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Since 1980, this country's prison population has tripled to more than one million. The United States has the highest rate of incarceration in the world. In 1993, more than a thousand people entered prison each week, at a rate of approximately 180 a day. In spite of the extraordinary tenacity of punishment ideology, there has been no demonstrable relationship between these law enforcement strategies and crime reduction.

In 1990, the Brookings Institution projected that by the year 2053, half of the U.S. population could expect to be in prison. This prediction preceded the "truth"-in-sentencing epidemic that seized the nation at both the state and federal levels. Like the Crime Bill, truth-in-sentencing was founded in public hysteria and political bombast, rather than judicial integrity, good scholarship, or informed public policy.

The passage of the federal "Violent Crime Control and Law Enforcement Act" last August guarantees not only a frightening future but a frightening present, and, as Father Robert Drinan has noted, is "one more step into [the] heart of darkness." Given the provisions of the Crime Bill, the number of U.S. prisoners will more than double again to at least 2.26 million within the next decade. Perhaps more significantly, serious in-roads have been made into the civil liberties of all Americans.

People in many cultures seem to need some "other" to hate. In this post cold-war age, we in the U.S. can no longer indulge our aggressions by demonizing the U.S.S.R. Among the most potent scapegoats at this juncture are "criminals." (And as parts of the Federal Crime Bill demonstrate, those only "accused" will do in a pinch.) The value of anti-crime rhetoric has reached an all-time high.

Social rationality — the reasonable assessment of cause and effect relationships between social policy and the social behavior it targets—has been subverted by political expediency and short-sightedness. Punishment without rehabilita-

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a high-school student in 1981. Nine years later he was awarded a new trial when evidence was uncovered which showed that the prosecutor had withheld evidence pointing towards Brandley's innocence and that prosecution witnesses had committed perjury. One judge described the trial as a "shocking scenario of the effects of racial prejudice, perjured testimony, [and] intimidation of witnesses...." All charges were subsequently dropped and Brandley was freed.

Randall Dale Adams was convicted and sentenced to death for the murder of a police officer. In 1988, a documentary film, "The Thin Blue Line," raised serious questions about the case against Adams; the evidence it uncovered formed the basis for a petition for a new trial. In 1989, an appeals court judge set aside the conviction stating "[the] state was guilty of suppressing evidence favorable to the accused, deceiving the trial court...and knowingly using perjured testimony." Adams was released after the court dropped all the charges against him—but only after he had spent twelve years in prison for a crime he did not commit.

Cases like this are not as rare as the public might imagine. An article in the Miami Herald, July 11, 1988, describes the case of fourteen prisoners who were sentenced to death and who were later found to be innocent. In 1987, the Stanford Law Review found 349 such cases in an extensive nationwide study. And a recently published book, In Spite of Innocence, expands on the Stanford study, noting that since 1900 there have been 416 documented cases of innocent persons who have been convicted of potentially capital crimes in the U.S.

Unfortunately, once an innocent person has been convicted and sentenced to death, their chances of eventual exoner-
Death Penalty

cringe." Willie Darden was executed on March 15, 1988.

Since 1973, more than 43 people have been released from prison after being sentenced to death despite their innocence. As former U.S. Supreme Court Justice William Douglas once noted: "One who reviews the records of criminal trials need not look long to find an instance where the issue of guilt or innocence hangs in delicate balance. A judge who denies a stay of execution in a capital case often wonders if an innocent man is going to his death."

For the sake of argument, let's assume that there are some individuals who "deserve" to be executed for their crimes. The real question is do we _need_ to conduct executions? As long as capital punishment remains a part of our penal system, innocent persons will be executed. It is inevitable.

There are suitable alternatives. Those who oppose the death penalty favor its replacement with sentences of life without parole or natural life sentences. Granted, some innocent people will still be wrongfully sentenced to life imprisonment, but as long as they remain alive, there is the hope of someday proving their innocence. Once you are executed, your innocence dies with you. There is no one who can bring you back to say, "We're sorry, we made a mistake." 　

Michael Ross is a condemned man on Connecticut's death row. He has been on death row since June of 1987. He is currently under a stay of execution pending the completion of an appeals process.

Crime Bill

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tive programs not only precludes help for a class of citizens desperately in need of educational, vocational, medical, and mental health services, it simply cannot and does not produce changed behavior. Research data has repeatedly shown that reintegration programs (furloughs and work release) decrease recidivism. College education programs also dramatically decrease recidivism. Yet politicians pander to an impressed and angry public with a punishment agenda that has, for example, eliminated furlough, work release, and prison college programs.

In this context, a slow economy and mid-term Congressional elections led legislators to translate a bill fraught with Constitutional defects and sleight-of-hand funding into the largest, most expensive crime bill in history. Even staunch liberals such as Massachusetts Sen. Edward Kennedy voted for the original (and even more odious) Senate version with only four U.S. Senators refusing to support it.

The act was first introduced as a 964-page Senate bill in the fall of 1993. A House-Senate conference committee melded that version with two, more moderate, House bills. Though it passed by 94 to 4, the original Senate version was riddled with inconsistencies, and was in many respects so outrageous that it seemed to be little more than election year grandstanding. For instance, the bill contained not one but two contradictory three-strikes provisions. The incongruities suggested that many Senators wanted to author their own tough section of the bill to use in the upcoming election. Opponents of the bill hoped the Senate version would prove to be a rhetorical exercise, and that the conference committee would adopt substantial portions of the House bills.

In spite of a sustained fight waged for nearly ten months by many organizations (American Friends Service Committee, NAACP, American Bar Association, Citizens United for the Rehabilitation of Errants, American Civil Liberties Union, National Legal Aid and Defender Association, Center for Constitutional Rights, Families Against Mandatory Minimums, The Sentencing Project, for example), the conference committee report favored much of the original Senate bill over the House proposals. The final report consists of 33 Titles and spans 412 pages. The size of the legislation precludes detailed analysis here. Those interested in more detailed study than what follows should request the Violent Crime Control Conference Report (103-711) from their Congresperson.

Potentially Positive Elements of the Bill

Provisions in the Crime Bill regarding community crime prevention and aid to local law enforcement are difficult to decipher. Several Titles are devoted to guidelines for administration of several billion dollars in grants to local government and private agencies. The Congressional Black Caucus worked hard to protect the prevention money that made it into the final draft of the Bill. The effic-

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1. The ACLU has issued a 20-page analysis of civil liberties abuses in the Crime Bill. The authors gratefully acknowledge this work.
The Bill deletes the current federal prohibition against executing people deemed to be so mentally incapacitated they cannot understand proceedings nor aid their defense attorneys. It federalizes many crimes that can already be prosecuted under state laws, thereby making defendants eligible for execution, if the case is tried in federal rather than state court. These new federal offenses include carjacking, drive-by shootings, and gun murders committed during a drug felony. This represents an encroachment by federal authorities over areas traditionally under state jurisdiction. Most disappointing, the conference committee failed to incorporate the House Racial Justice Act, which addressed the exhaustively-documented racial bias of death sentences. This would have provided a wedge in capital cases by allowing legal challenge at least to those death sentences in which racial bias could be demonstrated.

Sentencing and Sanctions

The Crime Bill does not include any new mandatory minimums (largely as a result of the extensive work of Families Against Mandatory Minimums), but it does legislate more severe federal sentences for already prohibited behaviors. For example, sentences are increased for drug trafficking in prison—an easier way to lengthen a prison sentence than most of us in the free world can imagine; for drug dealing in "drug-free zones," whether or not the accused is aware of the geographical parameters of the zone; for drug use in federal prisons; and for belonging to a "criminal street gang." Title XXXII doubles time to be served both for arson and for manslaughter. These provisions will greatly increase the size of the federal prison population.

Title II of the bill forces state legislatures to enact longer sentences for offenders by linking the availability of federal funds for prison expansion to state sentencing policies. To receive federal construction grants, states must either pass blanket "truth-in-sentencing legislation, ensuring "violent" offenders serve 85 percent of their sentences (virtually eliminating good-time and nearly abolishing parole), or pass a package of specific legislation with the same net effect.²

The provision vastly overburdens the states, in that federal grants cannot total more than 25 percent of total project costs. Moreover, what the bill does not make clear, and what studies reveal, is that the construction of a prison represents less than ten percent of total operating costs over a prison's first 20 years. This means that states will be increasing their prison populations, by increasing sentence lengths, in order to qualify for funding that ultimately will amount to less than two percent of the cost of expansion over the first two decades.

The Bill's much-touted "three strikes" provision dictates a life sentence for persons convicted of three "violent" felonies or two "violent" felonies and one "serious" drug offense. The inclusion of the drug offense is particularly troubling, since quantity of drug sold is weighted more heavily than degree of culpability (and so a low-level "courier" may receive more time on a large drug deal than a higher-level "distributor" for a smaller quantity sold). It should also be noted "violent" felonies include "attempts" to commit "violent" felonies, so that any event construed as an "attempt," becomes a "strike."

The Bill has a dangerous retroactive element. Defendants may have previously pleaded guilty to charges as part of a deal, for the sake of expediency, that now will be counted as strikes towards a potential life sentence. Had the defendant known at the earlier time that three strikes legislation was in the offing, s/he might never have pled guilty to the charges.

Three strikes will likely make the Bureau of Prisons the country's single

2. We have put quotation marks around those words that are subject to variable interpretation. Truth-in-sentencing legislation, for example, presumably means that "what you see is what you get": the number of years indicated in the sentence would be precisely what the defendant would serve. However, such legislation masks a whole range of inequities and problems we don't have space to discuss here. The attribution of "violence" is a label often used by prosecutors in "fact" or "charge" bargaining, in order to force a plea of guilty, rather than a measure of some element of absolute reality in the criminal event.
Crime Bill

largest geriatric health care provider. While one section of the bill does create a safety valve for the parole of prisoners over 70 years of age who have served more than 30 years, the absurdity of the entire policy is clear if we consider the 80-year-old prisoner who has spent two decades in prison but nonetheless is ineligible for release. Three-strikes ignores established data regarding the length of criminal careers. The vast majority of habitual offenders have been shown to abandon criminal activity by their late forties.

The three-strikes provision makes monstrous scenarios likely in which persons convicted of minor offenses, such as possession of marijuana, can receive life sentences. Three-strikes legislation may do nothing to increase public safety, but will certainly lead to an unprecedented expansion of the corrections-industrial complex in the U.S. The substitution of a national prison mania for erstwhile defense expenditures takes concrete form in the section of the Bill that proposes the conversion of closed military installations into federal prison facilities.

Two of the Bill's titles allow adult prosecution of children as young as 13 years of age. In fact, if states want federal money, they must adopt federal guidelines that require the bindover, from juvenile to adult court, of 16 and 17-year-olds who commit "violent" crimes. If legislators are comfortable with this because they've been influenced by media exploitation of crime among African American and Latino youth, the racial implications are serious. Moreover, this legislation is the philosophical antithesis of the fundamental precept underlying the U.S. juvenile justice system: that children should be given the opportunity to be healed and become functioning citizens. The prosecution of children as adults is so much a departure from traditional practice that there is a complete absence of housing for juveniles in federal facilities.

Pell Grants and Prisoners Rights

Title II of the Bill ends prisoner eligibility for Pell Grants. Pell Grants to prisoners provided funding that enabled colleges to go into prisons nationwide and offer associate degree, bachelor degree, and even vocational training programs. Although prisoner awards represented a negligible amount of the total program, and the denial of all prisoner monies will increase grants to non-prisoners by less than $5 per student, Sen. Jesse Helms (R-NC) and others were successful in terminating prisoner eligibility. This is a poor way to fight crime since national studies have shown repeatedly that higher education is correlated with reducing recidivism by 35 to 40 percent. Post-secondary education has also been an inexpensive method of decreasing prison violence for prisoners serving long or life sentences. The ability of prisoners to effectively challenge (and thereby improve) conditions of confinement has long been held to be their inalienable constitutional right. Title II contains provisions that undermine that right. Section 20409 strips the judiciary of its long-held dominion over the delineation and enforcement of those rights. Under the new section, federal courts can hold overcrowding to be unconstitutional, or prison and jail conditions to violate the Eighth Amendment, only if cruel and unusual punishment is demonstrated to affect that specific plaintiff. The section reads further, "The relief in a case ... shall extend no further than necessary to remove the conditions that are causing the cruel and unusual punishment of the plaintiff inmate." [Italics ours.] It is not clear what the repercussions of the new language will be for suits already certified as class actions, if the (original) plaintiff inmate is moved to another prison.

This section also allows prison systems that have been ordered by federal court to remedy Eighth Amendment violations, to have, at their request, their court orders opened and modified at two-year intervals—even after a case has been decided and the state's prison system has been found to be at fault. This has the potential for endless relitigation, with conditions never ameliorated and cases extended ad nauseam, and violates the basic principle of the "finality of judgments." Furthermore, the legislation has serious public health implications. As we have recently seen with increased cases of tuberculosis and measles in state prison systems, overcrowding affects the safety of both staff and inmates through increased possibility of contagion, diminished health services, and escalating tension and violence.

Prisoners have long been able to file suits in forma pauperis, which means that those inmates too poor to pay court costs and legal fees could request that the fees be waived. At Conference, both House and Senate adopted a provision that augments the grounds upon which a judge may summarily dispose of such suits. Historically, pro se suits—suits filed by prisoners proceeding on their own behalf without an attorney—have been one of a very few ways prisoners could address grievances. Such suits have resulted in some important court decisions. The dilution of the standard means denial of the basic due process right of a hearing in open court.

Anti-Immigrant Provisions

In spite of the Supreme Court's repeated decision that the Constitution entitles U.S.-resident aliens the same due process rights as are accorded citizens, Title XIII eliminates deportation hearings for non-permanent resident aliens convicted of "aggravated felonies." Now the decision will be made by a single officer of the Immigration and Naturalization Service (INS). According to the American Civil Liberties Union, the INS has a history of mistakenly deporting lawful permanent residents and even U.S. citizens. Hearings have previously mini-
In each issue of the newsletter we highlight a few recent grants made to groups around the country. This month we feature grants to prisoner advocacy and anti-death penalty groups. The information in these brief reports is provided to us by the groups themselves. For more details, please write to them at the addresses included here.

The Massachusetts Lifers Organization
P.O. Box 43, Norfolk, MA 02056

The Massachusetts Lifers Organization (MLO) was started in 1991 by prisoners serving life sentences in Massachusetts who wanted to educate themselves, other prisoners, and outside advocates about prison issues. RESIST has provided several grants to the group and they write: "The political reality of the day dictates that very few organizations have either the will or the courage to fund groups such as ours. We commend the entire RESIST board for their courage and dedication." We are pleased to have been able to support the MLO, which has significantly expanded its networking capacity in recent years. In April of 1994, MLO held the largest Criminal Justice Seminar ever held within a correctional institution at MCI-Norfolk. The seminar was attended by over 130 outside activists and over 100 prisoners.

MLO focuses on human rights issues and organizing around criminal justice. The group has also registered well over 2,000 prisoners to vote in general elections. The group works with criminal justice students at colleges throughout the state, organizes demonstrations at legislative hearings at the State House, supports death row prisoners in other states, works on behalf of battered women in prison, and works to dispel "disinformation" put out by the political right wing. The group has both an internal and external Board of Directors, and has representatives at seven Massachusetts prisons.

MLO has two methods of disseminating information: the MLO Digest and the MLO Newsletter. These go not only to prisoners throughout Massachusetts, but to all criminal justice and related organizations. A recent effort was to counter extremely misleading and hate-filled pro-death penalty editorials with reasoned, well-written responses. RESIST's recent grant was used to distribute these two publications.

Murder Victims Families for Reconciliation
P.O. Box 1213, Griffin, GA 30224

Murder Victims Families for Reconciliation (MVFR) is a national organization for people who have had someone murdered in their family and oppose the death penalty. The organization was founded in 1978 by a woman whose mother-in-law was murdered but who found a deeper healing through reconciliation than through continuing a cycle of violence and retribution. MVFR has grown steadily and now has a membership list of over 5,000 family members, supporters, and prisoners on death row. The eleven member Board of Directors are all volunteers who have lost someone to murder. The group does extensive media work and speaking tours, and organized a successful "Journey of Hope" last year in Indiana in 1993, speaking to more than 3,000 people in 25 cities and towns. MVFR's goals are to abolish the death penalty and create alternative choices which respect life; and to strengthen the anti-death penalty movement nationwide. The Georgia branch is particularly focused on work in that state, where African Americans comprise 50% of prisoners on death row although they make up only 27% of the state's population. They write: "The death penalty feeds on the inability of the poor to provide effective legal counsel. We continue to fight the arbitrary use of the death penalty against the poor and people of color."

RESIST's recent grant was to support a "Journey of Hope" in Georgia. This was a major educational event that took place in October. Local organizers planned events in 16 communities in order to contribute information and perspective missing from the public debate on crime, violence, and the death penalty. Events included large rallies, press conferences, teach-ins, and meetings with targeted public officials, newspaper editorial boards, and survivors of murder.

Uncompromising Books
216M Paseo Del Pueblo Norte, #373
Taos, NM, 87571

Uncompromising Books is a non-profit group organized to distribute books that expose government and corporate violations of the environment and of the rights of indigenous peoples. The group was founded in order to distribute The American Indian in the White Man's Prisons: A Story of Genocide because mainstream publishers who were interested in the book required changes and deletions relating to the prison and legal system's abuse of prisoners. In particular, the book promotes the point of view that the U.S. prison system's "goal is to condition all prisoners and society at large to not only be submissive but to actively destroy any resistance...."

The goal of the organization is to promote legislation that will protect the religious freedom of American Indians and Indian prisoners; to educate criminal justice students about these issues; and to use any profits from book sales to advocate for the rights of indigenous peoples and the environment. The book was written by Native American prisoners, former prisoners, and spiritual leaders, and was compiled and edited by Little Rock Reed, former editor of Iron Horse Drum, a newsletter for Indian prisoners. The book includes historical and continued on page nine

Join the RESIST Pledge Program

We'd like you to consider becoming a RESIST Pledge. Pledges account for over 25% of our income. By becoming a pledge, you help guarantee RESIST a fixed and dependable source of income on which we can build our grant making program. In return, we will send you a monthly pledge letter and reminder along with your newsletter. We will keep you up-to-date on the groups we have funded, and the other work being done at RESIST. So take the plunge and become a RESIST Pledge! We count on you, and the groups we fund count on us.