) is required, as it frequently is. And, in almost every case that comes to mind, I have asked psychologists or psychiatrists to interview the defendant and give me a report on his background and his current mental condition.

None of these experts should be viewed by judges or by this committee as a sort of legal "luxury" requested by defense lawyers just for the sake of doing so. Such experts are routinely used in complex civil and non-capital criminal trials where the defendant has the means to retain top

Mental facilities trial nears

SPLC attorney Steve Eilmann is preparing to go to trial in August in the massive lawsuit involving conditions in Alabama's mental illness and mental retardation facilities.

When this case was first filed a decade ago, then U.S. Dist. Judge Frank Johnson ordered the State of Alabama to provide decent care and treatment for its mentally ill and mentally retarded citizens.

Eilmann has been supervising a small army of experts and paralegals who have been gathering evidence which indicates that despite the court order the standards set by Johnson have still not been met.

At stake is the future welfare of over 2,100 mentally ill persons and 1,500 mentally retarded persons in Alabama institutions.

Inmate beating trial set

Trial has been set for July 19 in a lawsuit by the Southern Poverty Law Center involving the alleged beating by prison officials of Charles Bracewell, a death row inmate in Alabama.

Besides Bracewell and the prison officials, the only witnesses to the incident are other death row inmates. A judge has denied an SPLC motion to have those inmates brought to court to testify, but he did order that depositions of the inmates could be taken.

law firms and to pay for whatever assorted courtroom help the lead counsel needs to do the job. If an executive, to give one example, needs to defend himself against a securities violation charge and a possible five years in jail, the experts are hired. To do less for a capital defendant who happens not to be wealthy clearly implies a double standard for our criminal justice system.

My point in going through all of this is to impress upon you the fact that, if a person on trial for his life is to be treated fairly, the trial of the case is just as expensive for the defense as it can be for the state — and perhaps more so. If the defendant is indigent or has limited means, as almost all capital defendants do — and this is another matter that I would be glad to discuss in further detail later on — who is to pay for this? If the federal government, in the case of a federal death penalty trial, refuses, then the case must continue to be tied up for years in the various federal courts while the appellant's lawyer seeks justice for his client.

Since *Gideon* it has been the law that a defendant in a criminal proceeding must be provided counsel if he cannot afford it. But I say to you, as one who has tried numerous death penalty cases, an appointed lawyer in a capital case has his hands irrevocably tied if he does not have the funds to obtain all necessary experts. The Criminal Justice Act provides for the appointment of expert witnesses, but it leaves such appointment totally within the discretion of the courts and limits the fees that are available. Some courts might well refuse to allow such appointments. In addition, though there is a provision of the law which allows experts to be paid more than the statutory maximum, some courts may be unwilling to fund experts in the amount that is necessary.

United States v. Eagle, 586 F. 2d 1193 (8th Cir. 1978), is a good example of the problem. In *United States v. Eagle*, the defendant requested the appointment of a sociologist to prepare a survey concerning prejudicial publicity. Although there was strong evidence that such a survey

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Lawsuit alleges race, sex discrimination

Alicia Smiley is a black civil service employee at Maxwell Air Force Base in Montgomery. In 1980, she applied for an opening for a higher-level job there. Her superiors, however, discouraged her from applying and gave inside-track information about the job to a man.

Willie Kemp is a black civil service employee at Gunter Air Force Station, also in Montgomery. Previously, Kemp was a "mason leader," but that job classification was downgraded and he was made a "work authorization clerk" though some white work leaders affected by the same program shifting either retained their work leader jobs or were assigned to other leader positions.

Smiley and Kemp are now named

plaintiffs in an employment discrimination lawsuit against the U.S. Air Force. The lawsuit, in which they are represented by Southern Poverty Law Center staff attorney Dennis Balske, is a class action on behalf of all blacks and women who have suffered racial and sexual job discrimination in civil service Air Force jobs.

The case will be heard by U.S. Dist. Judge Myron Thompson of Montgomery.

Balske said the Air Force has attempted to improve its hiring and promotion practices with regard to minorities and women, but the improvements have been "too little and too late."

He said the Air Force has con-

tinued employment practices which give job advantages to whites and males, with the net effect that disproportionately few blacks and females are employed in middle-level and upper-level wage grade and wage supervisor positions at Maxwell or Gunter.

Blacks and women, he said, are not given the same consideration as whites and males in training, hiring, promotion, and assignment, and blacks and females are often paid less than whites and males who do identical work.

The lawsuit, styled *Smiley v. Maxwell-Gunter Personnel Office*, is now in the discovery (of evidence) stage.

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would have been beneficial to the defendant, the court applied a restrictive standard and decided that the appointment was not necessary. This is a serious problem in capital cases.

After the fact, it may be difficult to convince an appellate court that the expert might have made the difference at trial. If Congress intends to rely on the Criminal Justice Act to overcome the inherent financial disadvantage of the defendant, then Congress must pass supplementary legislation to establish safeguards that will ensure that the provisions of the Act are interpreted and applied in a way that reflects Congressional intent.

In fact, it should probably require that the state demonstrate beyond a reasonable doubt that an expert requested by the defendant is not necessary.

I don't really have to tell you that, among a not inconsiderable portion of our population, there is a perception that money buys justice (or injustice, as the case may be). In the capital case, I believe, we may be approaching a point where money buys life itself.

Lawyer Competence

It is a fact that very few lawyers in this country are qualified to do death penalty defenses. I participate, along with other specialists, in numerous seminars to teach people how to try death penalty cases because there are substantial differences between capital trials and regular non-capital criminal trials.

In addition: in most jurisdictions, the good, really top-flight lawyers are never appointed to criminal cases. Young, inexperienced attorneys are almost always those appointed to represent capital defendants. Thus, there is a serious problem with lawyer competence in capital cases.

Even legislation which would require certain qualifications for an attorney before he would be eligible to try a capital case is a less than perfect solution. Frankly, the wide variance in the abilities of lawyers makes it impos-

ible to ensure that a capital defendant is always going to get a competent lawyer. Obviously, the problem of competency exists in other types of legal practice as well, but in no other cases is the client's life on the line as it is in a capital case.

Court application of present standards for ineffective assistance of counsel is also not a solution. Those standards presently mean that a defendant whose lawyer does an incompetent job will get a new trial. However, the standards of incompetence are so rigid that only a few cases can be, or are ever, reversed under those standards. That leaves the serious problem of a capital defendant whose lawyer really is incompetent to try his case but is not legally incompetent.

One of the SPLC's own cases is a good example. Several years ago we agreed to represent on appeal a pair of brothers who had been convicted of capital crimes. The attorney for one of the defendants was a lawyer who specialized in title and other real estate work. Alabama has a requirement that a lawyer appointed to a capital case must have been practicing for five years, and this lawyer met that standard. However, his thousands of case files contained less than 100 hours of work for criminal defendants and he had never handled a murder case. He was, by the standards of the legal community and in my own judgment, a competent, perhaps even better than average attorney. Yet he made mistakes in the capital trial which prevented his client from receiving due process of law.

Again, unless and until Congress can somehow insure that every capital defendant gets the best possible lawyer, the system for administering capital punishment is going to be arbitrary.

Human Error

Finally, my last point is that we can't escape the possibility of error in handing out death sentences. In 1975, a black 15-year-old Louisianan was arrested for rape and subsequently convicted and sentenced to death (he was later resentenced to 20 years when the Supreme Court ruled that death was an impermissible punishment for rape).

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KLANWATCH

Intelligence Report

May/June 1982

Racists seek elected offices

Even in a pluralistic society like ours, it is frightening to consider the possibility that Ku Klux Klan members or sympathizers might be elected to positions of trust and responsibility in our political system.

But that apparently will happen in a few months when past supporters of Klan policies in California are virtually assured of election to at least several positions on Democratic Central Committees in southern California.

All around the nation, in fact, a large number of candidates linked to the Klan are running for offices ranging from U.S. Senate to Sheriff. As we have noted before in the Intelligence Report, Klan candidates are nothing new on the American politi-

cal scene. Klan leaders held governorships and many other offices in the Klan heyday of the 1920s. And in the South in the late 1950s and the 1960s, it was not unusual for local political leaders to be open or secret members of the Klan or, more likely, the local White Citizens' Council.

This type of Klan candidate — those who at first glance seem normal members of their local community and try to downplay their Klan links — can still be found today. In addition, though, a new type of candidate has appeared: the out-and-out societal misfit who is running as a publicity stunt.

Neither type of candidate should be ignored, but usually local condi-

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ELECT



James (Jim) M.
STONE
SHERIFF of
COLBERT COUNTY

Willing To Serve

James Stone's campaign poster omits his Klan connections.

Survey finds extensive Klan sympathy

By Rick Seltzer

How extensive is support for the Ku Klux Klan? What attitudes are associated with Klan support? What types of people are more likely to support the Klan? Why do people support or oppose the Klan?

Answers to these questions are usually based on impressions rather than rigorous research. But the April 1980 shooting of five elderly black women in Chattanooga, Tenn., by three members of the Justice Knights of the KKK (a small Klan sect) allowed examination of these questions within the context of a random sample survey.

In a criminal trial, two of the three Klansmen were acquitted and the third spent four months in jail. The verdicts were followed by rioting in black sections of Chattanooga. In a

subsequent civil lawsuit against the Klansmen and the Justice Knights, a jury awarded the five women \$535,000 in damages and a federal judge granted a permanent injunction against future Klan harassment of Chattanooga's black citizens.

Before trial, the women's lawyers (the NAACP Legal Defense Fund and the Center for Constitutional Rights) had asked the National Jury Project to help with jury selection. One of the tools used was a telephone survey of 429 respondents chosen randomly from adults living in the nine-county region surrounding Chattanooga.

The survey found Klan support to be far from negligible. A total of 32.3 percent of white respondents said they either liked the KKK or liked something about it. (Unless otherwise noted below, respondents refers to white respondents.)

When asked, "Would you say your opinion about the Ku Klux Klan is very favorable, somewhat favorable, somewhat unfavorable, or very unfavorable," 19.2 percent gave a favora-

ble response.

Such widely held attitudes were of obvious significance to the jury selection process, and the survey was designed to identify occupational, religious and other demographic factors which might relate to the opinions.

Chattanooga is one of the most heavily industrialized small cities in the South. Its 600 manufacturers and third-place rank in manufacturing in the South are points of civic pride despite the current highest rate of unemployment in the state. As a coal, steel and rail center, its labor force has been more unionized than the regional average, though in recent years banking, business and the Tennessee Valley Authority have brought an influx of professional and technical employees. Most surrounding counties have few blacks, but Chattanooga's population is almost 32 percent black.

Against this background, some of the survey findings were surprising.

After statistical evaluation of the responses (using cross-tabulations,

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Klan, Nazi Incidents

West Palm Beach, Fla. (March 9) — Phyllis Sutton, 25, of Riviera Beach, who pleaded guilty last November to prostitution charges and was placed on probation, fulfilled the community service requirements of that probation by working in a Ku Klux Klan booth at a flea market in Lake Worth. The local probation director approved the work because the KKK supposedly fulfilled the requirement of being a non-profit group. A second woman on probation who attempted to portray her work at the Klan booth as community service activity was forced to go to a hearing held by a local judge on the matter. Her attorney claimed she was being discriminated against because she worked for the Klan, but when he failed to prove that the Klan is a non-profit group, Judge Edward Garrison ruled against his client.

Marysville, Calif. (April 3) — The first degree murder conviction of Robert Dent for the shooting death of fellow Klansman Hal Ray Burdick in 1978 has been upheld by the Third U.S. District Court of Appeals. Dent allegedly shot Burdick because he was upset over negative publicity Burdick had brought to the Klan by attempting to force Klan literature on patrons of a small local restaurant. Klan leader and current U.S. Senate candidate Tom Metzger testified at the trial that he had personally recruited Dent to the Klan, but claimed that Dent had been expelled from his group before the incident occurred.

Marietta, Ga. (March 31) — Two men burned a burlap-covered cross in a downtown Marietta park shortly after 11 p.m. Police and fire officials have made no arrests. KLANWATCH has been told that, here in the home base of New Order KKKK leader Edward Fields, another cross recently was burned in the yard of a black family and a black school principal found a black snake in his mailbox, but we have been unable to verify these stories.

Survey (continued from page 7)

factor analyses and log-linear modeling), the surveys showed that education, religion and labor union membership were the most significant keys to attitudes toward the Klan. The positive relationship between being blue-collar and Klan support proved purely a result of the increased likelihood that white collar workers had been to college. Some 27 percent of whites with no college education supported the Klan whereas only 8.6 percent of those with college education did so.

We were surprised to find no relation between Klan support and religiosity — frequency of church attendance — though religious affiliation was a key. Supporters of the Klan were most frequently Baptists or other fundamentalists, while opponents of the Klan were usually traditional Protestants. (Chattanooga's non-Protestant popula-

tion is very small, and there were too few Jews, Catholics and atheists in the data sample to analyze.)

The age factor was another surprise. There was practically no age distinction in determining who did or did not support the Klan. But among those who had favorable attitudes toward the Klan, different age groups listed different reasons for their support.

Given that the Klan had larger memberships in the past and given the popular notion that there is greater racism among older people, we predicted that older people would be more attracted to the Klan. But the survey data shows clearly that favorable attitudes toward the Klan are not dying out in the younger generation. Of those who said they were favorable toward the Klan, only one percentage point separated the youngest and oldest groupings.

Among blue collar workers, union members surveyed were more likely to

Chicago, Ill. (April 8) — Chicago police have arrested Dr. James C. Morrison, who has been wanted on a fugitive warrant since he failed to appear for trial on a weapons charge in January in Barnegat, N.J. Morrison was to be tried on charges of conspiring to kill his son, James, for testifying against another son, Klan leader Aaron Morrison, who was eventually convicted of shooting into the home of a black family in Barnegat. This is the second time Morrison has dropped out of sight just before trial on these charges: last year, he was apprehended in North Dakota, where his wife Katherine now faces extradition on theft charges. The couple was located this time after Mrs. Morrison registered as a nurse in Illinois.

Willingsboro, N.J. (May 5) — Meanwhile, the search continues for New Jersey Klan leader Clarence South, also wanted on a fugitive warrant after he failed to appear for a hearing on a weapons charge in early April. He is also wanted in Trenton on assault charges. South, the self-styled Grand Dragon of the Invisible Empire Klan in this state, gained attention early this year when he claimed to have bought land in Woodland Township for Klan rallies and military training, but authorities have been unable to determine the location of this property. When they find South, they will probably also find that the location of the property is mainly in South's imagination.

This is not the only time in recent memory that a New Jersey Klan supporter has been arrested on a weapons charge. In late 1980, James Slater of New Egypt was arrested in Wrightstown outside a bar catering mainly to black servicemen. He had in his possession a live hand grenade, a fully loaded 9 mm automatic loading pistol, ammunition, and a variety of Klan materials. Slater told authorities he was a Klansman.

Baltimore, Md. (April 3) — The KKK insignia was painted on the hood of a car owned by a local black family. The mother there is frightened because one of her children was roughed up by two white adult males in an incident last year, and a cross was burned in the neighborhood several weeks ago.

support the Klan than non-union workers.

The labor union responses were an enigma. Union members were more likely to support the Klan but there were no differences between union and non-union on the racial or religious stereotype questions. In fact, labor union members were slightly less likely to cite racism as their reason for supporting the Klan and were more likely to censure the Klan for its violence.

Favorable attitudes toward the Klan were closely associated with widespread attitudes towards blacks, Jews, integration, Catholics and Communists, though it should be noted that the correlation is moderate at best; for instance, many conservatives who are anti-Communist are also strongly anti-Klan. Almost 45 percent of whites surveyed agreed with the statement, "Blacks tend to have less ambition than whites." More than 48 percent agreed

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Jury considers Greensboro case

A federal grand jury was scheduled to resume hearing testimony June 2 in Greensboro, N.C., regarding the murders of five Communist anti-Klan demonstrators there in 1979. Several of the killers were acquitted in subsequent state court trials.

The grand jury, impaneled March 22, has already heard testimony from several dozen witnesses to the incident. The first witnesses to testify were the FBI agents who have investigated the matter over the past two and one-half years. They were followed by several TV cameramen who were present and filmed parts of the shooting.

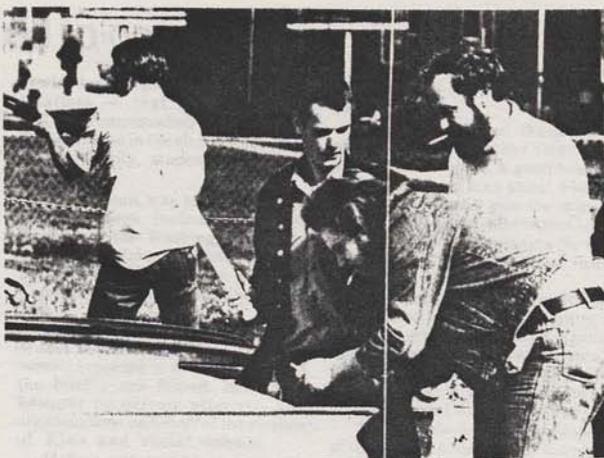
The cameramen reportedly told the grand jury that the attack was not a "shootout" between the Communists and the Klan, but appeared to be more like a military maneuver that targeted certain individuals — the Communists who organized the rally.

Most of the witnesses so far have been persons who were injured, who are relatives of the victims or who were otherwise witnesses to the attack by the Klansmen and Nazis. Many are plaintiffs in a large civil suit against the Klan and Nazi attackers, a suit that also names agencies of the City of Greensboro and the U.S. Department of Justice as co-conspirators.

Because of that suit naming the Justice Department as a defendant, attorneys for some of the plaintiffs filed motions asking that a special prosecutor be named to assist the grand jury in its investigation. The person currently in charge of the grand jury is a U.S. Attorney.

Their motions were denied by the presiding judge, who suggested that it is the Attorney General's responsibility to name special prosecutors. Attorney General William French Smith has been formally requested to at least investigate the possibility of his department's conflict of interest in this matter, but has ignored the request.

Plaintiffs in the suit also have been concerned that the Justice Department might try to turn the grand jury hearings, at least in part, into a referendum on the Communist Party. In exchange for their testimony before the grand jury, some of the victims sought assurances from the Justice Department that they them-



UNPUNISHED KILLERS — These Klan and Nazi members were photographed before, during and after the killing of five people on Nov. 3, 1979. Yet they were acquitted in a state court trial.

selves were not targets of the investigation. Such assurances were not given, but most of the victims testified anyway.

One force now working against such a "blame the victims" scenario is the community interest that has been displayed in the case. Two groups of religious and civil rights leaders visited Greensboro in late March and early April to express their concern for the victims in the case and to urge that the perpetrators of the attack be brought to justice. Those groups talked directly to Justice Department officials about this matter.

KLANWATCH Director Randall Williams was among the delegation visiting Greensboro in April. He issued a statement pointing out that in the 30 months since the murders, several of the Klansmen and Nazis who did the actual shooting and were then acquitted have become heroes of the right wing and are much in demand as speakers at Klan functions across the United States.

The acquittals, he said, gave a "green light" to racist organizing.

Williams noted that one does not have to be sympathetic to Communism to demand that the Greensboro killers be brought to justice. He said the failure of the criminal justice system in Greensboro up to this point has encouraged Klansmen who already believe they are on a mission to "pro-

tect" the country and to "enforce" their own peculiar concepts of "the way things ought to be."

Williams and other members of the delegation met privately with U.S. Attorney Ken McAlister, who promised the group that "every lead would be followed, no matter where it takes us." Asked if this included possible wrongdoing by federal agents or local police, he repeated that the grand jury would be looking at "everything connected to the shootings."

Although it is difficult to judge because of the private nature of grand jury proceedings, initial response by many of the jurors appears to indicate great concern for the plight of the victims and their survivors.

The victims' lawyers had asked for special questioning intended to detect possible prejudices before the grand jurors were chosen, but this motion was denied.

One can only hope that none of those sitting on the Grand Jury are Klan or Nazi sympathizers. Interestingly, only one of the jurors is black, although blacks make up an estimated 25-27 percent of the local population.

It was expected that Klan and Nazi members, local police representatives and additional federal law enforcement officials will testify at the hearing when it resumes June 2.

Report criticizes handling of racist incidents

A report released in April by the California Fair Employment and Housing Commission suggested that racism is prevalent in Contra Costa County and that local government and law enforcement officials have been unprepared or, in some cases, unwilling to combat it.

In a 123-page report detailing the findings from three days of hearings held in the county last September, the Commission said that black, Hispanic and other minority families have been subjected to terroristic acts of racially-motivated violence and harassment and that minority families that move into mainly white middle class neighborhoods are especially open to racist attacks.

The report also noted that the Klan has been actively recruiting in the county and that, even when the perpetrators of racial violence are not Klan members, often the culprits will use Klan-like symbols and methods. The report found that much of the racist activity could be laid on the doorstep of an estimated 30 local

youth gangs, most of which are organized along racial lines and many of which are modeled in some respect on the Klan.

The local Sheriff's Department came in for especially heavy criticism from the civil rights group. Commission members wrote that the department was reluctant to investigate incidents of racial harassment and violence, that racism within the department impedes its ability to respond to racially-motivated incidents and that it has been slow to respond to calls for help.

The Commission also noted that segregated housing and school attendance patterns contribute to this racial unrest. It declared that school boards and administrators have ignored or downplayed racial tensions in schools, and that "racial steering" exists in housing sales in the county.

The report suggests a wide variety of actions to remedy these problems, ranging from more minority recruiting by law enforcement and

schools, public condemnation by government officials of Klan recruiting activities, the provision of alternative activities and job programs to school-age young persons who might be attracted to youth gangs, and a heightened overall awareness by everyone that "racial violence and harassment cannot be dismissed as youthful pranks and vandalism."

Local law enforcement, real estate and school officials have generally been critical of the report, calling it "unfair," "ballooned out of proportion" and "nefarious." Some prosecutions of Klansmen involved in acts of violence have, in fact, taken place over the past year, although some victims of racist violence have been so poorly treated, in their view, that they have filed suit against the Sheriff's Department.

Copies of the report may be obtained by writing to the Department of Fair Employment and Housing, 1201 I Street, Suite 211, Sacramento, CA 95814.

Incidents

Atlanta, Ga. (April 1) — A church in Atlanta that ministers to, in part, the local gay population has been plagued by a series of vandalisms over the past weeks. On at least three separate occasions, vandals have overturned furnishings and thrown church materials into disarray, broken doors, scattered church envelopes on the floor, spray painted church murals with swastikas and graffiti, and splashed red paint on murals and walls. The church pastor has also received threatening phone calls. No arrests have yet been made.

Hollywood, Fla. (April 2) — A sign was placed on a local appliance repair shop reading, "Do not trade here. This store is owned and operated by Jews." Militant extremist publications — like those of the National Socialist White People's Party (NSWPP) regularly call for such boycotts. The local National Conference of Christians and Jews reports that this incident is but one in a series of anti-Semitic acts that have occurred here recently. Over the past month, for example, one other business in Hollywood and a home in Cooper City have been smeared with swastikas.

Huntsville, Ala. (April 7) — Officer Robert Tuten was acquitted of manslaughter in the 1981 shooting death of John Frances Doane, whom his attorney characterized as a drug dealer who also sold guns to the KKK. Tuten, 23 and a member of the Huntsville Police Force, was in his private car when he saw Doane, who was wanted at the time on three felony charges, and approached him to make an arrest. Tuten claimed that Doane tried to run away from him and that he had to shoot him to avoid being hurt by Doane's car.

NAKN meets in June

The National Anti-Klan Network will sponsor its third annual conference, "Strategies to Counter the KKK," June 19-20 at the Biltmore Hotel in Atlanta, Ga.

Georgia and the greater Atlanta area have been hotbeds of Klan activity over the past few months.

Speakers at the conference will include David Edgar, an editor of *Searchlight*, an English monthly covering the activities of the international right wing, and Jerry Thompson, a Nashville *Tennessean* reporter who infiltrated two of the major Klans over a period of 18 months in 1980.

On Friday, a series of films will be shown, including the premiere of "The Klan," a documentary by Guggenheim Productions, the award-winning documentary film company from Washington, D.C.; "Resurgence," a film which premiered at the New York Film Festival last fall, and "Bad Moon Rising," a documentary by Stephen Talbot that has been featured on public television stations nationwide.

On Saturday evening, first-person testimony will be heard from victims of a variety of Klan attacks.

In addition, a variety of new resource materials will be unveiled at the Conference, and panel discussions and workshops covering a wide range of topics will be held. The focus of the conference is meant to be on organizing effective local responses to Klan activities.

Persons wishing to receive more information or wishing to sign up for the conference should write to NAKN Coordinator Lyn Wells at NAKN, P.O. Box 10500, Atlanta, GA 30310, or call 404-221-0025.

Klansman ordered to compensate victims

William Aitcheson, 26, of Ellicott City, Md., has been ordered by a Federal judge to pay \$26,000 in damages to three different groups of plaintiffs upon whose property he burned crosses during a personal campaign of terror in 1976.

U.S. Dist. Judge Frank Kaufman also enjoined Aitcheson, and all who acted in consort with him, from committing any future acts of harassment, intimidation or violence against blacks or Jews in the Washington, D.C., area.

Aitcheson has been a member of the Maryland Knights of the KKK and the Invisible Empire Knights of the KKK, as well as the Klan Beret, a Maryland-based paramilitary splinter group whose declared purpose, according to court documents, was "military training and the use of light arms, bombs, fire bombs and guerilla tactics for the coming 'revolution' against blacks and others."

Aitcheson has a long record of criminal activity. In the last six years, he has pleaded guilty to charges ranging from sending a threatening letter to Coretta Scott King to illegal manufacturing of explosives to unlawful burning of crosses on property belonging to a black family and a local Jewish student group. It was this series of cross burnings — at the home of the black family, the Jewish student group, a

Jewish temple and allegedly at other locations — that resulted in the \$26,000 compensatory and punitive damages won in the civil lawsuit filed by the family, students and synagogue.

The lawsuit was handled by private attorneys, including Stephen Fennell of the Washington firm of Steptoe and Johnson, under the auspices of the Washington Lawyers Committee for Civil Rights Under Law.

Several other successful civil suits of this nature in Alabama and Tennessee, reported in previous issues of the Intelligence Report, have been brought by private attorneys and organizations on behalf of the victims of Klan and racial violence.

If these suits could be paired with more vigorous criminal prosecutions of Klansmen and militant racists who perpetrate acts of violence and intimidation — prosecutions such as those in Maryland — perhaps those who commit these acts would think twice before breaking the law.

In a footnote to this story, President Reagan recently visited the home of the black plaintiff family that had been victimized by a cross burning and other racially-motivated harassment. This symbolic act by one whose leadership position allows him to influence the climate of racial understanding in this country should

be applauded even though it is long overdue.

We are reminded, though, of a story told about another recent conservative president, a good-hearted, well-intentioned man about whom it was said he would give the shirt off his back to a needy child he met on the street... and then walk into the Oval Office and veto a school lunch program.

The facts are that the Reagan administration's policies, rightly or wrongly, are perceived by Klansmen and other racists as signals for escalation of attacks on minorities and for a retreat back to segregation, white supremacy and other evils of the past.

The President cannot be unaware of these facts, because they have been pointed out time and time again by leaders within and outside government. But he has up to now remained essentially silent, while allowing such policy fiascoes as the tax exemptions to discriminatory education institutions to further polarize the nation.

It is encouraging to see Mr. Reagan lend his personal symbolism to the victims of Klan crossburnings. But it would be even better to have strong directives issued to the Justice Department and all arms of federal law enforcement to prevent and prosecute racist harassment, intimidation and violence.

Candidates

(continued from page 7)

tions are the best guide as to whether a particular candidacy should be downplayed by concerned citizens or thrust into the harsh light of intense public scrutiny.

KLANWATCH has compiled a list of candidates who are open Klansmen or have some strong link to Klan activists. We encourage those with other names to send them in. In addition, we encourage those concerned about local individuals' candidacies to get in touch with us about persons on this list.

We have quite a bit of background information on some of these persons, and have at least some information on everyone listed here. But KLANWATCH can't monitor all local candidacies and we are counting on people nationwide to monitor the progress of these candidates before it

becomes too late.

The Klan-linked candidates are:
— For U.S. Senate, Tom Metzger, California.

— For U.S. Congress, Leroy Gibson, North Carolina, 3rd Dist.; Warren Brooks, North Carolina, 5th Dist.

— For Democratic Central Committee, Tom Metzger, Calif. 74th Dist.; Winston Burbage, Calif. 79th Dist.; Donald Musgrove, Calif. 78th Dist.; John R. Nilsen, Calif. 78th Dist.

— For State Senate, Glenn Miller, North Carolina, 9th Dist.; Richard Morgan, Fresno, Calif.

— For State House of Representatives, John Gooding, Kingston, N.C.; Warren Smith, Pennsylvania, 126th Dist.

— For Sheriff, Joe Garner, Montgomery County, Ala.; Loren Lowdermilk, Fresno County, Calif.; James Stone, Colbert County, Ala.

— For Mayor, George Pepper, Fontana, Calif.

In addition, the following persons, respectively, have been heard spouting racist rhetoric at Klan rallies or have said that they have "talked to" Klansmen, although they deny being members:

— For Democratic Central Committee, Gloria Packan, California, 80th Dist. (Her husband, Steve, is a candidate for a post on the same committee.)

— For U.S. Congress, Dan Garrett, Kentucky, 3rd Dist.

— Incumbent Sherriff Rex Smalley of Marshall County, Ala., made a brief welcoming speech at a Bill Wilkinson rally several years ago.

Finally, a candidate for district attorney in San Antonio, Texas, stated on a local radio talk show that he would welcome an endorsement by the KKK. Sam Millsap later repudiated that statement and said that he was misinterpreted.



Rivals now, Klan leaders Bill Wilkinson (speaking) and Ed Fields (center left) appeared together at a hate rally in north Alabama in 1978.

Klan active recently in at least 21 states

During the several months leading up to mid-May, Klan activity was reported in at least 21 states, and Klansmen and Nazis from at least four additional states participated in these activities. Nationwide, while the Klan currently does not appear to be making great strides in recruiting, Klan members themselves are engaging in a wide variety of publicity-seeking activities, ranging from road blocks to cross burnings.

In addition, acts of racially-motivated vandalism, harassment and intimidation by groups and individuals influenced by the militant right continue to occur with alarming frequency.

Once again, publicity seeker extraordinaire Bill Wilkinson has met with considerable success in using public events to make his Klan group loom larger than one would think possible. Wilkinson continues to concentrate on recruiting outside Alabama and Florida, where growing disgruntlement with his leadership recently led to wholesale defections from his organization.

Also, he has not made appearances lately in Tennessee and Mississippi, indicating that he may be having membership problems in those areas, too. Sources report that

quite a few of his members are not paying their renewal fees this year.

Wilkinson continues to vie for new members in Georgia. A march and rally in LaGrange that attracted about 100 Klansmen and 200 sympathizers and onlookers was held only after federal Judge G. Ernest Tidwell in Atlanta ordered the city to allow him to parade. The city had attempted to deny a permit to Wilkinson because an annual arts festival was being held downtown at the same time. Five persons were arrested at the rally on weapon charges.

Meanwhile, in Connecticut, the only state where he has made any inroads — and slight inroads, at that — the true colors of his klaverns have begun to show through their white sheets.

On May 15, the same day as the LaGrange rally, four members of his group were arrested on weapons charges in Woodstock, Vt., after being stopped in the early morning for tearing down posters protesting the first Klan rally to be held in that state in many years.

Arrested with Connecticut Dragon James Farrands of Shelton were Alan Groth, 31, of Shelton, Jay Dexter, 28, Milford, and Charles Waterbury, 28, also of Milford.

Only about 15 Klansmen and supporters showed up for the rally on that day in Wilmington, where local residents mostly ignored the group but did hang a banner over Main Street proclaiming that "Hate does not grow well in the rocky soil of Vermont." Wilkinson's group was confronted, though, by a group of protestors organized by InCAR, a small organization that seems to feed off his Klan.

Over the past weeks Wilkinson held other rallies in Connecticut, including a cross-burning ceremony in Danbury where about a dozen new members were inducted into his group.

In a bizarre sidelight, Joseph Hurd, the second-in-command in the Klan statewide, was suspended from the group for urging the public to stay away from the Meriden rally in mid-March (see previous Intelligence Report). Hurd said he feared that innocent people might be injured in the violent confrontation that was expected.

Two previous leaders of Wilkinson's Klan in Connecticut, Gary Piscottano and William Bohndorf, quit the group shortly after having been appointed, successively, grand dragon.

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Survey

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that, "For the good of society, the rights of blacks to demonstrate should be restricted." "For the good of society, Communists should be put in prison," some 47 percent of white Chattanoogaans believe. And 40.5 percent agreed that "Catholics support the Pope more than they support the United States."

It was especially alarming to see that 54.8 percent agreed that, "There needs to be an organization to stand up for the rights of white people." This compares to 16.1 percent white agreement on that question in a survey taken in Washington, D.C., in March 1982.

Since one of the Klan's major propaganda arguments today is that the KKK is needed because whites now suffer "reverse discrimination," the Chattanooga data indicates that the ground is fertile for Klan-led drives against affirmative action, school busing, etc. The potential for Klan recruiting seems especially great in areas like Chattanooga that have been hard-hit by the current recession. In recent speeches, Klan leaders have tried to incite laid-off whites, claiming blacks who still have jobs are "taking" them away from white people.

Such arguments ignore the fact that despite large gains by blacks during the past 25 years, whites made great economic gains, too, and the actual gap between black and white economic standing widened rather than decreased.

Education is apparently the greatest determinant in whether the Klan's false arguments appeal to workers. For example, 62.8 percent of those without a college education agreed with the need for a white peoples' organization, compared to 43 percent agreement among the college educated. Blue collar and service workers appeared to be more racist but this relation completely disappeared after education was taken into account.

It would be fair to say that manual workers in Chattanooga were apparently less liberal on race questions because they had less formal education and not due to the experience of manual labor or the supposed competition with black workers.

Respondents were asked what about the Klan they liked or disliked. Of those who liked the Klan, 36.3 percent cited the Klan's racial policies toward blacks as their reason for support.

Some 29 percent of the respondents who liked the Klan mentioned "charita-

ble" activities or said the Klan consisted of good people. (The Klan in Tennessee has sought publicity by raising funds for fire victims, etc.) Older females were most likely to give this response.

Another 33 percent of the Klan's supporters gave vigilante activities as their reason. This response was most frequent from older citizens, for the obvious reason that in the 1920s the Klan nurtured a reputation for punishing alleged adulterers, wife-deserters, etc.

Finally, 12 percent of the favorable responses were from people who said they admired the Klan because its members held strong convictions and acted on them.

Respondents who said they disliked the Klan fell into four distinct categories. Half said they objected to the Klan's violence. (In an earlier question, 62 percent of white respondents and 88 percent of black respondents agreed "The violence of the Ku Klux Klan is a danger to our community.")

Other respondents disliked the Klan's methods: secrecy, the wearing of robes, and the burning of crosses, which some said was anti-Christian.

The Klan's racism was mentioned by only 27 percent of those who disliked the Klan. Surprisingly blacks gave this response at the same rate as whites. Finally, 16 percent said they disliked the Klan because of its vigilantism —

becoming the self-appointed arbiter and enforcer of "community" moral standards.

Although the surveyers found no relationship between age and degree of support for the Klan, there were significant age differences on the reasons for support or dislike. The most common response, both favorable and unfavorable, from older persons was vigilante activities. But younger persons were more likely to mention the Klan's racism as their reason for either support or opposition. We suggest this is because the news media today pays more attention to the Klan's obvious racism whereas a half century ago the Klan tried to present itself as a fraternal organization which stood up for the moral fiber of the community. This was an untruth, but it was a popular view of many whites. However, the fact that younger respondents are just as supportive of the Klan as older respondents is cause for concern.

Education was clearly the most important factor explaining Klan support, general racism, and anti-Semitism, anti-Catholicism and anti-communism. But even here there is cause for concern because, of those who reported favorable attitudes toward the Klan, the more educated young people were more likely to cite the Klan's racism as their reason for support.

Klan linked with bomb-selling plot

Seven people, including the reputed Klan leader, have been arrested since May 2 in Colorado Springs, Colo., in connection with an alleged bomb-peddling ring.

The arrests came after a three-month investigation which authorities said also revealed an alleged plot to kill two federal judges and blow up IRS headquarters in downtown Denver.

Police confiscated 125 sticks of dynamite, 20 pipe bombs, 6 pounds of black powder, 30 pounds of another type of gunpowder, 200 blasting caps, 3,000 feet of safety fuse, 1,000 feet of explosive primer cord, automatic weapons and other guns, and Klan robes and literature.

Arrested were Charles Howarth, 45, who claims to lead the local United Klans of America chapter; Nancy Jo Howarth, 43, his wife; Donald Dorey, 39; Salvatore Parisi, 32; Viola White, 42, and Wesley White, 38, and Gilbert Callow, 58. The Whites are Kansas residents, but the rest are from the Denver or

Colorado Springs areas.

Klan activity in Colorado Springs is not new. Howarth arranged for a January 1979 speech there by former Klan leader David Duke, and a Klan group had placed classified advertisements in 1978.

The United Klans of America, the faction to which Howarth claims affiliation, is run by Robert Shelton of Tuscaloosa, Ala., and was the largest and one of the most violent Klan groups in the 1960s.

In Colorado Springs, Howarth and some of the other defendants are connected with a militant tax-rebellion movement and to the Posse Comitatus a vigilante organization.

Howarth has been involved with an organization called the Active Patriots and in 1977 was thrown out of the El Paso County courthouse for distributing pamphlets to jurors.

Howarth and Dorey were arrested, police said, after selling 10 bombs to an undercover informer posing as a gunman.

Klan Active

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Hurd is currently appealing his firing from a position with the Connecticut Department of Corrections.

Wilkinson has made another California tour that included a rally in Fresno and several roadside solicitations for funds. The Fresno rally was unique in that it apparently attracted little or no media attention.

According to KLANWATCH sources, the local police department got hold of a Klan flyer stating that they were "counting largely on television and newspapers for most of our source (sic) in getting the message out about the rally" and the department made certain that local media were made aware that the Klan faction was attempting to manipulate them. This apparently did the trick; we didn't see any published reports at all on the sparsely-attended gathering.

Overall, Georgia continues to be the hub of Klan activity in the country. Along with the LaGrange rally attended by 300 persons, rallies or roadblocks occurred recently or were planned for Bremen, Hogansville, Buchanan, Summerville and Columbus.

Ed Fields, head of the neo-Nazi New Order KKKK, appeared for a talk at the University of Georgia in Athens and announced his intention to form a chapter there. One of Fields' head ghouls, Frank Johnson, is a recent Georgia graduate who has attended Klan rallies in other states

and has appeared at meetings of Fields' National States Rights Party. Fields also attracted several hundred persons to a rally near Hiram in Paulding County. As noted in the last Intelligence Report, Fields and Wilkinson are currently fighting for new recruits in Georgia.

The leaders of the two other so-called national Klan groups have been even less active than Wilkinson and Fields.

Knights of the KKK leader Don Black held only one public rally, in late April near Ft. Walton Beach in the Florida panhandle. Black continued to recruit new members, though, through his ads in several mercenary and other non-Klan publications. Meanwhile, Robert Shelton's United Klans of America held one of their infrequent public rallies in May near Motoaca, Va.

Of all the Klan activity in the several dozen states we described earlier, one oddity merits mention. The Klan member in Hannibal, Mo., who sponsored the rally that attracted Klansmen and Nazis from around the Midwest, as well as the attention of InCAR and the national media, announced afterwards that he was quitting the Klan because his mother was upset with him for joining.

This poor fellow's story — amusing as it may be — does contain a serious lesson for those who oppose the Klan. It tells us that — Klan leaders and true fanatics aside — many persons attracted to the Klan today are simply misinformed, exploited

people who are wide open to a change in attitude through the pressure of friends and family, moral suasion and education.

Finally, we note that the recent upsurge in Klan activity has been met by increasingly broad-based opposition of people who are determined that this resurgence must be nipped in the bud. Some of this anti-racist activity is reported on elsewhere in this issue.

In the three non-South states where Klan activity has been most notable — California, Connecticut and Maryland — opposition to the Klan has ranged from task forces appointed by concerned governors to local individuals writing letters to the editor of their local newspapers.

This type of reasoned, appropriate and community-based response to Klan activity is now being formulated by the National Anti-Klan Network in Georgia and, we hope, will spread to other states still plagued by a Klan presence.

We are anxious to see this type of opposition to the Klan grow and prevail. If the alternative, the hysterical, vitriolic and counterproductive confrontations of the variety that have occurred recently in Wilmington, Hannibal, Meriden and elsewhere comes to be acceptable, tragic violence is likely to occur sooner or later this summer.

When that happens, all Americans, racists or not, ignorant or informed, activist or complacent, will be the losers.

Incidents

San Antonio, Texas (May 1) — In a decidedly bizarre and provocative maneuver, about a dozen mainly Houston-area Klan members stood in front of the Alamo as the annual Cinco de Mayo parade, a festivity sponsored by the local Hispanic community, marched by. The Klansmen, some of whom were robed but most of whom wore the all-black SS-like uniform of the Texas KKKK security squad, explained that they were there to keep communists from lowering the Texas flag that flies over the national monument. Those in attendance included Grand Titan James Stanfield, Exalted Cyclops Jerry Don Hartless and top Klan lieutenant Charles Lee. Paranoia apparently strikes deep in the heart of these Texas Klansmen, many of whom also participated in a paramilitary "watch" over their Pasadena Klan headquarters several years ago when they reportedly expected a group of Maoists to attempt to burn the building down. During that exercise, regular U.S. Army soldiers in fatigues allegedly took part in the "defense" of the Klan center. The soldiers were said to be from Fort Hood.

In a related incident, another group of about ten Houston-area Klan members appeared at a hearing to protest the nomination of former Atlanta Director of Pub-

lic Safety Lee Brown to become Houston's new police chief. The Houston Police Department has been beset by allegations of brutality and by racial turmoil. Ten members of the police force were recently suspended after an investigation into their participation in a racially motivated attack on a black boarding house while off duty. Brown is a black man and his nomination was overwhelmingly approved at the hearing.

Grenada, Miss. (April 11) — A small band of 15 Invisible Empire Klansmen led by Bill Wilkinson staged a counter-demonstration as a large group of civil rights marchers protested alleged discrimination at a downtown Grenada department store and hiring practices at a local high school. The local NAACP is currently negotiating with the store to reach an agreement about hiring practices there, and local NAACP President Jasper Neely has received hate mail at his home recently. After the day of marches and counter marches by the KKK, Wilkinson held a nighttime rally attended by about 75 people.

Harford Roads, Md. (April 1) — A black couple preparing to open a secondhand store here was visited by three men claiming to be KKK members and warning the couple that they should not try to operate the store at that location. The store is located in a predominantly white neighborhood.



Rick Laufer

BROWN LUNG CLINIC — Textile mill workers and former workers in the Chattahoochee Valley area of Alabama and Georgia were tested for breathing impairment at a free clinic sponsored April 17 by the Brown Lung Association. A recent change in the Georgia law allows claims for brown lung disease to be made up to three years after discovery of breathing impairment, which means that many retired Georgia workers may now be able to win compensation for their breathing disabilities. The woman in the picture above is breathing into a spirometer,

which measures the capacity of the lungs. Breathing disabilities are common among textile workers, whose lungs are subject to being damaged through the constant inhalation of particles of cotton dust. The disease which results is commonly called brown lung. The Southern Poverty Law Center represents brown lung victims in a lawsuit alleging that officials of West-Point Pepperell Corporation, a textile manufacturer, failed to properly protect its employees against the disease or to warn them of known hazardous conditions.

Parole

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ing a prison system, Johnson ordered massive reforms.

Seven years later, some conditions have improved, but the overcrowding is still so bad that another federal judge, Robert Varner, began releasing inmates who were near the end of their term.

Alabama officials have consistently refused to build sufficient new prisons or to implement enough work-release and community-supervision programs to remove most non-violent prisoners from high-security lockups.

The response of the Alabama attorney general to overcrowding has been to publicly castigate the federal judges who are trying to enforce constitutional standards; to mount intensive campaigns to prosecute "welfare cheaters," and to call for mandatory life sentences for repeat offenders, even when their crimes were against property and not persons.

These are popular stands in Ala-

bama, which is a conservative state. The attorney general thus had a receptive audience when he began using the Ellard parole — Ellard's crimes were violent and sensational — as a vehicle to generate publicity for his re-election campaign.

(In the campaign four years ago, the attorney general had told voters that he not only favored the death penalty; he was, he said, eager to see Alabama's bright yellow electric chair used again, that he would like to "fry them 'til their eyeballs popout and 'til you can smell their skin burn.")

In the Ellard case, the attorney general located a woman who survived an attack by Ellard; her companion had been killed. The attorney general sponsored press conferences so the former victim could be photographed by television cameras.

Eventually, the parole board bowed to the pressure and had Ellard returned to Alabama. Attorneys Ira Burnim of the Southern Poverty Law Center and Ralph Knowles of Tuscaloosa represented Ellard in a hearing on the parole revocation in early May.

"The position of the board, accord-

ing to the hearing officer, was that Ellard was lawfully granted parole. They also agreed that he has not violated his parole in any way to justify revocation," Burnim said.

He said the hearing officer explained that because of allegations — unknown to the board at the time the parole was granted — that Ellard had threatened the family of one of his victims, Ellard was replaced in Alabama custody and the hearing scheduled.

However, a parole board investigation found no evidence of threats to the family and the board concluded that the threats had not been made, Burnim said.

Burnim and Knowles asked for dismissal of the parole revocation proceedings against Ellard.

Burnim said the issues in the Ellard case go beyond the parole of one inmate to the larger question of whether an ambitious elected official can successfully politicize the parole function of an independent board, thus snarling the paroles of other inmates and adding to already serious prison overcrowding.

Arguments

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This youth met only once with his appointed lawyer before trial, and was convicted and sentenced to death in a proceeding that lasted less than one day. His lawyer failed to contact alibi witnesses the youth had given him; failed to challenge the so-called confession which the juvenile said had been beaten out of him (and which no attorney ever advised him on); failed to challenge the suspicious police procedures involved in a line-up from which the victim, on the second try and after apparent coaching, identified the youth as one of her assailants; and, most incredibly of all, failed to ask for a blood test to check the youth's blood type against semen samples which had been taken from the rape victim. (Blood type can be determined from seminal fluid.)

The youth eventually wrote to us asking for help and we agreed to take his appeal. Seven years and thousands of transcript pages later, a judge finally ordered access to evidence concerning the semen samples taken in 1975. The youth's blood and the semen samples didn't match, which meant the youth could not have been the rape victim's assailant. Yet he was sentenced to death and might have been executed for that crime.

SPLC attorneys are also personally familiar with the case of a young black man from Georgia who was convicted and sentenced to death for robbery and murder. At the time of the murder, this defendant was in another state and at trial his employer produced time cards showing the young man had been on the job in Florida when the crime was committed in Georgia. Yet the all-white jury apparently discounted the testimony of the black employer and chose to believe the state's witnesses instead. It was later proven that police fabricated evidence against the defendant, who might still be on death row or even executed by now if a white Florida policeman had not eventually come forward to say that he remembered seeing the defendant working at his job as a gas station attendant on the day in question.

These are only two of the several dozen capital cases in

which the Southern Poverty Law Center has been directly involved: If two out of three dozen condemned men can later be proven innocent, how many miscarriages of justice might there be among the 1,000 persons now on death row?

A third recent case of an innocent man being condemned to death is that of Jerry Banks, who had the misfortune to be out hunting in south Georgia and find two bodies. When he went straight to law officers to report this, he was arrested and charged with murder. There was no motive and no proof against him, but he was nonetheless tried, convicted and condemned. Several years later he won his freedom but sadly had been so affected by his ordeal that he shot his wife and killed himself.

These cases and others like them are demonstrations of the fallibility of police, prosecutors, judges and juries. At its simplest, the question is one of both justice and common sense: justice will never be served by a form of punishment that even now is so regularly administered arbitrarily and capriciously, and common sense tells us we can eventually restore the freedom of one who has been wrongly incarcerated while we can never restore the life of one who has been wrongly executed.

Gentlemen, in conclusion, I hope that my words have not seemed the dry clinical talk of a criminal trial lawyer who has been involved in more capital cases than he wished were necessary. For there is no question that is less clinical, less academic, than who shall live and who shall die.

If we are to presume to become the final arbiters of that question, the least that can be asked of us, if we hope to still retain our delusions of humaneness, is that such an irrevocable punishment not be unfairly meted out to the indigent, to minorities and, God help us, to the innocent. I am not ready to be that judge myself and I'm not ready to let anyone else, either. I firmly believe that, in the words of the late Charles Black, "though the justice of God may indeed ordain that some should live and some should die, the justice of man is altogether and always insufficient for saying who these may be."

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