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The Death Row Ten: Interrupting Illinois' Death Machine

Alice Kim*

*"In the long run, the people are our only appeal.
The only ones who can free us are ourselves." Assata Shakur*

In 1998, a group of African American men on Illinois' death row organized a powerful campaign from their prison cells to save their lives.¹ Calling themselves the Death Row Ten, these men and their mothers linked up with activists to demand justice in their cases and an end to the barbaric practice of capital punishment.² Over a span of nearly twenty years, each of the Death Row Ten had been tortured by former Chicago Police Commander Jon Burge or other white officers under his command, making them among at least 117 documented cases of torture at Area Two and Area Three police headquarters on the South Side of Chicago between 1972 to 1991.³ The Death Row Ten defied a corrupt legal and political system that not only relied on forced confessions to sentence them to death but also covered up police torture at the expense of their lives. Their struggle profoundly interrupted Illinois' death machine.

In the late 1990s, several forces coalesced in Illinois: tenacious litigation, veracious investigative journalism, and a new growing wave of social protest against police violence and the death penalty. The convergence of these factors forced a spotlight on wrongful convictions and racial bias in the criminal legal system, and Illinois became ground zero for the movement against capital punishment in the United States. The Death Row Ten's organizing efforts played a critical role in catalyzing and shaping this burgeoning movement, yet their

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¹ See generally Joan Parkin & Alice Kim, *Meet The Death Row Ten – A victory for the Death Row Ten: The Struggle Continues*, THE NEW ABOLITIONIST (May 2003), http://www.nodeathpenalty.org/new_abolitionist/may-2003-issue-28/meet-death-row-10 [hereinafter Kim].

² *Id.*

³ Frederick H. Lowe, *Chicago Pays Up: \$5.5 million Reparations for Wrongly Convicted Black Men*, NEW AMERICAN MEDIA, Feb. 3, 2016, <http://newamericamedia.org/trending/2016/02/chicago-pays-up-55-million-reparations-for-wrongly-convicted-black-men-1.php> [hereinafter Lowe].

stories of struggle and self-determination are largely unknown to the public.⁴ Working with activists on the outside, the Death Row Ten organized a vibrant campaign that gave voice to their struggles, exposed the systematic police torture they had endured, saved them from execution by the state, and ultimately, helped bring about an end to the death penalty in Illinois.

Burge's torture ring did not materialize in a vacuum. The Death Row Ten were up against a racist system bolstered by decades of law and order politics that scapegoated Black and Brown people for political gain. Even before Clinton's (now) infamous Crime Bill, a tough-on-crime agenda had already made its way into American politics. During their respective bids for president in 1964 and 1968, Barry Goldwater and Richard Nixon decried the urban unrest that had broken out in major cities across the nation, and as Michelle Alexander argued in *The New Jim Crow*, "[t]he law and order perspective, first introduced during the peak of the Civil Rights Movement by rabid segregationists, had become nearly hegemonic two decades later."⁵ By the 1990s, media frenzy over Black crime had reached a fever pitch.⁶

In 1998, a time when tough-on-crime hysteria had swept the nation, the Death Row Ten dared to insist that their lives mattered. The number of people facing capital punishment in the US had ballooned to 3517, and the number of executions carried out since the death penalty was reinstated in 1976 had grown to 500.⁷ The Death Row Ten organized themselves in the brutal wake of Clinton's 1994 Crime Bill, which expanded the federal death penalty (making 60 more crimes punishable by death), authorized and funded 100,000 more cops on the streets, enacted the three-strikes-and-you're-out clause, and included a statute that allowed many more young people to be tried as adults.⁸ When Clinton signed the Anti-Terrorism and Effective Death Penalty Act in 1996, which enforced tighter filing deadlines, limited opportunities for eviden-

⁴ Andrew Baer, "Let Them Get Their Voices Out The Death Row 10, Radical Abolitionists, and the Anti-Death Penalty Movement in Illinois, 1996-2011," *The Journal for the Study of Radicalism*, Vol. 11, No. 2 (Fall 2017) [In press].

⁵ See generally MICHELLE ALEXANDER, *THE NEW JIM CROW* 56 (2012).

⁶ *Id.*

⁷ *1998 Year End Report: New Voices Raise Dissent, Executions Decline*, Death Penalty Information Center (Dec. 1998), <http://www.deathpenaltyinfo.org/1998-year-end-report-new-voices-raise-dissent-executions-decline> (last visited Sept. 13, 2016) [hereinafter DPIC].

⁸ United States. Cong. Senate. *Violent Crime Control and Law Enforcement Act of 1994*. 103rd Cong. 2nd sess. H.R. 3355, <https://www.congress.gov/bill/103rd-congress/house-bill/3355/text> (last visited Sept. 13, 2016). See also *Crime Bill Provisions*, 50 CONG. QUARTERLY, 287-94 (1994), <https://library.cqpress.com/cqalmanac/document.php?id=cqal94-1103475> (explaining the Crime Bill provisions).

tiary hearings, and restricted habeas corpus filings in federal court, death row prisoners around the country faced even greater hurdles in their appeals process.⁹ Making matters worse, that same year, Congress defunded capital defense resource centers, meaning that attorneys representing death row prisoners were even more strapped for precious resources than they had been.¹⁰

Meanwhile, prosecutorial misconduct ran amok in criminal cases. A 1999 *Chicago Tribune* report revealed that of 326 state court convictions in Illinois, 207 of them in Cook County, had been reversed because of prosecutorial misconduct since Dec. 31, 1977.¹¹ In the same article, the *Tribune* reported that in the 1970s, the decade when Burge's ring of white police officers began systematically torturing and abusing African American suspects, the State's Attorney's office ran a dehumanizing and ongoing competition, the Two-Ton Contest or "Niggers by the Pound" behind closed doors.¹² After winning a conviction, prosecutors took convicted defendants back to a judge's chambers and literally weighed them on a scale; the first prosecutor to reach a total of 4,000 pounds won the contest.¹³ It was in this brutal, racist climate that prosecutors used tortured confessions to convict the Death Row Ten.¹⁴ Lacking faith in a legal system that had sentenced them to death, the Death Row Ten decided to organize amongst and for themselves.

INSIDE/OUTSIDE STRATEGY

In 1998, Death Row Ten cofounder Stanley Howard wrote a letter to the Campaign to End the Death Penalty (CEDP) enlisting the organization to be

⁹ United States. Cong. Senate. *Anti-Terrorism and Effective Death Penalty Act of 1996*. 104th Cong. S. 735, <https://www.congress.gov/bill/104th-congress/senate-bill/735/text> (last visited Sept. 13, 2016). See also Lincoln Caplan, *The Destruction Of Defendants' Rights*, THE NEW YORKER, Jun. 21, 2015, <http://www.newyorker.com/news/news-desk/the-destruction-of-defendants-rights> (explaining some of the harmful consequences of the aforementioned legislation).

¹⁰ Kent Scheidegger, *The Death Penalty Trojan Horse*, CRIMINAL JUSTICE LEGAL FOUNDATION, Aug. 16, 2002, <http://www.cjlf.org/publications/InnProtAct.htm> (explaining the historical context behind Congressional defunding of so-called death penalty resource centers).

¹¹ Maurice Possley & Ken Armstrong, *Part 2: The flip side of a fair trial*, CHICAGO TRIBUNE, Jan. 11, 1999, <http://www.chicagotribune.com/news/watchdog/chi-020103trial2-story.html>.

¹² *Id.*

¹³ *Id.*

¹⁴ Flint Taylor, *Police Torture and the Death Penalty: Ten Years Later*, THE NATION, Jan. 11, 2013, <https://www.thenation.com/article/police-torture-and-death-penalty-illinois-ten-years-later>.

the Death Row Ten's voice on the outside.¹⁵ The Death Row Ten were inspired in part by the Aaron Patterson Defense Committee that had formed several years prior. Determined to win his freedom, Aaron, the most well-known member of the Death Row Ten, called his cell his "war room" and was the first of the Ten to organize with supporters on the outside through his defense committee and the Chicago Committee to Free Mumia Abu Jamal and Aaron Patterson.¹⁶ For example, on July 11, 1998, Aaron's 34th birthday, the defense committee called a demonstration at Pontiac Correctional Center, where he was incarcerated.¹⁷ It was ingenious. "Everyone inside the prison knew the rally was going, and people got real excited," Aaron told the CEDP's newsletter *The New Abolitionist*. "It was like – look we can really do something."¹⁸ The fate of this group of men – Madison Hobley, Stanley Howard, Grayland Johnson, Leonard Kidd, Ronald Kitchen, , Jerry Mahaffey, Reginald Mahaffey, Andrew Maxwell, Leroy Orange, Aaron Patterson, and Victor Safford – became linked to their activism, with several members becoming serious organizers on the inside.¹⁹

On September 12, 1998, the Death Row Ten called their first public action – a rally at Area Two Headquarters, the police station known to community members as the "House of Screams" where many of the men had been tortured.²⁰ Death Row Ten members made the flyer for the rally by cutting and pasting words from newspaper and magazine articles.²¹ While activists put up flyers and phone-banked to publicize the action, the Death Row Ten en-

¹⁵ Joan Parkin, *Meet The Death Row Ten: Stanley Howard*, THE NEW ABOLITIONIST (Feb. 2000), http://www.nodeathpenalty.org/new_abolitionist/february-2000-issue-14/meet-death-row-ten-stanley-howard [hereinafter Parkin].

¹⁶ *Id.*

¹⁷ Noreen McNulty, *Rally for Aaron Patterson Outside the Prison Gates*, THE NEW ABOLITIONIST (Aug. 1998), http://www.nodeathpenalty.org/new_abolitionist/august-1998-issue-4/rally-aaron-patterson-outside-prison-gates.

¹⁸ *Id.*

¹⁹ The group grew to twelve after they were formed, but the name, "Death Row Ten" stuck. Also Frank Bounds, who was tortured by Burge and company, died of medical neglect on October 10, 1998 shortly after the Illinois Supreme Court had thrown out his death sentence. His mother Costella Cannon remained a committed advocate for the Death Row Ten until her death in 2003. Kim, *supra* note 1. See also Alice Kim, *Meet the Death Row Ten: Frank Bounds*, THE NEW ABOLITIONIST (Nov. 2000), http://www.nodeathpenalty.org/new_abolitionist/november-2000-issue-17/meet-death-row-ten-frank-bounds.

²⁰ See generally Alan Masse, "Justice for the Death Row Ten," in *Empty Death Row*, COUNTERPUNCH, Feb. 1, 2003, <http://www.counterpunch.org/2003/02/01/emptying-death-row>.

²¹ *Id.*

listed their family members to show up.²² Although this first rally was modest in size with about 60 people in attendance, it managed to get local and national media coverage.²³ CEDP organizer Joan Parkin, who was instrumental to launching and organizing the Death Row Ten campaign, reported that prisoners and others nationwide saw mothers and fathers of the Death Row Ten on the evening news, marching around the precinct carrying blown-up photos of their sons.²⁴ In a call-to-action that was read at the rally, Stanley Howard aptly summed up what would become a full-fledged inside-outside organizing strategy:

"We cannot do this ourselves. It's really up to the people out here – the courts have turned their backs – to force them to listen to us.

*Me, I'll work for justice in here. You, you work for justice out there. If not, these people are actually gonna kill us."*²⁵

Unlike some other anti-death penalty organizations that focused their efforts on legislation and lobbying, CEDP activists worked directly with death row prisoners to organize campaigns around specific cases while simultaneously organizing public pressure for the abolition of the death penalty.²⁶ Founded in 1995, activists in the CEDP were often the new kids on the block in the national and local abolitionist scene.²⁷ Many of us were new to anti-death penalty activism, and I was schooled in the art of organizing, a trial by fire to be sure, working on the Death Row Ten campaign. More valuable than books or statistics, I learned about the barbaric world of death row by getting to know the very people condemned to death, often visiting prisoners with family members and corresponding with them by mail and phone. I vividly remember my first visit to Pontiac Correctional Center: the unfriendly stares from the guards, the sterile floors and walls, the metallic taste of the water from the drinking fountain. I also remember the wide smiles of Stanley Howard and Ronnie Kitchen putting me immediately at ease when they walked into the visiting room.²⁸

²² *Id.*

²³ Joan Parkin, *Justice for the Death Row Ten*, THE NEW ABOLITIONIST (Nov. 1998), http://www.nodeathpenalty.org/new_abolitionist/november-1998-issue-5/justice-death-row-ten.

²⁴ *Id.*

²⁵ Parkin, *supra* note 14.

²⁶ *Id.*

²⁷ *About Us*, CAMPAIGN TO END THE DEATH PENALTY, <http://www.nodeathpenalty.org/about-us> (last visited Sept. 13, 2016) [hereinafter CEDP].

²⁸ Gretchen Rachel Hammond, *REPARATIONS – The long battle for police torture survivors*, WINDY CITY TIMES, Jun. 17, 2015, <http://www.windycitymediagroup.com/lgbt/REPARA->

Working together, the Death Row Ten and the Chicago CEDP forged a visible grassroots campaign.²⁹ The University Church, where CEDP member Greta Holmes, a social worker and fiery activist, was a member, became our home base.³⁰ Co-pastors Don and Ann Marie Coleman graciously opened their doors to us, literally giving the Chicago chapter a key to the church so we could hold meetings as needed.³¹ The Death Row Ten and CEDP activists organized dozens of town hall meetings, teach-ins, and other educational forums at churches and schools throughout the Chicago area and beyond.³² When a Death Row Ten member had an important court date, we packed the courtroom with supporters.³³ This show of support was intended to let the judge and the prosecutor know that we were watching, but more than that, it was a small yet meaningful way to demonstrate solidarity with our comrades behind bars. Though supporters weren't allowed to speak directly to a defendant during, before, or after his court appearance, his subtle nod of acknowledgment when he walked into the room let us know that our presence was felt. The chapter also organized a multitude of public actions demanding new trials for the Death Row Ten, often targeting former Mayor Richard M. Daley and Cook County State's Attorney Richard Devine, both of whom had shamefully used their positions of power to cover up Burge's torture ring.³⁴

PUTTING A HUMAN FACE ON THE DEATH PENALTY

Death Row Ten members spoke to numerous audiences around the country directly from their prison cells via amplified telephone hookups.³⁵ The voices of the Death Row Ten permeated classrooms, church sanctuaries and auditoriums in real time as they described the torture they had endured from

TIONS-The-long-battle-for-police-torture-survivors/51850.html (explaining Alice Kim's first visit to Pontiac in greater detail).

²⁹ CEDP, *supra* note 26.

³⁰ *Ministry Partners*, UNIVERSITY CHURCH (last visited Sept. 13, 2016), <http://universitychurchchicago.org/about/partnerships/>.

³¹ *History*, UNIVERSITY CHURCH (last visited Sept. 13, 2016), <http://universitychurchchicago.org/about/history-2/>.

³² Kim, *supra* note 1.

³³ *Id.*

³⁴ Joan Parkin, *Meet The Death Row Ten – Activists Win Torture Probe*, THE NEW ABOLITIONIST (May 2002), http://www.nodeathpenalty.org/new_abolitionist/may-2002-issue-24/meet-death-row-10.

³⁵ Kim, *supra* note 1.

their prison cells.³⁶ Borrowing the name from Mumia Abu Jamal's ground-breaking book, these "Live from Death Row" events put a human face on the death penalty.³⁷ Live from Death Row events became the hallmark of the CEDP, and by taking part in these signature events across the country, the Death Row Ten were able to gain support nationwide.³⁸

Organizing these call-ins was no small feat since phone privileges were heavily monitored by the prison and could be taken away at a moment's notice.³⁹ Death Row Ten members Stanley Howard and Ronnie Kitchen had stepped up as organizers on the inside, and CEDP activists communicated with both men regularly, accepting collect calls to strategize on a weekly basis. Death Row Ten members took turns calling in to Live from Death Row events organized by CEDP chapters in Chicago and around the country. Despite the inhumane conditions of death row, the Death Row Ten demonstrated amazing organizing acumen. They managed to get important messages to one another about whose turn it was, and when possible, they worked with CEDP organizers to designate a back-up caller in case the selected one couldn't get the phone.⁴⁰ If only momentarily, these phone calls helped to break down the isolation of death row.

One could hear a pin drop whenever a Death Row Ten member called in to an event — audiences were transfixed and transformed as they heard Stanley Howard's raspy voice greet them through the air waves, or as they heard Madison Hogley quietly tell the story of how his nightmare began, how he lost his wife and son in a fire, was brought in for questioning by the police and repeatedly suffocated with a typewriter bag, then framed for their murder even

³⁶ *Id.* See also Don Terry, 'Live from Death Row,' CHICAGO TRIBUNE, Nov. 2, 2003, <http://www.chicagotribune.com/news/nationworld/chi-0311020435nov02-story.html>. [hereinafter Terry].

³⁷ *Id.* See also MUMIA ABU-JAMAL, LIVE FROM DEATH ROW (1996) (novel on which the program's title was based).

³⁸ The first Live from Death Row took place at Georgetown University in 1998 with Maryland death row prisoners Tyrone Gilliam and Kenneth Collins, an idea hatched between the two prisoners, Gilliam's attorney Jay Nickerson, CEDP organizer Mike Stark, and the GU CEDP chapter. Interview with Mike Stark (October 13, 2016).

³⁹ Rudolph Bush & Steve Mills, *After Death Row, life can be tough sentence*, CHICAGO TRIBUNE, Jun. 17, 2003, http://articles.chicagotribune.com/2003-06-17/news/0306170220_1_illinois-death-row-inmates-death-penalty (examining the daily prison conditions on death row).

⁴⁰ Lecture by Alice Kim, *Community Lawyering and The Campaign for Reparations for Burge Torture Victims*, Loyola University Chicago School of Law's Public Interest Law Reporter Symposium (Oct. 30, 2015) [hereinafter Symposium].

though he never signed a confession.⁴¹ At a Live from Death Row held on the grounds of Victor Safford's home church during their annual summer picnic, dozens of children and their parents gathered around a tent to hear Victor speak to them from his prison cell.⁴² When Victor urged the kids to ask any question, one boy asked what the food was like.⁴³ "Like dog food," Victor responded.⁴⁴ Victor and other Death Row Ten members often shared what conditions were like the row in addition to describing the torture and the status of their cases. But the most memorable part of these events was when a family member of the caller had the chance to greet her loved one in the presence of a supportive audience. The glimmer in Louva Bell's eyes as she greeted her son Ronnie Kitchen on the phone, their banter at the beginning of a call-in, the pride that both mother and son felt in these moments was a stark contrast to the shame family members often described experiencing as a consequence of their loved one's death sentence.

Call-ins typically began and ended with chants led by organizers to "Free Madison Hobley" or "Free Stanley Howard" which blazed their way through the phone waves to the condemned units at Pontiac and Menard Correctional Centers.⁴⁵ On one occasion, Stanley Howard led his own chant, holding the receiver up so that we could hear the men near his cell roar, "They say death row, we say hell no!"⁴⁶ By providing a platform for the prisoners to speak for themselves, these events helped to subvert the dominant narrative about who was on death row: the worst of the worst, dangerous to civil society and undeserving of life. Their humanity became self-evident through the power of their own words.

As compelling as these events were, they were not without criticism. By and large, lawyers representing the Death Row Ten were critical of "Live from Death Row" events, fearing that their clients' words could be used against

⁴¹ Stephanie M. Kubilus, *Meet The Death Row Ten: Madison Hobley*, THE NEW ABOLITIONIST (Sept. 2000), http://www.nodeathpenalty.org/new_abolitionist/september-2000-issue-16/meet-death-row-ten-madison-hobley (explaining Madison Hobley's story).

⁴² Daniela Dwyer, see "Chicago" in *Highlights Of The Struggle*, THE NEW ABOLITIONIST (Oct. 2001), http://www.nodeathpenalty.org/new_abolitionist/october-2001-issue-21/highlights-struggle [hereinafter Dwyer].

⁴³ Symposium, *supra* note 39.

⁴⁴ *Id.*

⁴⁵ *Id.*

⁴⁶ *Id.* See also Lawrence Foster, Mumia Abu-Jamal, Darrell Cannon, et.al., *Campaign to End the Death Penalty National Convention 2008*, THE NEW ABOLITIONIST (Jan. 2009), http://www.nodeathpenalty.org/new_abolitionist/january-2009-issue-47/campaign-end-death-penalty-national-convention-2008.

them in court.⁴⁷ But Death Row Ten members were fed up with their claims of torture being dismissed and rejected by the courts, and they were no longer interested in playing by the rules of the courtroom where they had to abdicate their own voices to their lawyers.⁴⁸ In contrast, the men felt emboldened by Live from Death Row events, which provided a unique outlet where they could speak for themselves and receive support from people they had never met before.⁴⁹ Some lawyers were also dismissive of the direct action tactics organized by the Death Row Ten and activists, disapproving of the rhetoric and disruption being leveled outside and sometimes inside the courtroom and other governmental proceedings.⁵⁰ As the movement grew, activists and attorneys were able to find more common ground as they learned to navigate tensions that arose from their differing strategies.⁵¹

Some prisoners on Illinois' death row also questioned the Chicago CEDP chapter's focus on the Death Row Ten.⁵² "What about the rest of us?" former death row prisoner Renaldo Hudson (now serving a life sentence) once asked me.⁵³ Although the chapter initiated and supported campaigns centered on other death row prisoners, including Renaldo's clemency petition and Nathson Fields' campaign to prove his innocence,⁵⁴ some felt that the Death Row Ten campaign eclipsed other cases.⁵⁵ Renaldo's words have stayed with me. His words serve as a constant reminder of the 2 million and counting who are

⁴⁷ Symposium, *supra* note 39. See also *Death Penalty*, PEOPLE'S LAW OFFICE, <http://peoples-lawoffice.com/issues-and-cases/death-penalty/> (last visited Sept. 13, 2016) (explaining some of the legal opposition to the death penalty).

⁴⁸ Alice Kim and Joey Mogul's forthcoming book (Beacon Press) about the struggles for justice in the Burge torture cases includes a chapter on the Death Row Ten that discusses the friction between activists and lawyers.

⁴⁹ *Id.*

⁵⁰ *Id.*

⁵¹ Symposium, *supra* note 39. See also Sasha Abramsky, *Trial by Torture*, MOTHER JONES, Mar. 3, 2000, <http://www.motherjones.com/politics/2000/03/trial-torture-0> (further explaining the legal and activist collaboration).

⁵² Symposium, *supra* note 39

⁵³ *Id.* See also Eric Zorn, *Free Renaldo Hudson? Mercy, yes!*, CHICAGO TRIBUNE, Apr. 4, 2013, http://blogs.chicagotribune.com/news_columnists_ezorn/2013/04/free-renaldo-hudson-mercy-yes.html (explaining the legal case against Renaldo Hudson) [hereinafter Zorn].

⁵⁴ Zorn, *supra* note 52. See also Alice Kim, *32 men saved from death row*, THE NEW ABOLITIONIST (Mar. 2004), http://www.nodeathpenalty.org/new_abolitionist/march-2004-issue-31/32-men-saved-death-row (explaining Renaldo's clemency campaign). See also Nate Goldbaum, *Freedom for Nathson Fields!*, THE NEW ABOLITIONIST (Sept. 1999), http://www.nodeathpenalty.org/new_abolitionist/september-1999-issue-3/freedom-nathson-fields (explaining how Nathson Fields obtained freedom).

⁵⁵ Symposium, *supra* note 39.

currently incarcerated in the US, including 2,943 prisoners who remain on death row as of January 1, 2016.⁵⁶

GROWING SUPPORT FOR THE DEATH ROW TEN

As the Death Row Ten cases garnered attention, some public officials also began to declare their support. The Aaron Patterson Defense Committee had secured the support of Illinois State Representative Connie Howard who was vocal on his behalf.⁵⁷ Aaron and his defense committee had also successfully attracted the support of luminaries like Bianca Jagger and former judge and White House counsel Abner Mikva helping to bring even further attention on Aaron's case and Burge torture more generally.⁵⁸ In 1999, Representative Howard called for a federal probe into the Chicago Police Department and the State's Attorney's office concerning "the pattern and practice of police torture and alleged prosecutorial misconduct" in the cases of the Death Row Ten.⁵⁹ Howard's call was supported by Congressmen Danny Davis and Bobby Rush and the plight of the Death Row Ten was repeatedly raised at Congressional Black Caucus hearings into police brutality in Chicago that summer.⁶⁰ Attorneys from the People's Law Office (PLO), legal clinics at Northwestern University, DePaul University and the University of Chicago, the Cook County Public Defender's office and private attorneys continued working tirelessly to litigate on their behalf. And in the late 1990s some Burge survivors finally began winning new hearings. As attorney and activist Joey Mogul put it, "The synergistic combination of litigation and organizing educated the media, politicians and the public about the plight of these torture survivors, and resulted in several favorable rulings from the Illinois appellate courts granting new hearings to some of the torture survivors in their post-conviction cases."⁶¹

⁵⁶ *Death Row Inmates By State*, DEATH PENALTY INFORMATION CENTER (as of Jan. 1, 2016), <http://www.deathpenaltyinfo.org/death-row-inmates-state-and-size-death-row-year> (last visited on Sept. 13, 2016).

⁵⁷ John Conroy, *Pure Torture*, CHICAGO READER, Dec. 2, 1999, <http://www.chicagoreader.com/chicago/pure-torture/Content?oid=900936>.

⁵⁸ John Conroy, *Pure Torture*, CHICAGO READER, Dec. 2, 1999, <http://www.chicagoreader.com/chicago/pure-torture/Content?oid=900936>.

⁵⁹ Hylton White, *Pressure grows for Death Row Ten*, THE NEW ABOLITIONIST (Sept. 1999) http://nodeathpenalty.org/new_abolitionist/september-1999-issue-3/pressure-grows-death-row-ten.

⁶⁰ *Id.*

⁶¹ Joey Mogul, *Chicago Police Torture Cases: 1972-2011*, CHICAGO TORTURE JUSTICE MEMORIALS, http://chicagotorture.org/files/2012/03/08/Mogul_CPTC_1971_2011.pdf (last visited on Jan 24, 2017).

The high-profile release of death row prisoner Anthony Porter in February 1999 brought even more attention on Illinois' death row. And later that same year, the *Chicago Tribune's* groundbreaking five-part series on "The Failure of the Death Penalty in Illinois" prominently featured the cases of the Death Row Ten.⁶² This wave of activity preceded Governor George Ryan's decision to enact the country's first moratorium on executions in 2000.⁶³ And later this same year, amid growing public support and increased scrutiny on the death penalty, the Illinois Supreme Court ordered new hearings for several of the Death Row Ten that same year further galvanizing the campaign.⁶⁴

One tactic employed by the campaign was to target Cook County State's Attorney Dick Devine who not only discouraged investigations of the allegations of torture but also continued to uphold the validity of confessions that had been elicited by torture. More disturbing, before he was elected as State's Attorney, Devine was a partner at Phelan, Pope & John, Ltd., the Chicago law firm that defended Jon Burge in a civil suit that Andrew Wilson, a torture survivor, had filed against the city and the officers who tortured him.⁶⁵ We showed up at public events where Devine was making an appearance to call him out. For example, once when Devine was the featured speaker of a community meeting in Evanston, Illinois, CEDP members attended the forum and sat in the audience holding up signs of support for the Death Row Ten. Torture survivor David Bates, who was exonerated in 1995, admonished Devine and the audience for hosting what felt like a "tea party" when people's lives were at stake.⁶⁶

In 2001, a coalition organized a city-wide March Against Police Brutality and Racism at Touhy Park in west Rogers Park, deliberately near Devine's

⁶² Ken Armstrong & Steve Mills, *The Failure of the Death Penalty in Illinois* (pts. 1–5), CHICAGO TRIBUNE, *Death Row Justice Derailed*, Nov. 14, 1999, pt. 1; *Inept Defenses Cloud Verdict*, Nov. 15, 1999, pt. 2; *The Inside Informant*, Nov. 16, 1999, pt. 3; *A Tortured Path to Death Row*, Nov. 17, 1999, pt. 4; *Convicted by a Hair*, Nov. 18, 1999, pt. 5.

⁶³ Governor's Office Press Release, *Governor Ryan Declares Moratorium on Executions, Will Appoint Commission To Review Capital Punishment System*, ILLINOIS GOVERNMENT NEWS NETWORK (Jan 31, 2000) <http://www3.illinois.gov/PressReleases/showpressrelease.cfm?subjeid=3&recnum=359>.

⁶⁴ Taylor, *supra* note 13.

⁶⁵ Randolph N. Stone, Mandel Legal Aid Clinic, and Locke E. Bowman, MacArthur Justice Center, *Petition for Appointment of a Special Prosecutor*, <https://www.law.northwestern.edu/legalclinic/macarthur/projects/police/documents/BurgePetition.pdf> (last visited on Jan 24, 2017).

⁶⁶ Transcribed excerpt of speech by David Bates, *A Burge Torture Victim Speaks Out*, THE NEW ABOLITIONIST (July 2001), http://www.nodeathpenalty.org/new_abolitionist/july-2001-issue-20/meet-death-row-ten-burge-torture-victim-speaks-out.

home to call attention to his failure to deliver justice in the cases of the Death Row Ten as well as several high profile police brutality cases including the killing of Latanya Haggerty and beating of Jeremiah Mearday.⁶⁷ Just as a previous generation of activists had marched on Mayor Daley's home in the nineties, activists from the CEDP, Justice Coalition of Greater Chicago, Comité Exigimos Justicia (a group of Latinx mothers who organized themselves to demand justice for their incarcerated sons, many of whom had been abused and tortured by Chicago police officers on the West Side) and the Chicago Anti-Bashing Network among others marched to Devine's doorstep with a message: We would not tolerate police violence with impunity.⁶⁸ This same year, Devine cynically offered deals to several of the Death Row Ten promising eventual freedom in exchange for admissions of guilt. For Aaron Patterson, who rejected the deal offered to him, this was simply their attempt "to wiggle their way out of it."⁶⁹

Beyond pressuring city officials to do the right thing, these actions had another important effect: they offered a lifeline to the Death Row Ten and other Burge survivors who remained incarcerated. Marvin Reeves, Ronnie Kitchen's co-defendant, who was serving a life sentence at Stateville Correctional Center, would later share that he was astonished when he turned on the news and saw a "Free Marvin Reeves" sign at a rally.⁷⁰

MOTHERS MAKE HISTORY

A group of intrepid mothers became the heart and soul of the Death Row Ten campaign.⁷¹ The compassion and organizing power of the mothers, sisters, and wives of the Death Row Ten was nothing short of amazing. Through activism they overcame the isolation they experienced from having a loved one on death row. "It's like living with an elephant in your home," JoAnn Patter-

⁶⁷ *March Against Police Brutality and Racism, Dick Devine: Prosecute Corrupt and Brutal Cops*, GAY LIBERATION NETWORK, <http://www.gayliberation.net/policebrutality/2001/0509dickdevine.html> (last visited on Jan 24, 2017).

⁶⁸ *The End of the Nightstick: Confronting Police Brutality*, a Film by Peter Kuttner, Cyndi Moran and Eric Scholl, Icarus Films (1995), http://icarusfilms.com/cat97/a-e/the_end_.html (last visited on Jan 24, 2017).

⁶⁹ Steve Mills and Ken Armstrong, *Death row deal rejected*, CHICAGO TRIBUNE, Oct. 2, 2001), http://articles.chicagotribune.com/2001-10-02/news/0110020151_1_death-row-aaron-patterson-jon-burge.

⁷⁰ Marlene Martin, *A free man at last*, SOCIALIST WORKER, Mar. 26, 2010, <https://socialistworker.org/2010/03/26/a-free-man-at-last>.

⁷¹ Kim, *supra* note 1.

son, mother of Aaron Patterson explained.⁷² “You try to go about your business, you try to pretend the elephant isn’t there. But it’s there, and you can’t get around it.”⁷³ Gloria Johnson, mother of former death row prisoner Montell Johnson, told me that she and JoAnn Patterson worked in the same building before she retired. She said they often saw each other when taking a cigarette break, but until they began seeing each other at meetings, they did not know that the other also had a son on death row. As a political force, the moms instinctively acted in solidarity with all death row prisoners and repeatedly stated their support for “every mother’s child” on death row, not only their own.⁷⁴ When Louva Bell, mother of Ronnie Kitchen, and I drove down to Pontiac together, I’d visit Ronnie, but she always called out another prisoner.⁷⁵ She understood that visits from anyone on the outside were far and few between for most people on the row, so Louva took it upon herself to visit another mother’s son.

The moms became organizers in their own right. The week before Ryan declared a moratorium on executions,⁷⁶ Death Row Ten moms Louva Bell, Costella Cannon, and Jeanette Johnson, testified about police torture during Burge’s regime before the Illinois legislature.⁷⁷ This triumvirate of mothers also flew to Washington D.C. to speak at a press conference organized by Representative Jesse Jackson Jr. when he announced his proposed legislation for a national moratorium on the death penalty.⁷⁸ The Chicago CEDP chapter organized special death row visits with the moms and Reverend Jesse Jackson Sr. at Pontiac on New Year’s Eve in 2001 and 2002. Meanwhile, attorneys filed a petition for a special prosecutor to investigate the allegations of Burge torture and together with activists launched the Campaign to Prosecute Police Torture to organize support for the petition, and in 2002, a special prosecutor was appointed.⁷⁹

⁷² Symposium, *supra* note 39. See also Terry, *supra* note 35.

⁷³ *Id.*

⁷⁴ Symposium, *supra* note 39.

⁷⁵ Alice Kim, *A Mother’s Struggle for Justice: Remembering Louva Grace Bell*, PRAXIS CENTER, Oct. 28, 2015), <http://www.kzoo.edu/praxis/a-mothers-struggle-for-justice/> [hereinafter Kim 2].

⁷⁶ *Governor Ryan Declares Moratorium On Executions, Will Appoint Commission To Review Capital Punishment System*, ILLINOIS GOVERNMENT NEWS NETWORK, Jan. 31, 2000, <http://www3.illinois.gov/PressReleases/showpressrelease.cfm?subjectid=3&recnum=359>.

⁷⁷ Symposium, *supra* note 39. See also Taylor, *supra* note 13.

⁷⁸ Kim 2, *supra* note 73.

⁷⁹ Taylor, *supra* note 13.

Family members were integral to the Death Row Ten campaign and the growing movement to abolish the death penalty.⁸⁰ They came to planning meetings, stuffed envelopes with flyers and fact sheets, marched on Washington, demonstrated at the Republican National Convention, and joined the Million Man March calling for justice for their loved ones.⁸¹ They rallied at City Hall and in front of “Crook County” Courthouse—as dubbed by Illinois’ first exonerated death row prisoner, the late great Darby Tillis—spoke at countless town hall meetings and public actions, stood on street corners with petitions for their sons, testified before Ryan’s Commission studying the administration of the death penalty, and showed up for each other at court dates.⁸²

Their activism laid the groundwork for a critical meeting with Governor George Ryan at a pivotal political moment prior to his decision to commute all Illinois death sentences.⁸³ In 2002, a number of organizations had come together to coordinate a powerful and visible campaign including a 38-mile march from Stateville Correctional Center to the State of Illinois Building organized by the Center on Wrongful Convictions urging the governor to issue blanket commutations before he left office.⁸⁴ This campaign was met by an intense backlash in the media led by the Cook County State’s Attorney’s office and family members of crime victims.⁸⁵ When the Illinois Prisoner Review Board conducted hearings into the clemency petitions attorneys had filed on behalf of all death row prisoners, prosecutors organized the relatives of murder victims to retell the horrible details of the murders.⁸⁶ Family members of murder victims implored Ryan publicly and at a private meeting with the governor not to commute any death sentences.

The moms and other family members whose loved ones were on death row pushed back. They spoke at a press conference outside the clemency hearings

⁸⁰ Kim, *supra* note 1.

⁸¹ Kim 2, *supra* note 73.

⁸² Kim 2, *supra* note 73. See also *Blues Beat of the Struggle: Darby Tillis, 1943-2014*, THE CHICAGOIST, Nov. 6, 2014, http://chicagoist.com/2014/11/16/blues_beat_of_the_struggle_darby_ti.php (discussing Darby Tillis).

⁸³ See generally Rob Warden, *How and Why Illinois Abolished the Death Penalty*, DEATH PENALTY INFORMATION CENTER (May 25, 2012), <http://www.deathpenaltyinfo.org/documents/RWardenIL.pdf> (discussing the activism and the legal situations that lead to the abolishment of the death penalty in Illinois) [hereinafter Warden].

⁸⁴ *Id.* at 264-65.

⁸⁵ *Id.* at 268-70.

⁸⁶ Rob Warden, *An Ideological Odyssey: Evolution of a Reformer*, THE JOURNAL OF CRIMINAL LAW AND CRIMINOLOGY (Vol 104, No 4) at 144-145.

organized by the CEDP that brought together exonerated prisoners and death row family members. Working with the Illinois Coalition to Abolish the Death Penalty, they sought a meeting with the governor too, refusing to take no for an answer. This meeting would prove to be decisive. When Ryan announced his decision to commute all of the state's death sentences, he noted that he had had a special meeting "with a group of people who are less often heard from, and who are not as popular with the media."⁸⁷ He said he came to understand that "the family members of death row inmates have a special challenge to face" and could not look into the face of a parent and send their child to death.⁸⁸ Family members of death row prisoners insisted that they mattered, that their condemned loved ones mattered, and they helped make history.

The Death Row Ten cases became a focal point during the campaign for commutations. Their cases made the connection between the struggles against torture and the death penalty explicit. From the all-white ring of Chicago police officers who had been able to get away with torturing Black men to the courts and city officials who actively covered up the torture, the Death Row Ten campaign put the criminal legal system on trial. Their cases sowed seeds of doubt about the reliability of a system that allowed their convictions to be predicated on coerced confessions and showed that even in the twenty-first century, it was still impossible for African Americans to get a fair trial.⁸⁹ Convinced of their innocence, Ryan pardoned four members of the Death Row Ten before he left office.⁹⁰

For some members of the Death Row Ten, blanket commutations were a bittersweet victory. As they watched some of their brothers walk free, the prospect of life in prison without the possibility of parole was harrowing. Though they could breathe a sigh of relief that they no longer had a death sentence hanging over them, it meant they now faced an "in-house death sentence." While Death Row Ten members Ronald Kitchen and Victor Safford were later able to win their freedom, other members of the Death Row Ten remain incarcerated today, still seeking relief from the courts. Much more work remains to be done to ensure justice for all Burge torture survivors and all who are suffer-

⁸⁷ The Associated Press, *Text of Gov. George Ryan's speech announcing his commutation of all of Illinois' death sentences*, SAN FRANCISCO CHRONICLE, Jan. 11, 2003, <http://www.sfgate.com/nation/article/Text-of-Gov-George-Ryan-s-speech-announcing-his-2680319.php>.

⁸⁸ *Id.*

⁸⁹ From Kim and Mogul's forthcoming book on the struggles for justice in the Burge torture cases (Beacon Press).

⁹⁰ Jodi Wilgoren, *4 Death Row Inmates Are Pardoned*, N.Y. TIMES (Jan. 11, 2003), http://www.nytimes.com/2003/01/11/us/4-death-row-inmates-are-pardoned.html?_r=0.

ing as a result of our unjust criminal legal system. As we continue to seek justice, it is important to remember that the Death Row Ten refused to accept their status as condemned men and succeeded in exposing and interrupting Illinois' death machine. They dared to organize and their campaign helped shift the tide of public opinion against the death penalty and played a crucial role in Ryan's unprecedented commutations of Illinois' death sentences, helping to pave the way for the subsequent abolition of the death penalty in 2011. Their story teaches us an important lesson: the power of a people organized and mobilized in the cause of justice can break walls and make history.