

01/04/2001

## **Good old days**

### **Attorney General nominee John Ashcroft will set civil rights back 40 years**

by Bob Fittrakis

President-select George W. Bush's nomination of former Missouri Senator John Ashcroft as Attorney General is a major coup for the radical right and white supremacists. NAACP Board Chairman Julian Bond said of the choice, "Any pretense of unifying the nation has ended with this nomination. This confirms the correctness of blacks voting nine-to-one against Governor Bush."

Bush's selection is a logical one for a presidential candidate who refused to speak out against the Confederate flag flying over the South Carolina Statehouse during that state's primary. Our next president told us it was simply a question of "state's rights."

As it was a question of individual morality when Bush spoke at Bob Jones University, a Pentecostal college most famous for quoting the Bible to justify its practice of apartheid at the time. Ashcroft received an honorary doctorate from Bob Jones in 1999, a university renowned for its racist policies and bigoted denunciation of the Catholic and Mormon churches.

As the nominee for the highest law enforcement position in the United States, Ashcroft has pledged "to be a guardian of liberty and equal justice." The key is understanding what he means by this.

In 1998, Ashcroft gave a revealing interview to the leading journal of the neo-Confederate movement, Southern Partisan. Ashcroft lauded the journal since it "helps set the record straight" on the Civil War by "defending Southern patriots" like Robert E. Lee, Stonewall Jackson and Jefferson Davis. He feared without Confederate apologist publications, people would get the idea that his Southern heroes had a "perverted agenda."

Ashcroft no doubt thanks his version of a bigoted and racist God for the Partisan's ability to tell us fascinating tidbits, such as that slave owners "encouraged strong slave families to further the slave's peace and happiness." The journal was also one of the first publications to portray former Klan leader David Duke as "a populist spokesperson for a recapturing of the American ideal."

As usual, the foreign press covered the Ashcroft nomination far more accurately than the U.S. mass media. Note the headline in the December 23 Independent of London: "Bush Selects Right-Winger As Law Chief." The British paper remarked matter-of-factly, "Mr. Ashcroft can be expected to take the Justice Department sharply to the right." So much for Bush understanding that he lost the popular election by more than 500,000 votes.

Ashcroft is the son of a Pentecostal preacher who moved his family to Springfield, Missouri, so they could be close to the Assembly of God church headquarters. One of his favorite quotes is that there's only "two things you find in the middle of the road, a moderate and a dead skunk." That's why Phyllis Schlafly's Eagle Forum gave Ashcroft a 100-percent rating last year before he lost to a dead man, Governor Mel Carnahan, in his Senate re-election bid.

Right-wing syndicated religious zealot Cal Thomas offers an extensive interview with Ashcroft in his book, *Blinded by Might: Can the Religious Right Save America?* From what, you might ask. "Moral decline," of course.

There's a clear yearning by Ashcroft for the good old days, when women were ladies and blacks were Negroes. Ashcroft told Thomas that the decline of America, "this reversal in value flow, I think, can be clearly traced to the Great Society era." During this devilish period, the Kennedy-Johnson War on Poverty caused poverty to fall from 22 percent of the population in 1960 to 11 percent by 1966. A variety of Satanic programs were put in place, like Head Start for disadvantaged children, the Civil Rights Act of 1964 mandating equal rights for women and blacks in hiring and promotion, and the Voting Rights Act of 1965 which guaranteed every U.S. citizen--until the Bush brothers' Florida debacle--the right to vote.

Ashcroft has his own version of the Great Society, it's called "charitable choice." Separation of church and state aside, under his plan, federal money should go directly to churches to save America's soul.

"Moral choices are primarily shaped by the culture, and culture shapes behavior in an anticipatory or preventative way," Ashcroft holds. That's why he's offended by any mention that George Washington was a slave owner. He dismisses this as "malicious attacks" and "revisionist nonsense." He loves Washington, the Southern slaveowner, but detests Washington, D.C., the black city.

The Reverend Jesse Jackson said, "He [Ashcroft] is a very real threat to the years of civil rights and social justice progress." Ashcroft is also fiercely anti-abortion.

Ashcroft opposed the confirmation of Bill Lann Lee as U.S. Assistant Attorney General for the Civil Rights Division because Lee was against California's Proposition 209, which eliminated affirmative action in that state.

Ashcroft scuttled the appointment of African-American Ronnie White as a federal judge, attacking White as "pro-criminal" while on the Missouri Supreme Court. White's great offenses: he only supported the death penalty in 41 out of 59 cases and he once challenged the legality of a Missouri police drug check point--a practice later declared unconstitutional by the U.S. Supreme Court.

If Ashcroft manages to squeak through, he'll owe Bush heavily. Maybe he can do the same kind of favor that Attorney General William French Smith did for the Reagan-Bush administration in 1982. You remember, CIA Director William J. Casey negotiated a secret "memorandum of understanding" with Smith, agreeing that the CIA was not legally responsible for reporting drug trafficking into the U.S. by CIA "assets."

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## **The South rises again**

### **Think the Confederacy is dead? Not according to Bush's cabinet appointments**

by Bob Fittrakis

Can that Bush boy pick 'em or what? First, there was former Senator "I Lost to a Dead Guy" John Ashcroft--armed with an honorary Ph.D. from Bob Jones University--for Attorney General. Now there's Gale Norton for Secretary of the Interior.

Bypassing the usual polite gibberish that masquerades as mainstream "journalism" in this country, let's turn quickly to the British press, where the Observer of London ran this headline on January 14: "Unrepentant South mounts new assault on Washington." Cutting to the heart of the matter, the Observer correctly noted: "At the core of both nominees' [Ashcroft and Norton] objections to the federal offices they now assume is their shared, openly declared admiration for the old Southern Confederacy--declarations which have themselves provoked outrage as each comes forward for nomination."

Ashcroft's a great fan of "southern patriots" like Robert E. Lee and Jefferson Davis; Norton apparently shares these sentiments. Last week, President-select George W. Bush had to explain to the New York Times a speech Norton made in 1996. Surely it would be unfair to quote Norton out of context or fail to put her speech in some personal political-historical perspective. You can find the speech at the Independence Institute's web site where she's listed as one of the "Heroes of Devolution" (code word for states' rights).

Then the Attorney General of Colorado, Norton pumped up the audience in the opening of the 1996 speech by pointing out, "We'll have the opportunity to do battle once again on the issue of the state being able to make its own decision." She went on to list some hideous examples of federal government oppression: "the wheelchair ramp required by the Americans with Disabilities Act" at the Colorado State Capitol; "auto emissions" testing; the "Fair Labor Standards Act"; and, of course, the notorious "Violence Against Women Act (VAWA)."

Norton went so far as to suggest that there's no constitutional ground for the VAWA, conveniently ignoring the 14th Amendment's equal protection clause. She demanded that Congress quit meddling and "shift that power back to where it belongs," to the states.

In Norton's rigid ideology, the federal government is always bad and meddlesome whether it's protecting women from violence or ensuring overtime pay after eight hours of work in a day. On the other hand, all those who fight for "state sovereignty" are good.

Norton related an emotional revelation she had while tramping through a Civil War graveyard in Virginia: "I had just gone through this massive battle with the EPA on state sovereignty and states' rights," she said. "I remember seeing this column that was erected in one of those graveyards. It said in memory of all the Virginia soldiers who died in defense of the sovereignty of their state. It really took me aback. Sure, I had been filing briefs and I thought that was pretty brave... Again, we certainly had bad facts in that case [the Civil War] where we were defending state sovereignty by defending slavery. But we lost too much. We lost the idea that the states were to stand against the federal government gaining too much power over our lives. This is the point I think we need to reappreciate."

Julian Bond, chair of the NAACP, chided Norton for "wanton insensitivity against slavery and its descendants."

Bush saw it differently. He told the New York Times that his Secretary of the Interior nominee "was talking about states' rights, the ability of states to run their business... She was in no way, shape or form embracing slavery, and neither was John Ashcroft." Bush and the Republican spinmeisters challenged reporters to look at his nominees' entire records.

Fair enough.

As Colorado's Attorney General, Norton's political record is a testament to the reappreciation of states' rights. In 1993, Norton fought valiantly to preserve Colorado's first-in-the-nation anti-gay legislation. She argued and lost before the conservative U.S. Supreme Court that civil rights shouldn't apply to gay people. "Such safeguards apply only to 'traditional suspect classes,' such as racial minorities, while other 'identifiable groups' including homosexuals have no fundamental right to seek enactment of legislation to benefit them," Norton maintained, according to the Cleveland Plain Dealer.

In August 1995, Norton, ever an admirer of Alabama, called for Colorado to reinstate the chain gangs in order to "combine hard work with humiliation."

In the middle of a campaign for U.S. Senate, Norton also routinely denounced the evils of Occupational Safety and Health Administration laws, the Denver Post reported. After her loss in the 1996 Senate race (to a live candidate), she recovered quickly enough to issue a statewide legal opinion banning all race-based scholarships at Colorado State University. Denver's NAACP accused her of pandering "to the extremist anti-affirmative action crowd." She told Denver's Rocky Mountain News, "It is dangerous for the government to be categorizing people on the basis of race for any reason."

The next year, she emerged as a major spokesperson for the New Citizenship Project Council on Crime in America's reactionary report promoting massive incarceration. The South Bend Tribune summarized the study this way:

"Americans face a frightening future in which teenage 'wolf packs' roam the streets, inner-city gangsters spread into the suburbs, and hardened criminals waltz out of the prisons to prey on innocents."

Some of the highlights of the council's study were the fact that jails and prisons worked and that a disproportionate number of crimes are committed by blacks in the United States, reflecting the sad state of African-American families. Norton told the Tribune, "Any social group that does not have a predominance of stable families is going to have serious crime problems... Incarceration works." The report was issued amid a steady drop in crime and academic studies indicating that black family problems may be the direct result of over-incarceration of black males for nonviolent minor drug offenses.

Norton crusaded to end Medicaid-funded abortions for women impregnated by rape or incest and fought against the mainstreaming of the physically disabled as excessive federal interference. She, of course, favored allowing industrial polluters to police themselves. Norton's political mentor is former Secretary of the Interior James Watt, who said the goal of his department should be to utilize natural resources as quickly as possible before the eminent return of Jesus Christ. Utilizing the parable of the Talents, the Watt thesis held that Jesus would be really pissed off if he returned and found some redwoods still standing.

Let's turn to the Brits' Observer for our closing summary: "Both Ashcroft and Norton are figureheads in a revived, neo-Confederate movement which blends the libertarian, anti-Washington and 'anti-bureaucrat' message of the Bush campaign with more militant sentiments that flirt with the Confederate and militia movements on the extreme right wing that reject the very notion of federal authority over 'States' Rights'--the battle cry of the old South."

Can the general make peace?

The unasked question about Colin Powell, nominated as Secretary of State by George W. Bush, is an obvious one: Why would you appoint the former head of the Joint Chiefs of Staff, a war-maker, as your chief diplomat, supposedly a negotiator in peace-making?

Perhaps the best single source for reflecting on Powell's career is the five-part series "Behind Colin Powell's Legend," published by the sterling investigative web site ConsortiumNews.com. The series traces the development of Powell mania following the publishing of a Horatio Alger-like tale in his mid-1990s autobiography *My American Journey*. On tour in 1995 to promote the book, Powell's preference for using the U.S. military as the global Robocop clearly came through. Powell liked to brag about the "superb performance of the armed forces of the United States in recent conflicts, beginning with the...Panama invasion and then through Desert Shield and Storm."

What Powell fails to address is why three-quarters of the nations in the United Nations voted to condemn the U.S. operation in Panama as a flagrant violation of international law. You remember Operation Just Cause, an illegal armed intrusion into Panama to serve a warrant on Panamanian Manuel Noriega, who had recently been on the CIA payroll. Given President-elect Bush's obvious inexperience in foreign policy, Powell's past performance is essential in understanding what we might expect from another Bush administration.

Both ConsortiumNews.com and In These Times have raised the issue of Powell's actions in Vietnam, where the general describes burning peasants out of their hut in 1963, "starting the blaze with Ronson and Zippo lighters."

Headquartered in the Americal division, Major Powell in 1968 was involved in whitewashing initial allegations that U.S. troops has committed atrocities against Vietnamese civilians. It's well-established in the public record that Tom Glen, a member of an Americal platoon, wrote to General Creighton Abrahms charging that "for mere pleasure, [U.S. soldiers] fire indiscriminately into Vietnamese homes and without provocation or justification shoot at the people themselves." Powell, in a reoccurring pattern in his rise to power, declined to interview Glen, but instead went to the superior officer who claimed Glen had no actual knowledge of atrocities. As In These Times reminds us in a January editorial, Powell concluded, "In direct refutation of [Glen's] portrayal, is the fact that relationships between American soldiers and the Vietnam people are excellent." Within seven months, uninvestigated Americal troops would slaughter 347 Vietnamese civilians, including infants, in the village of My Lai.

As a lieutenant colonel, Powell received a Richard Nixon White House fellowship which allowed him to ally himself with Nixon aides Caspar Weinberger and Frank Carlucci. When Weinberger and Carlucci took over the Defense Department as Defense Secretary and Assistant Defense Secretary respectively, under Reagan, they had a friend in Colonel Powell at the Pentagon. By 1983, Powell was a general. He emerged as Weinberger's gatekeeper at the Pentagon and a key operative in the coverup of the notorious Iran-Contra scandal. In September 1983, Powell, Weinberger and a young Lieutenant Colonel Oliver North went on an inspection tour of Central America together where they met with the CIA's "man in Panama," Noriega, who had well-known ties to Colombia drug traffickers. In November 1983, the Defense Department hosted a Washington lunch honoring their ally, Noriega.

Carlucci went on to be Reagan's National Security Advisor and by December 1986, Powell became Deputy National Security Advisor primarily, ConsortiumNews suggests, because "Powell had played a crucial role in skirting the Pentagon's stringent internal controls over missile shipments to get the weapons out of Defense warehouses and into the CIA pipeline."

Powell officially claims that he knew nothing about the illegal shipment of missiles to Iran prior to their formal authorization on January 17, 1986. Oliver North testified, however, that "my original point of contact was General Colin Powell, who was going directly to his immediate superior, Secretary Weinberger." Powell helped draft Reagan's infamous March 4, 1987, speech admitting that there'd been a simultaneous release of arms to the Iranians for hostages in violation of stated U.S. policy.

As the administration hung North out to dry as the "cowboy" fall guy, Powell lobbied journalists behind the scenes to limit the investigation. By the time Reagan left office, Powell was a four-star general.

On October 2, 1989, Powell became the Chair of the Joint Chiefs of Staff and on December 17 recommended the massive invasion of Panama to serve a warrant on Noriega. While the U.S. Army was there, they managed to destroy the Panamanian Defense Force and install a pro-U.S. government. The independent documentary Panama Deception remains required viewing for those who want the truth about Powell and the Panama invasion.

Powell has already pledged to work with U.S. allies to sanction rogue regimes like Iraq, where more than 1.5 million civilians died due to the embargo in the 1990s, and he'll have his hands full with the continuing imbroglio in the Middle East. Will the former war-maker have the diplomatic tact needed to peacefully cool these volatile situations? Powell's legacy from My Lai to Iran-Contra to Panama suggests only a policy of secrecy, cover-ups and illegal military activities.

1/25/2001

## **MEDIA WATCH**

### **Wexner's royal connection**

Imagine Columbus Alive's surprise last week when Nigel Rosser, a British journalist and reported confidant of the royal family, contacted us to inquire about Prince Andrew's central Ohio connection. Rosser had read two award-winning Alive stories--"The Shapiro Murder File" and "Spook Air"--and wanted to chat about our own Leslie Wexner and his top aide, the mysterious Jeffrey E. Epstein.

Rosser's article, published in the London Evening Standard on January 22, described Prince Andrew's recent behavior as "erratic" and "greatly upset[ing]" the royal family. The Prince has been so busy partying with his new American pals, even his ex-wife Fergie is complaining.

Who's to blame for Andrew's failure to babysit for his daughters Beatrice and Eugenie, according to Rosser's article? None other than Ghislaine Maxwell, who has been spotted in the Prince's company at hotspots-of-the-rich-and-famous around the world. Ghislaine is the daughter of the infamous financier Robert Maxwell, who died after falling overboard from his yacht in 1991.

The late tycoon's daughter fled Britain and now resides in Manhattan, where the Columbus connection emerges. Rosser reported that Ghislaine is a one-time partner of Epstein, "an immensely powerful New York property developer and financier." Other newspaper reports have described Epstein as everything from a concert pianist, corporate spy, math teacher, stockbroker, merchant banker, and globe-trotting businessman. He has steadfastly denied rumors of links to the Israeli Mossad. Maxwell denied similar connections just prior to his accident at sea.

Whatever Epstein does, Rosser's article pointed out that he and Prince Andrew "now appear to have evolved a curious symbiotic relationship--whenever Ghislaine is seen with Andrew, Epstein is never far behind." Rosser cited an unnamed friend of the Prince saying that Andrew's a "very poor judge of character." Last May, Andrew went on a vacation with Epstein and Ghislaine in Florida. Rosser claimed he also attended a "hookers and pimps" Halloween party in New York with Ghislaine.

Epstein "has a license to carry a concealed weapon, once claimed to have worked for the CIA--although he now denies it--and owns properties all over America," Rosser noted. When he's not globe-trotting, Epstein has the choice of many places to call home, including a fortress-like mansion in New Mexico, a \$40 million New York townhouse, and the second most expensive residence in central Ohio. Of course, the mansion is located in New Albany, near his close friend and mentor, billionaire Wexner.

"Epstein began working for Mr. Wexner in 1985 and by the late 1980s had become wealthy, through, among other things, handling his worldwide air freight concerns and his fabulous collection of art, which includes a \$45 million Picasso," the Evening Standard reported. Epstein also serves as a trustee of the Columbus-based Wexner Foundation.

"Ghislaine is now employed by Epstein as a `consultant' at his elegant Madison Avenue offices. She stays at his house several nights a week and organizes his parties in New York," the Evening Standard reported. "She also acts as his interior designer and has sold property on his behalf. Ghislaine, it is said by friends, remains desperate to marry Epstein. He refuses, but enjoys the social stature that she can bring him."

One friend of Andrew and Ghislaine told Rosser that "the whole Andrew thing is probably being done for Epstein. Epstein will not marry her and it is incredibly likely she's doing it to keep in with him." Meanwhile, the article continued, Andrew has managed to meet a whole new crowd of people, including "sex entrepreneur Christine Drangsholt" on a trip with Epstein and Ghislaine to Mar A Largo.

Dispatch was weary of Clinton

Bill Clinton is out of public office, and it seems that no one is happier to see him leave than the folks at the Columbus Dispatch. In his January 21 analysis of the Bush inauguration--which readers were able to differentiate from an editorial mainly because the paper helpfully labeled it "ANALYSIS" in large, black letters--Dispatch reporter Jack Torry took a few parting pot shots at the former president. On the same front page, reporter Jonathan Riskind piled on with a few anti-Clinton quips of his own.

With the same sense of relief that American POWs in Germany must have felt as the gates were opened and their victorious countrymen marched in, Torry wrote that Bush's "address was clearly designed to reassure weary Americans that the tumultuous years of his predecessor...have come to an end." This sentence sums up the tone of Torry's article so well that Dispatch editors reprinted it in bold letters above the piece.

Echoing this theme of exhaustion, Riskind also referred to "a nation weary of Clinton's personal foibles" in his reporting on the inaugural address.

So where are all these exhausted, haggard refugees from the Clinton years? Judging only by Torry's and Riskind's words, a reader might think that they are all around us, that most Americans are breathing a collective sigh of relief now that Clinton has headed up the road to Manhattan. Yet, according to nearly every major poll conducted in this country, most Americans heartily approve of the manner in which Bill Clinton performed his job.

The Gallup Organization, for example, asked Americans 226 times over the course of Clinton's tenure, "Do you approve or disapprove of the way Bill Clinton is handling his job as president?" Clinton's job approval ratings, as determined from the answers to that question, soared from a low of 37 percent during the summer immediately following his inauguration to a heady 73 percent during the Monica Lewinsky mess before settling at 66 percent in December 2000 polling. Only Franklin Delano Roosevelt had a higher approval rating upon leaving the White House. Republican icon Ronald Reagan, whose name has been plastered on nearly every unclaimed edifice in Washington, trailed Clinton by three percentage points.

Let's make that clear: Clinton was more popular than Reagan, according to independent polling. This is the kind of inconvenient fact that Dispatch writers just can't wrap their partisan minds around.

Reinforcing the validity of Gallup's results, 66 percent of the respondents in a December 2000 NBC News/Wall Street Journal poll approved of Clinton's job performance, as did 68 percent of the participants in a CBS News poll and 65 percent of those in a Los Angeles Times poll, both from December 2000. While some may not have liked the way Clinton conducted his personal life, most very much approved of his job performance.

These polls paint a picture of a satisfied, not weary, America. Without term limits, we would undoubtedly still be referring to President Clinton and Governor Bush.

Only the Dispatch, not the country, is weary from the Clinton years. Not just in their editorials, but in the daily monopoly's "analysis" and political reporting, the paper's reporters and editors have consistently and repeatedly projected their own feelings about Clinton onto readers. Their derogatory comments concerning then-president Clinton were generally made in an offhand manner, matter-of-factly, and without supporting data or logic.

One unfortunate effect of this targeted bias is that Dispatch reporters, because they are so focused on slamming Clinton, often miss the real story. Torry correctly pointed out that Bush bashed his popular predecessor for not repairing Social Security and Medicare. Bush's words were, "We must show courage in a time of blessing by confronting problems instead of passing them on to future generations."

But Torry then failed to question the accuracy of this statement. The Congressional record, readily available to reporters, clearly shows that Clinton repeatedly attempted to reform both programs. Torry never raised this fact, nor did he examine the possibility that the politically motivated persecution of Clinton thwarted his efforts at reforming these programs just as they ground the workings of Washington to a halt on nearly every other important program.

Torry and Riskind also failed to question Bush's sincerity in asking for healing and cooperation. Except for the words he has uttered, the new president shows no intention of working towards common ground. He is pushing his partisan agenda aggressively, from controversial, uncompromising cabinet appointments to private investment of Social Security and a missile defense system. While stalwartly pursuing an agenda is not necessarily bad, doing so while begging for cooperation, healing, bipartisanship, civility--pick your Bush buzzword of the day--is the height of hypocrisy.

Riskind failed at another vital point in his piece. He dutifully relayed the following portion of Bush's address: "[W]hile many of our citizens prosper, others doubt the promise--even the justice--of our own country. The ambitions of some Americans are limited by failing schools and hidden prejudices, and the circumstances of their birth."

However, his reportage stopped with the mere transcription of Bush's words. Riskind did not mention the irony of these comments being made by the man who, as governor of Texas, did little to improve the state's education system and who refused to even slow down Texas death row killings in the midst of strong evidence that innocent people are sitting on death row in many states around the country. With their anti-Clinton agenda out of the way, perhaps the weary Dispatch reporters will start delivering such news to their readers.

02/01/2001

## **True confession**

### **Another man says he committed the murder that sent John Byrd to Death Row**

by Bob Fittrakis

John W. Byrd Jr. is fighting for his life. Sent to Ohio's Death Row for a 1983 murder he says he didn't commit, Byrd is next in line to sit in the state's electric chair. Now, Byrd's last, best hope for escaping the ultimate irrevocable punishment is an affidavit from another man who says he is the real killer.

Last August, six federal judges on the Sixth Circuit U.S. Court of Appeals dissented from the majority and supported a petition for rehearing Byrd's case.

The facts laid out starkly and precisely by Judge Nathaniel R. Jones in the dissent underscore the grave injustice of the pending execution of John Byrd: "No eyewitness or other physical evidence identifies the particular robbers responsible for the murder, and the only evidence distinguishing the assailants are the representations of a jailhouse `snitch.' After a trial featuring the snitch's testimony in which the jury inaccurately believed the snitch did not have any jail time or other criminal punishment pending, the person identified by the snitch is found guilty and sentenced to death. The other two perpetrators receive life sentences."

Ronald Armstead, the "snitch," was freed from prison soon after his ludicrous testimony helped send Byrd to death row.

Last week's release of a nearly 13-year-old affidavit, in which one of the men serving a life term actually confessed to the killing, should come as no surprise to Columbus Alive readers. (The August 2000 story "Convicted by a Snitch" is available at [www.alive.wired.com/2000/20000803/death\\_row1.html](http://www.alive.wired.com/2000/20000803/death_row1.html))

Public Defender David A. Bodiker told Alive that Armstead, who now floats between San Diego and Las Vegas working as a cook among other things, had previously told authorities another inmate, Billy Joe Sowell, allegedly confessed to him about a killing as well. The fortuitous Armstead was facing up to 15 years in prison for a parole violation after assaulting a nurse and prison guard with a hospital bed crank, when murderers seemed to select him at random to confess for death row crimes. Armstead's testimony, the only direct evidence against Byrd, allowed Armstead to conveniently escape re-incarceration.

During Byrd's trial, Armstead, the former junkie, sex offender and robber, was portrayed as a model citizen whose only motive was to tell the truth in the slaying of Monte Tewksbury, a Cincinnati convenience store clerk. Unbelievably, Armstead, who is black, somehow miraculously managed to win the confidence

of Byrd, a white 19-year-old, in the highly racially polarized atmosphere of the Hamilton County Jail.

Judge Jones saw it a little differently: "The government led the jury to believe that jailhouse snitch Ronald Armstead faced an eminent release from prison, and therefore had no reason to fabricate testimony against Byrd. Indeed, pursuant to government questioning, Armstead repeatedly told the jury that he had `no time pending.'" Armstead lied; and the prosecutor vouched for him.

"Nevertheless, after his [Armstead's] testimony, the prosecutor's office informed the state parole board that it did not object to an early release and shortly thereafter, Armstead went home. The government knew the truth, and so did Armstead. The jury did not," Jones succinctly explained.

The appeals court's dissent also points out, "Without any evidentiary predicate, the prosecutor theorized on topics as diverse as the location of the murder weapon, the whereabouts of other unrecovered key evidence."

The prosecutor did this, in part, because the circumstantial evidence pointed to John Brewer, who has now sworn twice that he killed Tewksbury. Minus the snitch, Byrd would have been sentenced to life in prison for being present at the murder scene, rather than death for committing the murder. Byrd has steadfastly claimed that he was drunk and on downers in the robbery van at the time of the crime and never killed anybody.

Bodiker maintains that the nature of death penalty cases and the post-conviction process left no appropriate legal place for Brewer's confession to be admitted. If a majority of the Sixth Circuit bench had supported a rehearing, new evidence may well have come forward. Bodiker describes Byrd's original trial attorney's behavior as "atrocious." The public defender rightly notes that there was a "tremendous amount of prosecutory misconduct" at the original trial, a fact not lost on the six dissenting judges.

"This case also raises whether a capital defendant has received constitutionally effective representation when his counsel fails to challenge prejudicial prosecutory misconduct," the dissent reads.

"In the face of...wrongful vouching for Armstead's credibility, and speculation as to facts not in evidence, there cannot be a reasonable norm of capital defense practice that suggests it is strategically appropriate to remain mute in the face of such an assault on the defendant's right to a fair trial," the dissenters correctly conclude.

Perhaps one of the reasons the Brewer affidavit appeared so late in the Byrd proceeding is the outrageous, but often overlooked, incompetence and internal

mismanagement in the public defender's office in the mid-1990s. (See the January 1995 Columbus Free Press story "Death row be not proud.")

The bizarre nature of the scandal can be found in the report by Highway Patrol Trooper Mark Rogols. Former Ohio Public Defender Death Row Investigative Supervisor Chester "Briss" Craig listed the names of 15 Death Row inmates who had been denied due process as a result of botched and forged investigations by investigators for the public defender's office. Byrd's name was prominent on that list. The Rogols report substantially documents this dirty little secret of Ohio's Death Row.

Attorney General Betty Montgomery attacked the re-organized and more effective public defender's office for releasing the Brewer affidavit. If she is truly concerned with justice, she would have welcomed the evidence and demanded a new trial for Byrd. Siding with snitches, encouraging cover-ups and railroading people into the death chamber cannot be tolerated.

## **NEWS BRIEFS**

02/08/2001

### **State to bounty hunters: Happy trails**

Ohio's bounty hunters should be warned: This town's not big enough for you and a new state law.

"There's really no such thing as a bounty hunter in Ohio after this bill," State Representative David Goodman explained. "The days of the Old West are finally gone."

In essence, Goodman's House Bill 730--which unanimously passed both houses of the legislature and was recently signed into law by Governor Bob Taft--regulates the bounty hunters out of existence by requiring them to be licensed bondsmen, private investigators or off-duty police officers. Bondsmen are licensed through the Ohio Insurance Department and private investigators are licensed through the Ohio Commerce Department.

Another section of the bill ends all solicitation by bondsmen in state courthouses. Goodman said he started with the approach that courthouses "should be sacred" and, speaking "as a practicing attorney and officer of the court, private business solicitation has no place in the courthouse."

Beginning in 1997, Columbus Alive has repeatedly investigated and reported on the abuses of bail bonding practices in Franklin County. In 1998, Alive's award-winning investigative story "Money for Nothing" revealed more than a year-long surveillance by the Columbus Division of Police Intelligence Bureau regarding open and allegedly illegal activities in the Franklin County Courthouse. The police investigation recommended criminal charges be brought against various bondsmen, but City Attorney Janet Jackson contended the law was unenforceable as written and promised to produce a new enforceable law for City Council's consideration. The slow pace of change at the city level allowed Goodman and the state legislature to remedy the problem.

Goodman admitted that local bondsmen lobbied hard to keep the right to solicit in the courthouse, but Goodman says that bonding companies will do just fine under the new law. "My basic orientation is towards local control and free enterprise, but this was appropriate regulation and creates the proper atmosphere in our courts," said Goodman.

Goodman's bill is the latest in a series of measures taken by public officials to rein in the bonding business. In 1998, Franklin County Municipal Court Clerk Paul M. Herbert added a new section to the bondwriter's application that prohibited convicted criminals from doing business with local courts. Herbert proceeded by requiring mandatory background checks, based on an advisory opinion of the Franklin County Prosecutor's Office.

Franklin County Prosecutor Ron O'Brien cracked down heavily on bounty hunters in the last few years by bringing felony charges--including abduction and kidnapping--in several high-profile cases.

Under Goodman's new law, bounty hunters must notify local police authorities that they're pursuing a bail skip in their jurisdiction. "What this law gives us is more informed police and more professional and informed bond agents," Goodman said.

Goodman contends there will be little nostalgia for the endangered and vanishing breed of Old West-style bounty hunters, noting that, after all, "we're now in the 21st century."

02/08/2001

## **MEDIA WATCH**

### **No Hannibal appetizer**

Hannibal, the highly anticipated sequel to 1991's hit *Silence of the Lambs*, arrives in theaters on Friday, February 9. Does it live up to the original? Does Julianne Moore fill Jodie Foster's practical pumps?

We know, but we can't tell you.

On January 24, Columbus Alive and other local weekly publications were informed by a regional publicity representative for MGM that the location and time of a critics' screening would be withheld unless the publications agreed not to run a review before Hannibal's opening date. Fear that writers would reveal the film's surprise ending was given as a reason. Apparently, weekly film critics pose more of a threat than the many people who read the best-selling novel and movie insider web sites such as *Ain't it Cool News*, which has had details on the film posted for at least two months.

Or, MGM's concern may be more banal. Usually, a tight-lipped attitude arises when a studio has a dog on its hands, and they don't want bad reviews to scare away opening weekend crowds. Could this film be an exception? We'll share our take on Hannibal in next week's issue.

Coleman passes on video cameo

Michael Coleman could have been playing the wall, bobbing his head and sipping a fine glass of merlot--all in front of a national television audience. Tupac and Ed Lover got their first taste of fame in music video cameos, but Columbus' mayor opted instead to, well, just be the mayor.

Producers for Hawaiian R&B artist Justin Young invited the mayor to appear in Young's *Sip Your Wine* video, which was filmed in Columbus the weekend of February 3 and 4. But Coleman declined, instead offering his support through a "proclamation" he gave to Young and Black Entertainment Television host Malonda when they were in town for the shoot.

Shilling for oil

Last Sunday, February 4, 60 Minutes reporter Lesley Stahl presented a front-line analysis of the battle being waged between environmentalists and oil companies over the future of a section of the Arctic National Wildlife Refuge.

Ice and snow blanketing this disputed strip of land, tucked away in the frigid, barren northeast corner of Alaska, may be hiding up to 16 billion barrels of oil and natural gas. But trading thousands of feet above the oil are polar bears,

caribou, and other cold-weather creatures who inhabit the area and have chosen it as the ideal place to bed down and give birth. The building of roads, the rumbling of tankers, the not infrequent spills from pipelines, and the belching of gas and smoke into the air present grave challenges to these species.

But, even though 60 Minutes is often accused of left-wing biased reporting, Stahl did not focus primarily on environmental concerns. She truthfully pointed out that, although the disputed piece of land is very important to certain species, it comprises only 10 percent of the entire refuge, the rest of which is permanently protected by Congress.

And after showing the ecological damage of a nearby oil field constructed more than two decades ago, Stahl revealed that technological advances in oil exploration and drilling have dramatically reduced the destruction associated with such activities. Oil seekers can now more accurately locate underground reserves, cutting the need to punch hundreds of holes into the earth, bulldozing new roads and erecting new derricks each time, until crude finally springs forth. Directional drilling allows companies to suck oil out of thousands of acres of earth from one lone hole and rig.

After spending a minute or two on the environmentalists' argument concerning irrecoverable loss of wilderness, Stahl then proceeded to ask Alaska Governor Tony Knowles why this oil is so important. Knowles proudly offered the refuge's oil and gas deposits as a solution to a host of problems, including America's dependence on foreign oil, and our consequent susceptibility to war-, disaster- and whim-driven market forces.

The governor, whose state budget is nearly wholly dependent on the oil industry, then goes on to say--with Stahl prodding him along--that the oil in the Arctic National Wildlife Refuge could rescue California from its current problems and provide them with oil for the next 20 to 50 years. Stahl not only fails to challenge the numerous logical and economic errors that comprise this statement, she also later reinforces Knowles' claims by telling viewers that this new oil field may help our national energy situation eventually, but that it will not hit the market for at least 10 years.

Such statements, particularly when issued forth from the governor of Alaska and from a veteran news reporter, are either intentional and preposterous lies or inexcusable ignorance. The refuge's oil treasures will help no one but oil company stockholders and, perhaps, a few men who like the cold enough to work in the northern reaches.

America, like all oil-consuming countries, participates in a global oil market heavily dominated by the Middle East. In this market, the Arctic refuge will never produce enough oil to drive down the price by substantially increasing supply. Even the most optimistic, shoot-for-the-moon predictions of the quantity of oil in

the disputed section of the refuge call for 16 billion barrels--a trickle compared to any single Middle Eastern oil-producing country, let alone the cumulative supply of that entire region and the rest of the world.

This oil will not empower America to control market forces, nor will it shield America from these forces, forces strengthened by computerized exchanges and sophisticated traders, forces that tick the price of a barrel of Texan or Alaskan oil up one nickel if the price of Saudi oil creeps up one nickel.

Will oil companies agree to hold this new oil out of this global market and sell it to American refineries at special prices? Of course not. They will sell their products to the highest bidder. We are reminded by NAFTA, by the Daimler-Chrysler merger, by the Internet, and by nearly everything we buy, that we live in a tightly-knit global economy. Yet oil interests now wave a wand before our eyes and make it all disappear in a fog of sickeningly sweet America-against-the-world mumbo-jumbo. And one of the country's most popular news sources, wearing a stupid, gee-whiz grin, helps them do it.

02/15/2001

## **Bush-whacked**

### **Hundreds of the nation's law professors are challenging the Supreme Court's presidential appointment**

by Bob Fittrakis

While his Fraudulence George W. Bush continues to masquerade as U.S. President--proposing that one percent of the wealthiest Americans get 42 percent of the tax cut--facts are flooding in documenting an Al Gore victory in Florida.

Ongoing investigations into Florida's 180,000 undercounted ballots document the predictable: The votes were intended for Gore. In an analysis by the Chicago Tribune and Orlando Sentinel, Gore picked up at least an additional 366 votes that were clearly marked, but discarded in rural Republican counties. Apparently, Republican county officials had a hard time discerning the voter's intent, as prescribed by Florida law, when one voter wrote the word "Gore" in the write-in slot. The preliminary analysis by the Washington Post and the Miami Herald in eight counties, four of which went to Bush, indicate that Gore was preferred on 46,000 undercounted ballots, while Bush was preferred on only 17,000.

As the newspapers continue to tabulate the overwhelming Gore victory in Florida, other disturbing evidence reveals the extent of the Bush hoax. As this column reported just after the election, the Republican-connected ChoicePoint electronic data firm, hired through the office of Republican Secretary of State Katherine Harris, "erroneously" eliminated 8,000 Florida voters on the grounds that they were felons. Since then, the Albion Monitor and other news sources have reported that Harris and ChoicePoint misidentified an additional 15 percent of voters in 10 Florida counties as felons, who also lost their right to vote. Fifty-four percent of those on the Hillsborough County ChoicePoint list were black. This is not a big surprise, since 93 percent of African-Americans nationwide voted for Gore.

Harris and ChoicePoint further shrunk the Democratic voter base by including on the felon list an additional 1,704 names of Florida residents who had been convicted of felonies in Ohio and Illinois--two states that restore citizenship and voting rights to people after they have served their time in prison. While only 13 states in the nation decline to restore voting privileges to felons, the vast majority of these are in the deep South, heart of the old Confederacy.

Adding to Bush's problem is the growing attack by law professors on the Supreme Court's 5-4 Bush v. Gore decision that stopped the Florida recount just as Gore was pulling ahead. On December 14, 280 law professors issued a statement charging that "The five justices were acting as political proponents for candidate Bush, not as judges."

"By stopping the recount in the middle, the five justices acted to suppress the facts. Judge Scalia argued that the justices had to interfere even before the Supreme Court heard the Bush team's argument because the recount might 'cast a cloud upon what [Bush] claims to be the legitimacy of his election,'" the law professors asserted. "Suppressing the facts to make the Bush government seem more legitimate is the job of propagandists, not judges."

The statement concludes: "By taking power from the voters, the Supreme Court has tarnished its own legitimacy. As teachers whose lives have been dedicated to the rule of law, we protest." By January 9, 554 law professors from 120 law schools signed the statement in a full-page New York Times ad. As of February 1, the number had risen to 660, including Ohio State University law Professor Charles Wilson.

Increasingly, legal scholars are suggesting that Chief Justice William Rehnquist devised a classic Catch-22 to defeat Gore. First, the Supreme Court ruled that the voting standards in Florida could not be changed and made clearer after the election, because that would constitute a "new law," which violates a federal statute. Then, in their second decision, the Supreme Court halted the recount because the voting standards were not clear and violated constitutional guarantees of "equal protection," because the votes would be counted under different standards in different counties.

Conveniently, the court neglected to find that not counting a vote at all, when the intention of the voter was clear, also violates "equal protection" or a fundamental right. Thus, not counting votes is not only OK, but apparently constitutional, particularly in black and poor Democratic districts. Counting votes in slightly different ways from county to county--which is necessitated by the reality of different voting machines--is a violation of the Constitution.

Equally bizarre is the Supreme Court majority's insistence that they had to intervene because of an old federal law that gives "safe harbor" to electoral college members, guaranteeing that they can't be challenged if selected by December 12. The real reason they used the excuse of the December 12 date was to end the Florida recount before Gore pulled ahead.

Instead of looking to an old federal law, Rehnquist plus his Gang of Four might have consulted the 12th and 20th Amendments to the Constitution, where no such fetish with obscure dates exists: "The terms of President and Vice-President shall end at noon on the 20th day of January...and the Congress may by law provide for the case wherein neither a President-elect nor a Vice-President-elect shall have qualified, declaring who shall then act as President, or the manner in which one who is to act shall be selected, and such person shall act accordingly until a President or Vice-President shall have qualified."

The Constitution is much more concerned with electing a legitimate President, and not rushing to judgment. Rehnquist's five-justice majority prefers the role of propagandists, with Rehnquist as the great and powerful Oz in a black robe.

02/22/2001

## **MEDIA WATCH**

### **Dispatch looks into Hightower school moves**

On February 12, the Columbus Dispatch made a public records request to the Columbus Public Schools. Reporter Bill Bush is looking into the facts concerning the transfer of Columbus School Board President Stephanie Hightower's son from Eastgate Elementary to Devonshire Alternative Elementary last year. "Please include any memos or e-mails--if they exist--between building and downtown administrators, and/or President Hightower, on the topic. Also include the date of the transfer," Bush wrote schools spokesperson Sharon Kornegay.

Bush's request appears to be aimed at the question of whether Hightower used personal influence to expedite her son's transfer. Eastgate staffers claim Hightower disliked the school and dismissed it as "Bill Moss Academy." The sister-in-law of school board member and Hightower archrival Bill Moss works at Eastgate.

Bush requested "the number of alternative-school openings at Devonshire at the start of the 1999-2000 school year for all grades, listed by grade, and the same for the previous year."

School administrative sources point out that even if the principals of Eastgate and Devonshire agreed to transfer Hightower's son, it would violate district policy if there was a waiting list for the alternative school. This issue did not escape Bush's request: "The number of applicants who were vying for those openings through the lottery, the number who were accepted and the number that were rejected due to a lack of vacancies for the above three school years. Also, the number that remained on the late-wait list for Devonshire at the time it expired in the fall of those years."

If there was a waiting list at the time and Hightower jumped the queue, it could prove embarrassing. That's why Bush wants "The date the wait list for that school [Devonshire] did expire, and the policies and/or procedures--written or otherwise--for transferring into an alternative school without going through the lottery."

This is not the first time Hightower's son has emerged as a political issue. During Hightower's campaign for school board in 1999, the Dispatch reported that the candidate was busy trying to solve the problem posed by her son's attendance at the private Mansion School. Hightower told the Dispatch, "We had, like many people, never done our research on the Columbus schools."

"We really liked what we saw in our neighborhood school [Columbus' Eastgate Elementary]. That made it easy," candidate Hightower explained.

Dispatch columnist Barbara Carmen reported a different version at the time: "Her [Hightower's] move is drawing gasps from friends, who say she has a young son who likely would have to attend public school."

### Lanterngate fall-out

The fiasco known to OSU journalism students as "Lanterngate" had all the elements of a high-stakes political drama. A news leak on government misspending, a plot to suppress the info from getting out, stolen newspapers, a cover-up and, finally, the resignation of top elected officials.

The six students involved in a plot that left 10,000 Lantern newspapers at the bottom of university Dumpsters--the largest college newspaper trashing in university history, according to Lantern adviser Rose Hume's best estimates--will get 20 hours of community service painting Lantern offices. They'll also have to take out an ad in the Lantern as a public apology and pay back about \$3,000 in lost advertising, according to OSU Student Affairs head Bill Hall.

But Hume wonders why the students aren't being prosecuted downtown.

Hall said City Attorney Janet Jackson advised university officials to handle the matter strictly through the university. Hume would rather see Ohio State University and Columbus set a legal precedent against the theft of student papers--not a smaller university like Kent State or Bowling Green. "It's going to come out of some small courtroom," she said.

Kathy Lawrence, director of student publications at the University of Texas, faced a similar situation five years ago, when a student trashed 5,800 copies of the Daily Texan. The student was booked on theft charges in a criminal court and sentenced to community service. Lawrence didn't pursue any discipline through the university, but said Ohio State's decision was supportive of the student press.

But Mark Goodman, executive director of the Student Press Law Center in Virginia, worries about the message OSU is sending. "In terms of solving this immediate situation, [OSU's discipline] is a remedy. But the whole idea of criminal prosecution is to prevent others," he said. "The message it's sending is, 'If you don't like someone's message on campus, just silence them and the consequences will be minimal.'"

Where are you coming from, Bobbie Hall?

First the Cleveland Plain Dealer's capital bureau came out with an article from left field about Franklin County Treasurer Bobbie Hall and the "odd behavior" she's been exhibiting lately. Then The Other Paper slapped the Plain Dealer's scoop on its front page, along with Hall's response (Hall's office declined to comment on the Plain Dealer story).

But not a peep from the Columbus Dispatch.

Finally, on February 16, two days after the Cleveland paper broke the Columbus news item, the Dispatch ran an article on the Hall controversy. Was the Daily Monopoly prodded by the competition?

Despite the one, two, three timing of the news stories, Dispatch editor Ben Marrison said the other papers were "non-players" in the Dispatch decision. "We didn't have the story nailed down--nothing more, nothing less," Marrison said.

The Plain Dealer's original article addressed concerns about Hall's forgetfulness, and her firing of chief investment officer Nicole O'Reilly. It was a strange story for the Plain Dealer, and strangely timed. After all, Hall doesn't balance books in Cuyahoga County. O'Reilly was fired in January, and hasn't yet filed a lawsuit (O'Reilly's attorney is John Marshall, a writer for Other Paper parent Columbus Monthly). And, according to The Other Paper, Franklin County Democratic Party Chairman Denny White had been trying to leak the story since last year.

The more plausible explanation for the Cleveland paper's scoop is that they couldn't wait to one-up the Dispatch, which had recently stolen the Plain Dealer's thunder by scooping them on an explosive story regarding unbid contracts in the Ohio Department of Jobs and Family Services.

The Other Paper quoted Marrison as saying the Dispatch was aware of the Hall situation, and had a reporter look into it. "We have looked into it, and will continue to look at it. The only issue is, when do we have enough to run with?" he told The Other Paper.

As it turned out, that came the next day.

Still, Marrison denies any connection. He told Columbus Alive that the Dispatch plans to follow up on the story as it develops. "We don't let other organizations dictate whether we run stories."

03/01/2001

## **MEDIA WATCH**

### **Is the big chill over?**

#### **Activism and politics in Ohio may be thawing out for spring**

by Bob Fittrakis

Signs of a political thaw are everywhere. The nearly packed house at Studio 35 last Saturday, showing their solidarity with the Zapatista revolutionary struggle of Chiapas, Mexico, served as a healthy dose of sunshine. The award-winning film *A Place Called Chiapas* depicted the current caste system in Mexico rooted in the conquistadors and fostered by the North American Free Trade Agreement.

As you read this, Subcommandante Marcos is making his way to Mexico City with a historic caravan escorting Zapatista delegates to negotiate the end of 509 years of oppression of indigenous people.

Father Roy Bourgeois' planned visit to Columbus March 6-8 underscores our nation's complicity in the atrocities against the native population of Central America. Bourgeois has dedicated his life to closing down the notorious School of the Americas, located in Fort Benning, Georgia, where Central and South American military officers are taught torture techniques under the code phrase "counterinsurgency." A graduate diploma from the renowned "School of the Assassins" usually gets you on the A-list as one of the worst human rights abusers in the Americas. Bourgeois recently returned from a fact-finding trip to Colombia and will be speaking at Indianola Presbyterian Church Tuesday night, Capital University and the Newman Center on Wednesday and at the OSU Law School on Thursday at noon.

That same Wednesday, Julia Butterfly Hill will speak at Independence Hall at Ohio State University. Hill, you may recall, staged a legendary "tree-in" to save a 2,000-year-old redwood called Luna in California. She spent nearly two years living on a small platform 180 feet in the air, but now her feet are firmly planted on the soil and she's building a coalition with labor leaders called The Alliance for Sustainable Jobs and the Environment.

Shades of Seattle 1999, it's the return of the World Trade Organization protest coalition as representatives of the United Steelworkers share the platform with the Butterfly woman at Independence Hall. Back then it was the "Turtles and Teamsters," as environmentalists joined with labor activists to oppose the New World Corporate Order. You know, the guys that measure progress by the number of golden arches erected worldwide. The steelworkers are targeting Ohio's AK Steel, infamous for its lock-out of Mansfield workers, and are trying to educate people concerning the way the company's anti-labor activities have devastated community life. All these events give new meaning to the old phrase, "one struggle, many fronts."

Perhaps the best sign that the current Bush dynasty is more farce than tragedy is the clear shift in people's attitudes toward the death penalty. A Columbus Dispatch poll last year showed that 46 percent of Ohioans favored life imprisonment without the possibility of parole over the death penalty for first-degree murderers. Sixty-eight percent thought it was likely or very likely that an innocent person would be wrongly convicted and executed in an Ohio State University poll in 1999. With nearly 98 percent of chief district attorneys being white and approximately 90 percent of death penalty charges being brought against African-Americans or Latinos, the racist nature of state-sponsored murder is overwhelming. The average American grasps the fact that the only place Republicans support affirmative action is in death penalty cases, where 42 percent of the Death Row population is African-American while they comprise only 13 percent of the general population.

Still there's a growing list of prominent Republicans who are demanding a moratorium on executions, from Christian Coalition leader Pat Robertson and the late Paul Mifsud, former Governor Voinovich's Chief of Staff, to conservative columnist George Will. The Republican governor of Illinois, George Ryan, made national news when he halted all executions in his state.

Our Buckeye Republicans are bucking the national trend, but are making news for their cynical uses of the death penalty for political purposes. Ohio's Attorney General Betty Montgomery served as a pin-up girl for "Killing for Votes: The Dangers of Politicizing the Death Penalty Process," the 1996 study issued by the Death Penalty Information Center. Montgomery's attempt to execute inmate Robert Buell in January 1996--before he'd filed his first federal appeal--is a textbook case of political opportunism.

Virtually all Death Row inmates file a federal appeal, but Montgomery set a quick execution date in hopes of terminating Buell before the Sixth Circuit Court of Appeals could stay the execution. The stay was granted two days before Buell's scheduled death. Then, to maximize publicity, Montgomery had Buell sent to the death house anyway and had him prepped for execution. She waited until just a few hours prior to Buell's scheduled execution in order to file an appeal to the U.S. Supreme Court seeking to kill him anyway despite the stay. All of this created an artificial 11th-hour crisis and a media frenzy for our preening attorney general.

To be fair, we must point out that Ohio's previous attorney general, the Democrat Lee Fisher, pioneered the game of Death Row chicken with John Byrd Jr. in March 1994. The only direct evidence against Byrd is the word of a lying, violence-prone jailhouse snitch named Ronald Armstead. One of Byrd's co-defendants signed an affidavit admitting that he actually killed the man Byrd is charged with killing.

There's far more mileage in staging bread-and-circus executions than in seeking justice. Anti-death penalty advocates know this, and that's why they'll demonstrate at the Riffe Center today, March 1, from 10:30 a.m. to 1 p.m., calling for a moratorium on executions in the Buckeye State.

03/08/2001

### **Will there be standardized math tests for political reporters?**

"Four people across the street from the school protested Bush's plans to increase standardized testing," Joe Hallett wrote in the February 21 Columbus Dispatch. The only mention of demonstrators at President George W. Bush's appearance at Columbus' Sullivant Elementary School conveniently ignored a group of anti-Bush demonstrators at least 10 times as large shouting slogans like "Gore Got More" and "Hail to the thief." But don't take our word for it. Take a look at this photo from the February 20 protest: We count a few more than four people.

### **Alive story led to bounty hunter indictments**

Recently, the Franklin County Grand Jury called Columbus Alive investigative reporter Bob Fitrakis and his research associate Bill Neill to testify concerning the June 22, 2000, cover story "Hunted."

The Alive article depicted the plight of Glenda Fravel and Jeremy Murray, a couple living in the North Linden neighborhood; the couple was terrorized by two, then-unknown gun-toting bounty hunters who had the wrong address. Alive later found and interviewed George Pardos, one of the overzealous bounty hunters, for the July 13 follow-up story "The Hunter." While Fravel's frantic midnight call to police failed to initially generate even a police report, on February 23 the Franklin County prosecutor's office filed a seven-count felony indictment against bounty hunter Gerald L. Redmond and a five-count indictment against Pardos.

Redmond's indictments include four first-degree felonies for kidnapping and aggravated burglary, with three additional felony indictments for abduction. Pardos received three first-degree felony indictments and two lesser felony indictments involving the same charges. There is also a civil case against Redmond and Pardos.

Following the Alive cover story, Detective Carl Covey of the Columbus Division of Police's Burglary Squad led the investigation. Covey told Alive that the bounty hunters, who were operating in Ohio virtually without regulation, often didn't know the law. "But what they can't do once they ascertain that the person that they're looking for isn't there, is abduct people, hold them against their will and take things from them," Covey said.

For more than four years, Columbus Alive has investigated the practices of bail bondsmen and bounty hunters in central Ohio. An October 1997 cover story, "Bounty booty: Taking the law into their own hands--on our behalf," revealed a number of ex-felons working as bondsmen and bounty hunters. Recently, State Representative David Goodman cited Alive's work as an important source of

information in the debate over bail bond reform in the state of Ohio. "The articles made it easier for legislators to understand the problems with the bail bond system in Ohio," Goodman told Alive after the passage of his recent bill outlawing bounty hunters in the state. His bill also banned solicitation by bondsmen in courthouses throughout Ohio. The problem with solicitation was covered in various Alive articles, including two award-winning investigative pieces, 1997's "The Gatekeepers: Striking it rich in the bail bond business" and 1998's "Money for Nothing."

Oddly, while Alive led the way with its investigation of bounty hunters, and the Columbus Dispatch consistently covered abuses, Columbus Monthly, running recycled stories from the Alive and the Dispatch, attempted to take credit for the new bounty hunter law in its March 2001 issue: "A year ago, Columbus Monthly detailed a rash of startling and, according to Columbus police, illegal acts committed by a handful of area bounty hunters..." The most startling part of the Columbus Monthly story was the magazine's blatant borrowing from other news sources.

We'll be the first to concede that the Alive failed to break any stories on the most expensive greens fees in central Ohio or on whether "shabby chic" or "echo deco" décor is in vogue among the rich and over-fed. After all, that's a specialty of Columbus Monthly. We just hope the magazine doesn't injure a delicate, manicured hand trying to pat itself on the back for other people's work.

Hightower in hot water

Seems not everybody is buying Stephanie Hightower's characterization of the Near East Side's Eastgate Elementary School. Fourteen staff members from the school, including the Columbus Educational Association building representative, wrote a letter requesting to meet with the Columbus School Board members in executive session on Tuesday, March 6.

All of this stems from Bill Bush's excellent front-page story "Principals let Hightower bypass school lottery" in the February 26 Columbus Dispatch, which detailed the transfer of Hightower's son from Eastgate to Devonshire Alternative Elementary near Worthington. After Bush cornered Hightower with the facts, he got her to concede, "I guess it does look as if I was getting preferential treatment."

Hightower then offered the I-had-to-save-my-son defense, which may work for most parents fleeing city schools, but usually isn't used by Columbus School Board presidents. "I had to do what I had to do in the best interest of my child...I didn't make this up," she explained.

The Dispatch reported, "But one day as she was giving her son and one of his friends a ride home from Eastgate, the friend showed her a cut that had been

inflicted by a classmate. 'He's got an open wound with a pencil,' she [Hightower] said. 'He's got at least a three-inch gash in his arm, and his grandmother wasn't called, and there wasn't a Band-Aid or anything.'"

Hightower told the Dispatch, "I don't know about you, but I don't want my child in that kind of environment."

Eastgate staffers take issue with Hightower's opinion of their learning "environment," with good reason. Student attendance is above both the state and district's target at the school. The district certifies Eastgate as a "peaceful schools model." Eastgate received an academic improvement Exemplary Award last school year. The governor gave the elementary a \$25,000 academic award. The school is designated a "School of Excellence for Science and Math" and it served as a site for President Clinton's visit and educational reform roundtable discussion last year. Also, Police Officers for Equal Rights selected Eastgate Principal Barbara Blake as its "Educator of the Year," while the United Negro College Fund designated her an exemplar.

In her first year on the board, Hightower made it difficult for desperate parents to complain at school board meetings by reducing the number of meetings per month. This year, as board president, she's ended the open public comment period at regular board meetings and moved the meetings back to 3 p.m., furthering burdening working parents and hindering their ability to speak out. Apparently, though, parents can ignore district rules to do what's in the "best interest" of their children.

Happy Birthday, Melissa! Love, Mike Curtin

In a strange bit of synchronicity, five Columbus Alive staffers found that their birthdays each fell within the last week of February. But only arts editor Melissa Starker was singled out for birthday wishes from the Columbus Dispatch.

On February 28, Starker received a bright yellow envelope in her home mailbox that contained a card featuring a mock Dispatch front page with the banner headline "Happy Birthday to You!" Included in the card was a subscription offer, along with coupons for several area businesses, and a well-wishing birthday greeting signed by Dispatch president Mike Curtin. Well, all right, it was a reproduction signature.

Starker didn't fault the sentiment, but being a skeptical (maybe even paranoid) journalist for an alternative weekly, Starker couldn't help but wonder: How did the Columbus Dispatch know it was her birthday?

A call to the circulation contact number listed on page three of the daily monopoly was referred to the circulation marketing department. Department manager Craig Foglietti was very helpful, but couldn't answer the central question. The Dispatch

is only an advertiser with the direct mail service that sent the card, he said, offering the number of the Birthday Club of America as the next place to try.

Birthday Club sales associate Dave Bowen was ready and willing to remove Starker's name from the mailing list but could not explain how she had gotten on it in the first place. "That's not for me to understand or know," he said genially. He also stated that most people appreciate the company's unbidden birthday greetings, and that one mail recipient contacted him to say her card was the only one she received that year. He suggested that the next call be placed to Pat McNeil in Chillicothe.

Two calls were made to McNeil's office, where a receptionist confirmed that he should be able to provide answers to the question posed. The calls were not returned by presstime, but it was discerned through online information that McNeil is part owner of McNeil Enterprises, a local advertising and PR firm best known for the cover design of the 1969 Rolling Stones compilation *Through the Past Darkly*. It's a neat factoid to be sure, but how Starker's birthdate was obtained by the Dispatch for marketing purposes is still a mystery.

03/15/2001

## **The real Rhodes**

### **The late Ohio governor was hardly a political Colossus**

by Bob Fittrakis

Now there's five dead in Ohio.

Last week, Ohio politicians reached new heights in myth-making and hypocrisy by blathering on about the greatness of deceased former Ohio Governor James A. Rhodes.

Current Governor Bob Taft told us that "he [Rhodes] left us a rich legacy to preserve." Mmm. Never thought of the massacre of unarmed demonstrators in that light.

Ohio Secretary of State Kenneth Blackwell proclaimed "he is a genuine Ohio icon. What he did as governor, his leadership, will remain the standard for 50 years to come." Since Blackwell's unbridled ambition to serve as governor is so well known, perhaps we should merely dismiss this as an attempt to set the bar really, really low so we won't expect much of him if he gets elected.

The best way to understand the Rhodes legacy is not to read any mainstream Ohio newspapers. If you do, you might fall for the Rhodes BS that still spews forth. Take, for example, the Dayton Daily News' standard account that Rhodes "came up from poverty, and he knew what it meant to struggle."

Contrast this with the more accurate Guardian newspaper from London, England: "He liked to portray himself as a man of the people, risen from humble origins...but his account of his background was not [true]."

"Rhodes' father was a miner of Welsh ancestry, who had risen to become a mine superintendent able to provide his family with a comfortable middle-class living. That was certainly curtailed when Rhodes Sr. died in the 1918 influenza pandemic, but the family was not quite as penurious as his son liked to suggest," the Guardian reported.

Ohio's newspapers also conveniently ignored Rhodes' reputed ties to mobsters. As London's Daily Telegraph acknowledged, "In 1969 he shrugged off accusations of corruption--which were made after he had commuted the life sentence of a gangster with alleged Mafia connections--as `politically motivated.'"

For a fuller appreciation of Rhodes' legacy, Life magazine's May 2, 1969, "The Governor... and the Mobster" is essential reading. The article depicted how Rhodes used his campaign funds for personal gain, "intervened" to secure government loans to pay back money to cronies, and granted a pardon to mob

boss Thomas "Yonnie" Licavoli. Yeah, yeah, I know he promoted the hell out of the State Fair.

The Dayton Daily News attempted to portray the dichotomy between Rhodes-the-builder-of-buildings-and-roads and Rhodes-the-anti-tax-fiscal-conservative. In the Dayton paper's incorrect analysis, it was not "pork-barrel politics run amok." Nah, more likely contract-steering to questionable construction firms. Now there's a legacy he left Ohioans.

Rhodes always argued that the Kent State massacre was the fault of protesters: "It was people who thought something was wrong with America." He's right, and there was something wrong with America at the time, besides governors associated with mobsters.

We need to remember the circumstances surrounding the law-and-order Richard Nixon/Ronald Reagan/Jim Rhodes cabal. On April 9, 1970, California Governor Reagan, an FBI snitch during the 1950s' McCarthyism, said of student demonstrators, "If it takes a bloodbath, let's get it over with. No more appeasement."

Despite running as a peace candidate in 1968, President Nixon announced in 1970 that he was ordering U.S. combat troops into Cambodia to destroy North Vietnamese and South Vietnamese guerrilla sanctuaries. Campus demonstrations erupted throughout the country. On Saturday, May 2, an old wooden ROTC building at Kent State was torched while the campus police looked on. Later, declassified documents suggest that an FBI infiltrator instigated the burning. William Gordon's book *Four Dead in Ohio* turned up a confession by a then-18-year-old high school student, George Walter Harrington, who worked with a man on a motorcycle who dipped rags in gasoline to start the ROTC building fire. Numerous sources hold that Harrington was never prosecuted because the motorcyclist was on the FBI payroll.

Instead of attempting to defuse the explosive events at Kent State, on May 3, 1970, Rhodes chose to exploit it for political gain, with the Ohio primary two days away. The politically desperate Rhodes, a candidate for U.S. Senate, altered his campaign schedule and flew by helicopter into Kent. There he posed for a picture next to the burned-out ruins of the ROTC building. Next, Governor Rhodes met privately with Ohio Adjutant General Sylvester Del Corso, commander of the state's National Guard.

What occurred at this secret meeting at the Kent Fire Station is a mystery that Rhodes took to his grave. But afterwards, Rhodes staged a provocative and deadly press conference. The governor charged that "We are up against the strongest, well-trained militant revolutionary group that has ever assembled in America... They're worse than the brown shirts and the Communist element and

the night riders and the vigilantes. They are the worst type of people that we harbor in America... [They intend] to destroy higher education in Ohio."

Ohio Highway Patrol Chief Robert Chiarmonite promised "they can expect us to return fire." Kent Police Chief Roy Thompson warned that he would "use any force that is necessary, even to the point of shooting."

The rest is Rhodes' legacy. The next day, the Ohio National Guard fired their military assault rifles for 13 seconds at unarmed students. In the shootings, four people died--Sandra Lee Scheur, Jeffrey Glenn Miller, Allison Krause and William Knox Schroeder--and nine others were wounded.

Last week, the London Times reported: "A subsequent FBI investigation concluded that at the time of the shooting, the dissenters were neither violent nor threatening to the Guard." A fact left out by every major newspaper in Ohio.

3/22/2001

**NEWS BRIEF**

**Fasting behind bars**

**Inmates at Ohio's supermax prison issue a silent "cry for help"**

by Bob Fittrakis

At least 25 prisoners began a hunger strike last Thursday, March 15, at the Ohio State Penitentiary (OSP) in an on-going struggle to improve conditions at the state's "supermax" prison. In January, both the American Civil Liberties Union of Ohio and the Center for Constitutional Rights in New York filed a class-action lawsuit in U.S. District Court in Cleveland contending the OSP is unconstitutional.

The suit claims that inmates are locked down for 23 hours a day in spartan seven-foot-by-14-foot cells. At the time of the lawsuit, the supermax housed some 450 inmates, according to Raymond Vasvari, legal director of the Ohio ACLU.

Attorney Staughton Lynd, a well-known civil rights activist who directed the Mississippi Freedom Summer Project in the 1960s, is assisting in the lawsuit. He concedes that "some conditions have improved" since the lawsuit was filed, but the current hunger strike was prompted by six long-standing "major problems."

Prisoners' concerns include the procedures by which inmates are designated for supermax and released from it; the lack of an education and treatment plan for hepatitis C cases; the lack of hygiene products and access to postage and writing materials; the fact that "two-thirds of the supermax prisoners are black or Hispanic" and the prison refuses religious and cultural accommodations; the lack of any outdoor recreation program; and the fact that the prison's "mental health counseling program is conducted with the prisoner sitting on a concrete stool in a locked room, handcuffed behind his back and chained to the floor, and yelling to a counselor outside the cell," according to Lynd.

At a January 9 news conference, attorney Alice Lynd charged that prison officials use deliberate cruelty that goes beyond any legal sentence.

OSP and Ohio Department of Rehabilitation and Corrections spokespersons have declined comment thus far, citing the pending litigation.

Warden Todd Ishee has called the OSP inmates "the worst of the worst." He told the Dayton Daily News that prisoners are placed in the supermax after an administrative "due process hearing," because of assault on prison staff or other inmates, if they're gang leaders, or if they've tried to escape.

"There are four privilege levels, and inmates can work their way up through the levels--and eventually back to a less-secure prison--through good behavior and

by participating in close-circuit television self-help programs," the Daily News reported.

Lynd contends that "a number of prisoners had been recommended for a decrease in security status [but] these recommendations by officials at the supermax, who are familiar with the prisoner, and his record at the facility are often vetoed" by corrections officials in Columbus.

Vasvari also denies there are any "meaningful hearings." He told the Daily News, "It's supposed to be for the worst of the worst, but it turns out you have some people there for minor rules infractions."

Other critics of the supermax--and some inmates--contend that prisoners are placed there for asserting their rights or offending a prison official. Lynd reports that at least one mentally disturbed inmate was transferred out of the supermax, but that medical and mental health care remains a concern. At the time of the lawsuit, Vasvari pointed to three suicides at the facility and denounced a "systematic deprivation of sensory stimuli, tailor-made to breed mental illness where it doesn't exist and exacerbate it where it does."

In their lawsuit, the prisoners declined to seek monetary damages, requesting instead a complete overhaul of the procedures used at the prison.

The so-called outdoor recreational program continues to come under fire; it consists of an empty cell with a graded slit in the wall to let in fresh air. It's this air flow from the "outside" that makes it officially an outdoor recreation area.

Many prisoners have complained that their cells are abnormally cold in winter and they're given fewer clothes and blankets to keep warm as a deliberate policy of cruelty. The Associated Press reported that inmates are shackled and strip-searched each time they leave their cell.

According to Lynd, there's currently no Imam for Muslim prisoners, and Muslim prisoners who have special diet needs and request religious books and prayer apparatuses are neglected and ignored.

Lynd concedes that "the extent of the spreading hunger strike is difficult to determine," but says that inmate John Perotti "has consistently gone without food since the first of the month."

In a statement issued by Lynd, he noted, "I understand their frustration, a lawsuit takes a long time. When a prisoner cannot meet with other prisoners, cannot visit with reporters, cannot in most cases leave the prison to appear in person in court, he may come to feel that the only way he can call attention to his problem is to deprive himself of food. A fast is really a cry for help."

03/29/2001

## **FEATURED ARTICLE**

### **Snitch vs. snitch**

#### **John Byrd is tangled in a web of jailhouse lies and the courts have 167 days to unravel the truth before he dies in Ohio's electric chair**

by Bob Fittrakis and Jamie Pietras

"My name is Johnny WM. Byrd Jr., and I may very well be the next man murdered by the state of Ohio. I strongly use the word 'murder' and its complete definition, for if my execution is permitted to be carried out--it is nothing less!"

John Byrd recently wrote in a letter to Cleveland-area state Representative Shirley A. Smith.

Byrd, who was sentenced to death for the murder of Cincinnati convenience store clerk Monte Tewksbury nearly 18 years ago, has steadfastly maintained his innocence while on Death Row. In 1994, he came within 30 minutes of being executed, before the Ohio Supreme Court granted him a last-minute reprieve. Now he hopes that previously ignored evidence of perjury will win him a new trial and spare his life.

A slew of affidavits gathered by the Ohio Office of the Public Defender suggest that while Byrd was at the crime scene in 1983, he was not the killer. The evidence includes two sworn statements from convicted accomplice John Brewer, who actually confessed it was he, not Byrd, who murdered Tewksbury.

Ohio Attorney General Betty Montgomery's office remains skeptical, though, questioning why it took so long for the affidavits to surface in the two-decades-old case.

And while the public defender's reliance on the word of cons and ex-cons raises doubts in the eyes of prosecutors, Byrd's attorneys point a finger back at them--Byrd was convicted through the testimony of a jailhouse informant Public Defender David Bodiker calls a "liar" and a "snitch."

Now the clock is ticking on Byrd's life. The final guaranteed appeal to stop his execution was denied by the U.S. Supreme Court on January 8. On March 20, the Ohio Supreme Court set Byrd's execution date for September 12 and, in the same decision, referred Byrd's persistent claim of actual innocence back to the Hamilton County Common Pleas Court for a hearing. With a hearing date yet to be set, the case is back in the county where the complicated drama Byrd calls a "nightmare" began.

"Man, I stabbed a guy"

During the afternoon and evening of April 17, 1983, John Byrd admits to consuming "large quantities of alcohol, barbiturates and marijuana," which caused him to black out. When he woke up the next day in A-Block of the Hamilton County Workhouse, he contends that he thought he was jailed on a drinking-related charge.

Rather, Byrd had been arrested in a van with two accomplices, John Brewer and William "Danny" Woodall, for the robbery of a Cincinnati King Kwik convenience store and the stabbing death of store clerk Monte Tewksbury, a Procter and Gamble employee who worked nights at the store. It was an unfortunate and unusual death--a single stab wound pierced his liver.

No direct physical evidence linked Byrd to Tewksbury's stabbing. Nevertheless, accomplices Woodall and Brewer were sentenced to life in prison and Byrd got the death penalty. Byrd's jury sentenced him to death primarily on the increasingly suspect testimony of a jailhouse snitch, Ronald Armstead, an inmate who claimed that Byrd confessed the murder to him. The Cincinnati Enquirer portrayed Armstead's testimony as dramatic and enthralling: "Observers in the packed courthouse appeared captivated by Armstead and a stunned silence fell over the courtroom."

Documents obtained by Columbus Alive shed new light on what happened the night of April 17 and the four subsequent months that Byrd spent in jail prior to his conviction on August 12, 1983.

More than five years after Byrd's conviction, Brewer signed a notarized affidavit substantiating Byrd's story. "I observed John Byrd Jr. drinking large quantities of beer and screwdrivers and taking narcotic drugs during the late afternoon and evening of April 17, 1983," Brewer stated. He described Byrd as "highly intoxicated" and recalled that Byrd "staggered as he walked into the store and was having a hard time standing upê John was so drunk and stoned that he leaned against the wall in the front of the store to stand up."

Brewer's sworn account of what happened next is as follows: "I ran to the front of the store where I leaped onto the front counter and then off the front counter in order to subdue the store clerk, Monte Tewksbury." Crime scene evidence revealed Brewer's footprint on the store's front counter.

Brewer, then described as an agile, five-feet, eight-inches tall and 135 pounds, claimed, "I grabbed Tewksbury by the arm and ordered him to give me all the money contained in the store's register." Tewksbury's autopsy listed bruises on his arm, possibly consistent with being forcibly grabbed.

Brewer said he "became distracted by lights which flashed through the front window in the store," creating the opportunity for the much heavier Tewksbury (approximately five-feet, six-inches, 240 pounds) to "grab" at Brewer.

"I reacted to Tewksbury's action by stabbing him," Brewer confessed in the 1989 affidavit.

He described the murder weapon as a "hunting knife with a five-inch, highly polished blade and bone handle." Brewer said that he later "threw the knife I used to stab Tewksbury out of the van." The police were never able to find the murder weapon, although during Byrd's trial the prosecutors dramatically waved around a work knife found in the van that allegedly belonged to Byrd, without ever attempting to establish it as the murder weapon.

On January 26 this year, in a controversial and dramatic 11th-hour move, the Ohio Public Defender's Office released John Brewer's 1989 affidavit and submitted an updated affidavit dated January 24, 2001.

Brewer tells essentially the same tale, albeit in more colorful language, in the new, hand-written statement. He described John Byrd as "highly intoxicated and generally fucked up" during the evening of the murder. Brewer went into more detail about his confrontation with Tewksbury: "Tewksbury slung me to the side. I freed my left arm and got my knife from my waist and stabbed him in the side. I didn't think that he was seriously hurt because I did not see any blood."

"When I got back in the van, I said to Danny Woodall, 'Man, I stabbed a guy, take off,'" added Brewer.

Hamilton County Prosecutor Mike Allen dismissed Brewer's sworn confession. "What does he have to lose? It's a story a couple of convicted felons sitting around in their jail cells decided to concoct. It's worthless," he told the Associated Press.

Ohio Attorney General Betty Montgomery responded in writing to the Ohio Supreme Court by claiming that "Brewer now has nothing to lose. He cannot be sentenced to death for Monte Tewksbury's murder."

But, as the Columbus Dispatch reported prior to Montgomery's arguments to the state's highest court, "His [Brewer's] admission, if found to be true, could prevent his possible parole in 2015. In fact, Brewer had noted in his most recent affidavit that 'I am eligible for parole in 2015 and realize that I have a lot to lose by signing this affidavit,'" a detail ignored by Montgomery in her efforts to sustain Byrd's death sentence.

Still, the question of why the public defender's office would wait so long to release the 1989 affidavit remains. Public Defender David Bodiker said it has nothing to do with the merits of the claim. "I think that at the time I got it, there was an uncertainty how to use it," Bodiker said. "There was never a time where

there was the ability to insert that claim [in court proceedings] I feel that everybody here anticipated judicial relief for Mr. Byrd at some point."

The public defender's position has long been that Byrd should get a new trial, and the affidavit of actual innocence was viewed as a tactic of last resort that might save Byrd from the death penalty but wouldn't get him released from prison.

Timing is everything in death penalty cases. Had the public defender released the single Brewer affidavit more than a decade ago, it probably would have had very little impact, said some sources in the public defender's office.

Joe Case, spokesperson for Attorney General Montgomery, said the motion for actual innocence is based on "flimsy" evidence because it was held for more than a decade. "You would think that if they had information that could have gotten Mr. Byrd off of Death Row 12 years ago, they would have done it before now. In 1994, he was within hours of execution and the affidavit was never produced," Case said. "If there is credible information that could clear Mr. Byrd, that information should be laid on the table now and allow for the courts to decide."

"The attorney general sees this as nothing more than delay tactics to buy time for a man who has gone all the way through the system. He has exhausted all of his appeals and now they are grasping at straws to delay the inevitable," Case continued. "We will strongly oppose introduction of new evidence because what the court ordered was a hearing and ruling on the specific actual innocence claim that has been brought forward here."

When asked how the attorney general's office could both want the public defender to come forward with evidence, but oppose the introduction of new evidence, Case clarified: "If they have evidence that would clear their man, then it needs to be dealt with through the proper channels. We can't be asking the trial court on this level to go beyond its orders from the Supreme Court and deal with the Brewer affidavit."

Ohio Supreme Court Chief Justice Thomas Moyer said it will be up to the Hamilton County Common Pleas Court judge to decide which evidence will be admissible at the hearing. "I would think it would be an evidentiary hearing limited to that issue," he told Columbus Alive.

"They got the wrong one on Death Row"

Earlier this year, Columbus Alive contacted Prison Advocacy Network activist Dan Cahill about the Byrd case. A 24-year veteran of Ohio prisons who was incarcerated for drug trafficking, aggravated robbery and burglary, Cahill said he served time in prisons where John Brewer, John Byrd and Danny Woodall were

inmates, and that all three confirmed that it was Brewer, not Byrd, who killed Tewksbury.

Cahill later went public with his story, and the Ohio Public Defender's office recently obtained a notarized affidavit from Cahill that supports Byrd's claims.

While at the Southern Ohio Correctional Facility in the mid-1980s, Cahill, a Death Row porter, met Byrd. The convicted Death Row inmate "adamantly" maintained his innocence, Cahill said. He claimed Byrd told him "he was really drunk at the time."

Cahill swore that Brewer "said he was the one who killed the guy [and he] also said that Byrd was really messed up at the time of the crime." Cahill later met Woodall at Orient Correctional Institute and swears that "Woodall told me that Brewer did the killing. He just said they got the wrong one on Death Row."

With the release of the new affidavits this year, and with media scrutiny on the Byrd case mounting, the attorney general's office and Hamilton County prosecutors dispatched State Trooper Howard Hudson and Special Prosecutor Mark Piepmeier to see Woodall in order to get him to sign an affidavit implicating Byrd. While the pair could not produce a signed affidavit from Woodall, Hudson and Piepmeier provided their own affidavits, based on January 29 and January 31 visits at London Correctional Institution and the Ohio State University Hospital respectively, claiming the terminally ill Woodall told them Byrd did it.

Woodall told Hudson and Piepmeier that in 1989, Brewer asked him to conspire with Brewer to clear Byrd, according to attorney general spokesperson Case. "So we have evidence that even back in 1989, we have another co-defendant saying that he was asked by Mr. Brewer to concoct a lie to clear Mr. Byrd," Case said.

Although the Hudson and Piepmeier affidavits are of little evidential value, they may publicly strengthen the case of Montgomery and Hamilton County prosecutors. According to attorneys in the public defender's office, Hudson and Piepmeier are high-profile witnesses who lend credibility to the case against Byrd. Both men played key roles in the investigation into the April 1993 Lucasville prison riot; Hudson was an on-scene negotiator and post-riot investigator; Piepmeier was a special prosecutor who convicted the rioting inmates.

When the public defender's office requested access to Woodall to discuss the Byrd case, according to attorneys in the office, prison officials said Woodall was not available and, because he is suffering from cancer, had a tube down his throat. Prison sources reported that a day after Piepmeier, Hudson and Hamilton County Prosecutor William Breyer first visited Woodall in prison, Woodall was transferred to OSU Hospital.

"Armstead was out to get Byrd"

John Brewer's most recent affidavit also addresses John Byrd's alleged jailhouse confession. "At our initial appearance on this case in Municipal Court, my attorney Mr. Blackmore advised all three of us not to talk about the case with anybody. I would not talk to a black guy about anything serious. That is ridiculous that I would talk to a black guy about a serious matter," Brewer wrote in reference to informant Ronald Armstead, who is black.

Additional affidavits obtained during the Columbus Alive investigation call into question the truthfulness of Armstead's key testimony. Denver Nicely Jr., a friend of Byrd's father, was in A-Block of the Hamilton County jail in the spring of 1983. He swears there was no way that Byrd talked to Armstead because, "At the time John Byrd Jr. and I did not like black people. We did not talk with black people about anything. Ronald Armstead, Marvin Randolph and Vernon Jordan are black." The three inmates mentioned by Nicely had reputations as jailhouse snitches.

Another black inmate, Lester Early, confirms in a sworn affidavit, "It was known by everyone in A-Block that Armstead, Jordan, and others were out to get Byrd to get themselves some play on their cases— Byrd kept to himself. He and his co-defendants were new guys on A-Block. Byrd did not go around running his mouth about his case."

Moreover, Early dismisses Armstead's trial testimony alleging that Byrd confessed to him on May 26, 1983, while the two were watching a TV show portraying the tragic death of Tewksbury and showing home video of the happy Tewksbury family. Since Byrd supposedly confessed during the TV show, the jury was able to watch the heart-wrenching family videotape under the guise of "evidence."

"There was only one television in A-Block. I never heard Byrd say anything about his case while watching television. I never had anyone say they heard Byrd say anything about his case," Early said. Early also claims that police and Hamilton County prosecutors regularly talked with the three snitches under the pretext that they were going to court.

Keith Wieland, who was also serving time in the jail, says that the three snitches met with him, and that Randolph said, "I have a great idea on how to get us out of our separate problems."

"`Bull' [Armstead] suggested that we say we overheard or we were told by John Byrd Jr. and his co-defendants that they had committed this murder/robbery. I was approached specifically by `Bull' because he and the other individuals were black and I was white. `Bull' stated that it would be more believable that three white guys would talk to another white person, not just four black guys," Wieland said.

Wieland turned them down. His affidavit states that the three snitches then wrote a letter to the Hamilton County Prosecutor's office anyway, and drew attention to themselves by discussing how to spell Prosecutor Arthur M. Ney Jr.'s last name.

Two other affidavits, from inmates Abdul Mughni and Robert Ashbrook, both cast doubt on the likelihood of a Byrd confession to Armstead. Mughni's affidavit noted, "I never saw John Byrd speak with Ronald Armstead or Vernon Jordan. Generally, blacks and whites did not want to be seen associating with each other. After Armstead and Jordan testified, I overheard them bragging about what they had done. Armstead and Jordan said they were going to be back on the street soon because of the deals they got for testifying against Byrd, Brewer and Woodall."

Ashbrook asserted, "John Byrd did not go around the workhouse talking about his case. In 1983 in the workhouse blacks and whites did not associate with each other."

As reported by Columbus Alive in August 2000, Armstead's crucial testimony--where a weeping Armstead portrayed Byrd as a calculated, cold-blooded killer--raises concern. Armstead failed to tell the jury that he faced up to 15 years in prison for a parole violation and escaping from jail after assaulting a nurse in the sick ward and beating a guard with a metal bed crank. Armstead portrayed to the jury that he had no jail time pending and was testifying as part of his civic duty. The Hamilton County prosecutors vouched for Armstead's testimony and failed to disclose his incorrect and possibly perjured testimony regarding the sentence hanging over his head.

Daniel J. Breyer, the Hamilton County prosecutor who prosecuted the Byrd case, sent a letter to the parole board praising Armstead's cooperation in the case. As the Columbus Dispatch reported, "A few hours later, Armstead was on a plane headed to San Diego," despite the initial adamant objections of the parole board.

During proceedings away from the jury in Byrd's original trial, Byrd attorney Hollis Moore raised concerns about the disclosure of Armstead's criminal past. Byrd's trial judge, Donald Schott, said, "It is within the sound discretion of the court as to the extent of the exploration of the criminal records." The judge continued, "I did not feel that it was necessary that we go into them unless it was something that touched upon the area of perjury."

Byrd's attorneys believe Armstead may have perjured himself when asked if he had any charges pending against him. The star witness testified, "I don't have no time pending or nothing else pending. I don't have no more cases pending and I come to testify against Byrd because he was wrong."

The defense tried to ask Armstead to divulge information about his criminal past no fewer than five times. First the defense attorney asked if he was serving time and for what charges. The prosecutors objected to this question and the judge sustained the objection. The defense asked if Armstead was convicted of a federal or state offense or had served more than a year in prison. The judge again sustained the prosecutors' objection. The interrogation continued as such until Armstead made the infamous claim that he had "no time pending."

Hamilton County attorney Fred Hoefle, who represented Byrd on appeal, failed to raise the issue on appeal--a mistake, said Public Defender David Bodiker. "First of all, they didn't get into what a culprit Armstead was."

In April 2000, Sixth Circuit Court Judge Nathaniel R. Jones stated, "At best, these [Armstead's] statements were misleading and left the jury with a material mis-impression of fact. At worst, these statements were patently false, which the prosecution knew, or should have known." Jones dissented from the two-judge majority in the appeals court ruling, which upheld Byrd's conviction.

A comparison of the Woodall, Brewer and Byrd murder trials reveals differences in the way Armstead was presented as a witness. In Brewer's trial, Armstead testified that Brewer said things strikingly similar to what Byrd supposedly said. Armstead told the jury that Byrd confessed: "Fuck him [Tewksbury], he deserved to die." Armstead told another jury that Brewer confessed: "Fuck him. He need to be dead."

In the Byrd trial, Armstead testified that prison guards were present when Byrd was said to have confessed to the crime. No guards testified to back up this claim.

In Woodall's case, Armstead admitted that he was serving six months for assault. In Brewer's case, Armstead admitted to the court, "I had a trafficking case I went to the penitentiary on, and felonious assault that I went to the penitentiary on."

But in Byrd's case, the jury had no idea that Armstead was in jail on a parole violation and faced a possible return to state prison. "What they did do, of course, was allow misconceptions about his record go to the jury unchallenged," Bodiker said.

Of Armstead's testimony, Joe Case countered, "That issue has been looked at and scrutinized by numerous levels of judicial review and it has been upheld."

As for concerns about the jury being unaware of Armstead's pending sentence, the attorney general's spokesperson continued, "For them to say that they did not have a venue to present this at this point is surprising, given the creativity demonstrated by the public defender's office in the past."

As it turns out, Hamilton County's star witness, with a long criminal history in Ohio, has been less than a good citizen since the Byrd trial. Armstead now drifts between Las Vegas and San Diego. Court records indicate he has at least two Social Security numbers and has been charged with various crimes.

Las Vegas Township court records list a 1990 felony assault and drug trafficking conviction for Armstead. His rap sheet also shows a 1991 battery with a deadly weapon charge, an obstructing a police officer charge, a resisting arrest charge, and a 1994 citation for battery. An October 24, 1995, police report states that Armstead attacked a highly intoxicated individual and left "the victim bleeding from his nose" and with blood all over his jacket. Armstead was charged with strong armed robbery for allegedly stealing \$145 from the individual. Charges were later dropped when the victim refused to testify against Armstead.

On December 11, 1996, a Las Vegas Township police report alleged that Armstead robbed a woman of \$12,000 in jewelry by "grab[bing] her around the neck." He was charged with a felony count of robbery and resisting arrest. The victim, who resides in New York, failed to return and testify against Armstead and the charges were dropped. Prison records indicate that Armstead is of "below average" intelligence with an IQ between 80 and 89 and a long history of violence and drug addiction.

"They tried everything"

Those in the Ohio Public Defender's Office familiar with the Byrd case are struck by Hamilton County's pursuit and defense of the Death Row conviction. Sure, prosecutors are there to seek convictions for the criminally indicted, and public defenders try to get their clients off the hook, or at least a reduced sentence, but something about the Byrd case is remarkable, they say. "They tried everything," Public Defender David Bodiker said. "When they're questioned, they try to do a lot of things."

William Breyer, who's responsible for prosecuting Byrd's post conviction appeals and bringing about his execution (and who's also the brother of original trial prosecutor Daniel Breyer), even sued Byrd and the Public Defender's Office in 1990, demanding attorney's fees at the rate of \$75 an hour for having to defend against Byrd's legal claims of innocence. He lost.

William Breyer also wrote the Director of the Ohio Prosecuting Attorneys Association and the State Public Defender's Office accusing Byrd's post-conviction attorney, Richard Vickers, of misconduct. The public defender's office says Vickers was trying to locate a victim impact statement in which Tewksbury's widow Sharon said Byrd told her he wanted to know what murder "felt like"; prosecutors claimed Vickers should have contacted them before retrieving the statement.

A call to Breyer seeking comment was forwarded to John Ester, spokesperson for the Hamilton County Prosecutor's office; Ester did not return a telephone message for the sake of this story.

Attorneys in the public defender's office also believe Attorney General Betty Montgomery and the Hamilton County Prosecutor's office continue to insist on Byrd's guilt because of what it says about the death penalty in general. If Byrd is not guilty of the crime that sent him to Death Row, then the system in Ohio, just like elsewhere, is imperfect, makes mistakes, and sometimes might kill the wrong person.

The attorney general's office remains steadfast that justice was upheld. "We'll be there and we'll vigorously defend our position," spokesperson Joe Case said of the pending Byrd hearing.

Byrd, while lobbying for his innocence and his life, said he does feel sorry for Sharon Tewksbury, who has made statements to the press supporting Byrd's death sentence. "I have sympathy for Ms. Tewksbury," Byrd wrote in a February 3 letter to Columbus Alive. "She lost her husband. She has also been used and manipulated by the prosecutor's office to no end."

For Bodiker, the case boils down to one simple fact: Another man has confessed to the murder for which John Byrd is to be executed. "The bottom line for us is, John Brewer said 'I did it.' He continues to say 'I did it.'"

04/05/2001

## **NEWS BRIEF**

Cracking down on citizen complaints

Four days before Christmas last year, the Ohio legislature gave the state's "peace officers," another term for cops, a generous Christmas present. Added to a bill initially introduced to "Establish the qualifications and authority of the House Sergeant at Arms and the Assistant House Sergeant at Arms" was an amendment that "Prohibits a person from knowingly filing a complaint against a peace officer that alleges that the peace officer engaged in misconduct in the performance of the officer's duties if the person knows the allegation to be false." The law went into effect on March 22.

Which agency will investigate citizens' complaints against the police and recommend the filing of first-degree misdemeanor charges--and up to six months in jail--for citizens who "falsely" complain about cops?

Reggie Hayes, spokesperson for State Senator Ben Espy, confirmed that the police could investigate themselves and set up their own policies. "That was one of the Senator's concerns," Hayes said. "But more important was the message the bill would send if those filing complaints had to sign a form that warned them of possible criminal prosecution." Espy's concern for the chilling effect that such a form would have on citizens' complaints led him to cast the sole vote against the bill.

James Moss, president of Police Officers for Equal Rights, also fears the police will be drafting their own policies and procedures, since the law does not forbid it, and he's worried about the virtual nonexistence of civilian review panels, meaning it's most likely that police internal affairs bureaus will investigate citizens' complaints against fellow officers.

"This is real scary. Imagine you're harassed by a police officer and you file a complaint. Do you want police internal affairs conducting a criminal investigation of you because a police officer tells them you filed false charges?" asked Moss. "Internal affairs routinely find that citizen complaints lack merit or are baseless or fabricated, usually on the word of another police officer."

"Maybe the bill wouldn't have been so bad if there had been an independent investigation body and criminal charges went both ways--against police who lie about their conduct and citizens who make false complaints," Moss added.

The law requires that police departments give "specific notice regarding the complaint and the possibility of criminal prosecution if it's false," according to the Statehouse's bill summary. The summary leaves out the term "knowingly," giving rise to the potential that citizens will be prosecuted for providing reports that are considered merely "false" by a police agency or police-friendly prosecutor.

The bill "require[s] the complainant to read and sign a notice that is in the following form and is in boldface type." It reads in part: "It is against the law to knowingly make a complaint against a peace officer alleging that the officer engaged in misconduct, if you know that the allegation is false. If you make a complaint against a peace officer in violation of this prohibition you can be prosecuted for a misdemeanor of the first degree."

Witnesses must also sign the form and are subject to criminal prosecution as well.

04/5/2002

## **NEWS BREIF**

### **Could a general rally the Columbus schools' troops?**

There's a retired U.S. Army brigadier general seeking a new assignment in Columbus. Samuel L. Kindred of Westerville confirmed to Columbus Alive on Monday, April 2, that he is a candidate to replace Columbus Public Schools Superintendent Rosa Smith.

Kindred calls the late General John Sanford--the superintendent credited with turning around the Seattle Public School system--"a mentor and good friend."

"I saw what he did in Seattle prior to his untimely demise. I believe I could bring many of the same qualities to the Columbus Public School district. The schools need good leadership, and good managers, if all kids are to achieve success," Kindred said.

Prior to retiring from the Army in July 1998, General Kindred was vice president of staffing, in charge of recruiting in 16 western states where he managed \$85 million advertising and \$100 million operating budgets. He points out that he also supervised recruiting in central Ohio for three years. As a result of recruiting young people into the Army, he insists "all kids can learn."

"What they need is individual attention, a structured program and to know what is expected of them," Kindred explained. "It's really about setting standards, and the kids will rise to them."

When asked to outline his philosophy of education, Kindred said he believes there's been perhaps an undue emphasis on proficiency testing. Although he's not opposed to testing, he said the question remains, "What are we testing for?" He also said when parents complain about their children doing too much homework, educators have an obligation to ask, "What purpose do the homework assignments serve?"

"Often educators can't answer these questions and tend to avoid them. What Columbus needs is someone to bring the community and factions together. I believe with my leadership skills I can accomplish this," he added.

Kindred said he's been spending time reading the last four years of press coverage surrounding Columbus Public Schools' controversies. His conclusion: "Very little positive press attention was focused on the kids' accomplishments. No matter what the disputes and distractions are within the district, the adults owe it to themselves to focus on the kids, their accomplishments, and that they're doing great things."

Kindred has a master's degree in management and supervision from Central Michigan University and a bachelor's degree in business management from Hampton University as well as advanced management training from Stanford University. After retiring from the Army, Kindred spent two years as vice president for business affairs and chief financial officer at Washington State University.

The name of Columbus Public Schools' deputy superintendent, Jean Harris, has also emerged as a candidate for the superintendent position.

Perhaps Kindred's biggest plus is not spelled out on his impressive resume: The brigadier general will probably never ask Columbus taxpayers to pay for bodyguards.

04/05/2001

## **MEDIA WATCH**

### **Mum's the word on Dispatch corporate cousin**

As expected, Nationwide LLC--the partnership between Nationwide Realty Investors and the Dispatch Printing Company--is disputing the valuation of Nationwide Arena.

Also as expected, the Columbus Dispatch has not yet reported on the tax debate surrounding its corporate cousin.

Columbus Alive reported on March 8 that Nationwide was expected to request a \$30 million valuation on an arena that cost more than \$150 million to build. Just before the March 31 deadline, Nationwide did in fact notify Franklin County Auditor Joe Testa that it was contesting his \$65 million partial valuation. The challenge Nationwide filed stated that they'd be asking for at least a \$50,000 reduction in the auditor's final assessment--maybe more. Now it's up to the school district to contest Nationwide's contesting.

It's a tough call for the Dispatch. If Nationwide Arena receives a low valuation, the struggling Columbus Public Schools could lose as much as \$1.5 million a year in revenue. If the arena receives a high valuation, it would mean a big fat tax bill for Nationwide Realty and John F. Wolfe's Dispatch Printing. So maybe it's better if the Dispatch continues to ignore the issue altogether.

### **Students take on David Horowitz**

Columbus Alive columnist Carl Upchurch argued virtually the same thing in a January 18 column and nobody accused him of being racist. But when conservative white columnist David Horowitz placed a paid advertisement in college newspapers asserting that reparations shouldn't be paid to African-Americans for slavery, liberal groups on campuses nationwide wanted to have his head.

Granted, Upchurch questioned the criteria for which reparations would be paid, and Horowitz argued that reparations are by nature oppressive and divisive. But the protests against college newspapers that carried Horowitz's ad give more fodder to conservatives accusing campus lefties of being reactionary.

"Only eight college papers have been able to print it without incident," Horowitz wrote in an April 2 column for Salon. "Six editors who published it have been visited by howling mobs." More than twice as many editors have refused the ad as have agreed to publish it, Horowitz wrote. The actual score at that point was 34-14.

How Ohio State University's Lantern will weigh in on the situation is still up in the air. The paper's publication committee is currently deciding whether it will print the ad.

She's sexy, but not 17

Who's that cute little subversive slipping her way into the April issue of Seventeen magazine? Why it's Jonna Vallance of Columbus Anti-Racist Action!

Donning a sporty fall gas mask, Vallance discusses what it's like to be a teenage activist. She talked at length to a reporter about her involvement in ARA and her thoughts on everything from hate groups like the World Church of the Creator and National Alliance to George W. Bush and the threat he poses to abortion rights.

While she's pleased with the exposure given to her "national anti-racist group in the Midwest that was founded by punk rockers," the magazine did tone down a few of her comments. They didn't touch the abortion issue. The aforementioned hate groups were changed to the "Ku Klux Klan."

But, Vallance herself was guilty of slightly bending the truth. This "16-year-old" is actually 21. No sweat, she still got her message out. "It's Seventeen magazine, but maybe some young girl or boy would open it up and say 'Oh cool,'" Vallance told Columbus Alive.

Reporters aren't the enemy!

Who says an alternative newsweekly can't side with the conservatives now and again? Media Watch recently stumbled upon the inaugural issue of "Working With The Media," an advice sheet provided by the Ohio House Republican Caucus communications department to its Statehouse employees.

Kudos to Director of Communications Jennifer Detwiler for putting such a manual together. While we admit we were skeptical at first, it turns out that Detwiler hit the nail right on the head: The newsletter is full of great advice. We were so delighted we were half-tempted to fax a copy to the Dems.

The newsletter opens with an intro about differences in editorial duties (reporters don't write headlines--a fact that pissed-off sources often overlook), then goes into savvy and honest "rules to live by."

\* Never lie

\* Reporters aren't the enemy

\* When you don't know, say so

- \* When you can't talk, say so
- \* Avoid speculative conversation
- \* Remember the "front page" test (don't say anything you wouldn't mind seeing on the front page of the next day's newspaper)
- \* Understand the job of a reporter
- \* A thick skin and sense of humor will protect you

By the way, we think the same rules should apply to journalists.

04/12/2001

## **Nazis in Newark**

### **A particularly vicious strain of white supremacists plans to “begin guerrilla operations”**

by Bob Fittrakis

The day after Adolf Hitler’s birthday, April 21, the November 9th Society plans to march through Newark and hold a 3 p.m. rally at Everett Park. The organization draws its name from Kristallnacht, the “Night of Broken Glass,” when Hitler’s Nazi thugs attacked Jewish-owned businesses throughout Germany, breaking windows and terrorizing Jewish families.

These neo-Nazi stormtroopers are on an organizing and recruiting campaign with a clear agenda—to target and attack blacks, Jews and anyone to the left of Mussolini. Their slogan is simple: “Taking National Socialism into the 21st Century.” Their elaborate website goes into great detail on how to “organize a resistance movement,” and the society’s ties to Hitler are clear: “Like the heroes and heroines of the Third Reich, you may choose to answer the call to idealism and sacrifice.”

Here’s their advice for getting involved: “If you love your country but fear your government, becoming an underground activist may give you the mechanism you need to start making a difference.”

“Freedom is sustained by three boxes—the ballot box, the jury box, and the ammo box. Unfortunately, more and more concerned citizens are becoming increasingly alarmed by what they see as the dangerously weakened condition of the ballot box and the jury box,” the November 9th Society argues.

The organization offers “information” from “official counter-insurgency training manuals” in order to bring about the Fourth Reich in the United States. The neo-Nazi society’s website includes step-by-step instructions for creating a terrorist underground organization. Of course they run a disclaimer, after providing the information, noting that the “November 9th Society does not endorse, condone, or encourage any illegal act,” and the how-to manuals for fostering race war in the United States are “presented for information, research, entertainment and educational purposes only.”

The November 9th Society is part of a growing, global neo-Nazi network and boasts ties with British, German, Irish, Scottish and Romanian counterparts that are organizing terrorism in hopes of ushering in a Fourth Reich and a Third World War. I’m not kidding. Take a look at their own words: “Only Adolf Hitler and his devoted legions stood against the whole world in order to destroy the culture-destroying Marxist communism, and brought about a cultural renaissance the likes that have never been seen before nor since.”

Despite their bad grammar, their message can't be mistaken: "He [Hitler] may have lost the war, but the battle has just begun, and any straight-minded white person can just look around and see that he was right."

"His [Hitler's] book *Mein Kampf* has only been outsold by the Holy Bible and is a political testament and partial autobiography. It has been described as a 'beacon of light in a stormy sea of doubt,'" the society's website offers.

As I've written in the past, it's my belief that white supremacists and neo-Nazis are targeting the state of Ohio with the goal of fostering a race war. They're here to recruit members and form separatist armed compounds leading directly to guerrilla warfare.

But you needn't trust my opinions, since the November 9th Society spells out "Step 3" on its website as: "BEGIN GUERRILLA OPERATIONS."

"A resistance movement will often need to use counterterror to intimidate traitors, collaborators, and informers," the society claims. As a known race traitor—that is, somebody who believes in universal human rights for all people—I plan to cover the rally and report on these terrorists. The best way to deal with Nazi terrorists is to confront them directly and not wait for their numbers to grow.

Their agenda is defined in their own words. They are urging their membership to move from "passive resistance, [to] active resistance, [to] guerrilla warfare, [to] open insurrection, and civil war."

For right-wing fans of school vouchers and government support for faith-based schools, the neo-Nazis boast that they've already got in place "a heritage-based school curriculum for ages preschool up to grade seven, which promotes European culture and values, as well as teaching the history of our great [Aryan] people." Perhaps our best hope is that whoever is writing for the website also serves as a teacher, since we'll be able to identify November 9th Society members by their inability to speak or write standard English.

Anti-Racist Action activists say they're organizing a counter-demonstration for the Newark rally, but point out that many of their members will be in Quebec City between April 18-22 demonstrating against the Free Trade Area of the Americas meeting. One local ARA member who investigated the November 9th Society says they're a particularly repugnant and vicious strain of neo-Nazi, linked to the Outlaw Hammerskins, who in turn worship The Order, the most violent neo-Nazi organization in U.S. history.

Whether or not they take hold in Ohio may well depend on what happens on April 21 in Newark. In a press release, Newark Police Chief H. Darrel Pennington acknowledged that the November 9th Society has "extended invitations to other [white supremacist] organizations to attend." A spokesperson for the Newark

Police Department says that a call for additional aid has been sent out to other law enforcement agencies.

## **MEDIA WATCH**

04/19/2001

### **Manufacturing legitimacy**

By now most readers are familiar with the misleading banner headlines proclaiming George W. Bush the winner of the popular vote in Florida after a media recount. The Columbus Dispatch dutifully ran the headline above the fold on April 4, as did USA Today, a partner with the Miami Herald in the recount effort.

The oft-cited and incredibly propagandistic Herald story also appeared on April 4. In order to manufacture a victory for Bush, the paper had to first subtract Gore's known previous gains in four counties—Palm Beach, Broward, Volusia and Miami-Dade. After the election, but before the Florida Supreme Court's ruling, some of the uncounted votes had been tabulated in those four counties, adding hundreds of votes to Gore. Then the Florida Supreme Court ruled that all of the state's uncounted votes must be counted. The blatant political intervention by the U.S. Supreme Court ended the Florida recount.

The Herald/USA Today spin is that if all the votes in the state had been counted under the Florida Supreme Court ruling, Bush would have still won. But all of those hundreds of documented but uncertified Gore votes in the four counties were thrown out of the newspapers' investigation, based on the Herald/USA Today's assumption that they couldn't be included.

One day after the Orwellian headlines roared across America, the Miami Herald, with little fanfare, published a story saying that Gore would have won under a "clear intent of the voters" standard. How did the paper come to the opposite conclusion? Duh. They counted the uncounted votes, or "undervote," in all 67 counties. Hence, the little-referenced second-day story had Gore picking up an additional 1,475 votes in Palm Beach County and 1,081 more in Broward County.

As the ConsortiumNews.com investigative website points out: "Wednesday's misleading 'Bush won' story—pushed by the Herald and its recount partner USA Today—was widely embraced by the national press corps and applauded by Bush partisans in the White House. The new Herald story, entitled 'Recounts could have given Gore the edge,' received only a fraction of the national attention."

In a related bizarre twist, the New York Times reported that hundreds of uncounted ballots in Florida disappeared before the newspapers could count them. "In Orange County, for example, officials reported in November that they had found 966 ballots with no discernable vote for President," the Times noted on April 5. When the newspapers went back to discern the vote, 327 uncounted ballots were missing.

With even less fanfare, the third story in the Herald series found “a net gain of at least 210 votes for Gore in Orange and St. Lucia County where optical scanners were used.”

In the aftermath of last week’s Cincinnati riots, it’s interesting that the Herald/USA Today investigation found that in majority African-American precincts, where the vote went more than 90 percent for Gore, 8.9 percent of votes were uncounted, compared to 2.4 percent uncounted votes in majority white precincts.

The structure and conclusion of the Herald/USA Today investigative series strongly suggests that they came to the conclusion that it was best for the country to believe that “Bush wins,” even if it’s supported only by the strangest hypothetical assumptions. By not counting the Gore votes in the four counties and then dribbling out information about the additional Gore votes, the papers effectively created a stampede that the national mainstream press willingly followed. Thus, a misleading interpretation has now become conventional wisdom, which will be routinely repeated by pompous journalists and right-wing talk show hosts. Big Brother would be proud.

#### Top 10 censored stories

Do you remember reading about corporate efforts to privatize the world water supply last year? Did you see the TV story about low wages paid to immigrant engineers in Silicon Valley? Or hear the radio report about the America’s failure to prevent genocide in Africa?

Yeah, we didn’t either.

Last week, the media watchdog group Project Censored released its annual report of the most important news stories not covered by the country’s corporate media. How corporate? Take, for instance, NBC and its myriad web and cable siblings, which are owned by General Electric, which benefited from taxpayer-funded efforts to export nuclear power plants. We could go on, but we don’t want to depress you.

Project Censored is celebrating its 25th anniversary this year, and has released a companion book including all of the top-10 censored stories since 1976. Students and staff at Sonoma State University screen thousands of stories each year—which come from alternative weeklies, monthlies, journals and other independent watchdogs—selecting about 700 to pass on to faculty and community evaluators, who are experts in various fields. The stories are rated for credibility and national importance, accuracy is checked in relation to other news articles on the same stories, and the students examine the corporate media’s coverage of the stories. After the field is narrowed to 60, the Project Censored

community and faculty evaluators, students, staff and national judges vote on the year's top censored stories.

So, according to Project Censored, here are the top-10 headlines you probably didn't see in your daily paper or on TV in 2000:

World Bank and multinational corporations seek to privatize water: Global consumption of water is doubling every 20 years and multinational corporations are trying to monopolize water supplies around the world (This, In These Times, Canadian Dimension, San Francisco Bay Guardian).

OSHA Fails to protect U.S. workers: Each year, about 6,000 workers die on the job from accidents and another 50,000 to 70,000 workers die annually from "occupationally acquired" diseases, and OSHA is not capable of effectively overseeing U.S. workplaces (The Progressive).

U.S. Army's psychological operations personnel worked at CNN: From June 1999 to March 2000, military specialists in "psychological operations" worked in CNN's Southeast TV bureau and radio division (Counterpunch).

Did the U.S. deliberately bomb the Chinese embassy in Belgrade?: Elements within the CIA may have deliberately targeted the embassy, without NATO approval (In These Times, Pacific News, Fairness and Accuracy in Reporting).

U.S. taxpayers underwrite global nuclear power plant sales: The U.S. tax-supported Export-Import Bank is backing the overseas activities of U.S. nuclear contractors such as Westinghouse, Bechtel and General Electric (The Progressive).

International report blames U.S. and others for genocide in Rwanda: A report released by a panel affiliated with the Organization for African Unity charged that Bill Clinton and his administration allowed the genocide of 500,000 to 800,000 people in Rwanda in 1994 (Alternet, Covert Action Quarterly).

Independent study points to dangers of genetically altered foods: The actual process of genetic alteration itself may cause damage to mammalian digestive and immune systems (In These Times, Extra!, Multinational Monitor).

Drug companies influence doctors and health organizations to push meds: Pharmaceutical companies are reaping big profits by promoting forced drug use through programs at the National Alliance for the Mentally Ill (Washington Monthly, Mojo Wire, Dendron, Networker).

EPA plans to disburse toxic/radioactive wastes: The Environmental Protection Agency plans to pump toxic wastewater into Denver's sewer system (The Progressive).

Silicon Valley uses immigrant engineers to keep salaries low: High-skilled immigrant workers are being exploited by Silicon Valley employers (Labor Notes, Washington Free Press).

Click to [projectcensored.org](http://projectcensored.org) for more.

04/26/2001

## **Judicious procedures**

### **Death Row's Jay D. Scott and other inmates report on the treatment of Ohio's mentally ill prisoners**

by Bob Fitrakis

Executing people pays off politically. State Treasurer Joe Deters knows this. He's parlayed his "kill at any cost" rent-a-snitch approach in Hamilton County into a recent announcement that he wants to replace the legendary Bloody Mama herself, current Attorney General Betty Montgomery.

Governor Bob Taft, meanwhile, is too busy conjuring up the spirit of Richard Nixon—invoking "executive privilege" to prevent scrutiny of secret backroom meetings concerning the state's budget—to be bothered with life-or-death questions about justice.

This leaves, perhaps, Ohio Supreme Court Chief Justice Thomas J. Moyer as the lone voice of sanity suggesting, despite campaign plans by his Republican cohorts, that we should proceed judiciously when it comes to state-sanctioned murder.

Before the state kills Jay D. Scott, we ought to consider that information about his well-documented mental illness was withheld from the jury that condemned him to death. But it wasn't withheld from the prison guards who routinely brutalize him, as they do other mentally ill inmates in Ohio's prison system, according to a 13-year-old report from six Ohio inmates.

In perusing my Scott file, after he was within an hour of being killed last Tuesday, I came across a complaint filed by Scott and five other Lucasville inmates dated June 17, 1988. The complaint is titled "Regarding human rights violations at the Southern Ohio Correctional Facility" and it's addressed to Amnesty International. The document is a savage indictment of the Ohio prison system—not that any statewide politicians would care.

Scott and others—and I believe they are far closer to the truth than the Ma Montgomery Gang running the state—complained that they were "being systematically victimized by some of the most barbaric and inhumane methods ever devised by man." The inmates wrote, "Men are being literally tortured by Ohio prison officials." But isn't that what prisons are for in the post-Reagan Reich? The inmates' long list of abuse allegations are captured in 31 pages of fascinating reading.

As part of the rehabilitation process, "Prisoners in J1 Super Max are subjected to routine 'strip searches' before leaving their cell for any reason and before being put back in the cell. A 'strip search' consists of forcing the prisoner to get naked,

open his mouth and pull his lips down, run his fingers through his hair, lift his arms, raise his penis and testicles and skin his penis back, then turn around and show the bottom of his feet one at a time, and then bend over and spread the cheeks of his buttocks. This practice is often accompanied by sexual comments from guards and is degrading and humiliating,” the inmates wrote. This no doubt improved the mental health of Scott, who was first incarcerated at age nine and had spent nearly a decade in adult prison prior to killing Vinney Prince in 1983.

The inmates’ report documents in detail the standard practices at Lucasville: the chainings, the use of “high pressure fire hoses,” the rampant and capricious use of “chemical mace and tear gas,” the sleeping on concrete floors, and brutal beatings by “sadistic guards.” All of this should be old news to those who have studied the Ohio prison system and are familiar with the Lucasville riots.

A section of the complaint that caught my attention is called “Prisoners who are mentally ill are placed in J1 because of their mental illness.” It begins: “Ohio prison officials frequently place prisoners who are mentally ill [and] under psychiatric care or who have long histories of mental problems in J1 Super Max for behavior which is a product of the mental illness.” Scott, for example, with his long history of abuse and schizophrenia, could be better tortured prior to his politically celebrated murder.

The prisoners documented how Cornellius Pernel, confined to a Mississippi State Psychiatric Hospital when he was 10 years old, was beaten by Lucasville guards in 1987. After the beating, the guards had him transferred to the J1 Super Max where, despite ingesting “powerful psychotropic drugs four times each day,” he managed to cut his wrists and rant and rave endlessly while throwing feces and urine at the guards “for no reason.”

The complaint documents the case of Alonzo Taylor, who was confined in various mental institutions between the ages of nine and 20 as a result of being forced to perform oral sex on his father. As part of his therapy at Lucasville, the complaint alleged, the guards placed a “restraining belt around his wrists and pulled him backwards to the first flight of stairs where he fell down.” The guards then provided incentive for Taylor to walk back up by beating and kicking him.

Hank Rimmers received similar treatment as a mentally ill inmate when “a guard broke his wrist and arm with a billy club.” The inmates in their complaint likened Lucasville to the Nazi camps “Treblinka and Dachau.”

Another part of the complaint well worth reading involves mentally ill patients in two other sections of the prison who were allegedly abused by guards. The case of James Richards is illustrative. He was found dead in his cell on November 4, 1987. Richards, a manic-depressive with suicidal tendencies, never received the treatment required to keep him sane and with little supervision “ingested a fatal dose of his own, and others,’ medication.”

I've been working on a song with my friend Ed, called The Bob Taft Death House Blues, in honor of a skilled politician who managed to pop out of the right womb with the right name. I need the readers' help to complete it. So far I've just got a few lines:

His granddaddy was fat  
His morals are thin  
If you're on Death Row  
He'll do you in.  
If you're retarded  
He's real cold-hearted  
Mentally ill?  
He's still got to kill.  
If you're a juvenile  
He's in denial.  
Like Bonnie and Clyde  
He's got a Bloody Mama  
Right by his side.  
Betty's her name  
Murder's her fame.  
And they won't stop killin'  
Unless the voters make them lose—  
We've got the Bob Taft death house blues...

5/3/2001

## **MEDIA WATCH**

### **Did we tell you he sent 22 killers to death row?**

We don't know if it was intentional or not, but Joe Deters' editorial-writing spree on the eve of Jay D. Scott's Death Row execution couldn't have come at a better time politically for the Ohio State Treasurer. In the week leading up to Scott's death, Deters wrote opinion columns in both the Akron Beacon Journal and the Columbus Dispatch calling for Scott's execution and chastising defense lawyers and death penalty opponents.

"People who oppose the death penalty point the finger of blame everywhere except where it belongs," he wrote in the April 16 Dispatch, just a day before Scott's scheduled execution. Four days later, Deters fired off a letter to Ohio Republican Party Chair Robert Bennett announcing his intent to run for Attorney General.

Being soft on crime—and particularly on capital punishment—never put a prosecutor in office. So as Deters gears up for what's promises to be a cutthroat Republican primary battle with state Auditor Jim Petro, voters will be sure to hear about the former Hamilton County Prosecutor's death penalty record.

In case you missed the Dispatch column, Deputy Attorney General Mark R. Weaver echoed the message again in an April 27 article by Joe Hallett: "Joe Deters is the only candidate who has been a career prosecutor and sent 22 killers to Death Row."

Ohio's 21st century city: Akron?

Somewhere between the cow pastures, a technological metropolis booms in the state of Ohio. Soaring venture capital, 30,000 tech jobs, 400 high-tech firms—the numbers paint a grandiose picture.

But sorry Mayor Coleman, once again Columbus gets snubbed.

Apparently the former rubber capital of the world is chartering geekier territory these days. Newsweek named Akron one of 10 "Tech Cities" for the next frontier in business and technology, the only Buckeye State settlement to get the nod.

But what about Columbus? For months the Chamber of Commerce, OSU President Brit Kirwan and members of Michael Coleman's administration have gone to great lengths to promote their plans for tech development locally. Why no love from the national press?

In the case of Columbus, it's not that the city's not on the right track, it just needs to do a better job promoting ourselves, said Greater Columbus Area Chamber of Commerce Economic Analysis Manager Bill LaFayette. "They're very, very

subjective,” LaFayette said of reports like Newsweek’s. “Certainly there’s as much to simply letting those editors and people like that know that you exist. Believe it or not, we’re working on projects like that.”

Newsweek reported a jump in Akron’s venture capital investment from \$17 million in 1999 to \$215 million in 2000 for the 217,000-population city. Columbus, with a population of 700,000, went from \$108.4 million in venture capital to \$464 million over the same period of time. While selection criteria might be slightly different, Lafayette reports 737 information technology companies working in the city.

Mike Brown, spokesperson for Coleman, said Columbus is doing fine on the tech end. “Did Newsweek go to Akron or Columbus?” he asked. “I invite them to come down and check out Columbus.”

### Free speech crackdown in Seattle

The latest world trade summit brought more protests from those concerned with unchecked (and undemocratic) globalization. But coverage of the mêlée hardly went beyond shrill headlines in the mainstream press. The best coverage of the protests at last week’s Free Trade Areas of the Americas meeting in Quebec City came from the worldwide Independent Media Centers.

This loose network of independent journalists and activists posted breaking news, photos, audio and video that gave a grassroots view of the demonstrators and their motivation. With at least a dozen of its 60 affiliates participating, the centers documented well their analysis that, “As anti-globalization protests continue to grow around the world, the use of police-state enforcement tactics has also stepped up, increasingly denying the basic democratic rights of those who speak out.”

Indy Media reporters recorded the hundreds of injuries, many serious, as a result of police and military use of tear gas, fire hoses and batons. The corporate press did not report on the injuries to a seven-month-old baby who suffered tear gas exposure and a demonstrator in serious condition from a rubber bullet shot to the neck. (The April-June issue of Covert Action Quarterly includes a definitive list of the increasingly high-tech non-lethal weapons being used against civilian demonstrators in an article titled “Taxonomy of Terror: What they’ll be firing this season.”)

While the mainstream media focused on the 2000 or so “black bloc” protesters trying to tear down the fence that quarantined Quebec City, they did little to explain why protestors wanted to unlock the secrecy beyond the fence. The fence served to protect the trade ministers of 34 Western Hemisphere countries who were meeting with 500 multi-national corporate honchos, and to keep out the representatives of non-governmental faith-based organizations, unions,

environmental groups, human rights organizations and consumer advocates, who were all excluded from the talks.

Lori Wallach of Public Citizen said the agenda of the Summit of the Americas was “trade uber alles.” The Independent Media Centers, by reporting live from the streets, were able to capture the democratic nature of the anti-corporate globalization coalition, as opposed to the violent 30-second images framed on corporate TV.

International media conglomerates routinely ignored three key points stressed by the Indy Media crowd. First, that the Free Trade Areas of the Americas agreement will likely establish judicial legislative powers for the Hemispheric Free Trade Zone which will override local, state and national sovereignty. Both the North American Free Trade Agreement and the World Trade Organization already have such powers and utilize un-elected so-called “tribunals” to overrule national environmental, safety and health laws and regulations.

William Greider, one of the foremost authorities on globalization, wrote in the April 30 Nation, “Chapter 11 in the trade and investment agreement...established a new system of private arbitration for foreign investors to bring injury claims against governments... NAFTA has enabled multinational corporations to usurp the sovereign powers of government, not to mention the rights of citizens and communities.”

Second, the agenda of the trade summit was designed and driven by the largest business and financial interests in the Western Hemisphere. Despite the mainstream media’s lack of coverage, their goals were clear: to privatize as many government services as possible, to deregulate business and to pretend that “free trade” is equivalent to democracy.

Third, the corporate media obscured the undemocratic nature of allowing 500-plus corporate representatives full access to the negotiations while excluding every other interest from having any input. Seattle’s Independent Media Center portrayed this in the lead to its story “Breaking the Barricades.”

“While the heads of state met with their corporate allies to move toward implementation of the FTAA by 2005, activists outside this 400-year-old walled city staged militant protests condemning the secrecy of the negotiations and the erosion of democracy they claim is the result of surrendering governmental power to transnational corporations.”

Soon after that report, Seattle’s IMC was served a sealed court order by two FBI agents and an agent of the U.S. Secret Service and was gagged from reporting on documents that it had published on its website. The Seattle Post-Intelligencer reported that on Saturday, April 21, “FBI agents raided the offices of the Independent Media Center in downtown Seattle and the Center’s staff was told

not to discuss the incident ‘under threat of being held in contempt of court.’” The Seattle IMC reportedly had posted security documents regarding Quebec City. Lee Tien of the Electronic Frontier Foundation called the FBI-Secret Service raid “a threat to free speech, free association and privacy.”

The excessive police repression resulted in widespread defiance by demonstrators. Buffalo’s IMC captured the grim reality of posted snipers facing off against unarmed students peacefully demonstrating. Most media stories ignored a series of border clashes between anti-FTAA activists and joint U.S.-Canadian police and military units.

By focusing on the reputed and exaggerated acts of violence by a small minority of the demonstrators, mainstream news coverage missed the more obvious story—the systematic thwarting of grassroots movements opposed to top-down corporate planning for the entire Western Hemisphere. Perhaps it’s to be expected when your bosses are the ones inside schmoozing the trade ministers and cutting backroom deals.

Click to the Independent Media Center at [indymedia.org](http://indymedia.org).

5/10/2001

**Business as usual?**

**A new wrinkle in the Columbus Public Schools purchasing scandal**

by Bob Fittrakis

Word is leaking out that certain members of the Columbus School Board are very unhappy with the school district's treasurer, Jerry Buccilla.

It seems the board was originally told by Buccilla that there was only \$60,000 worth of alleged misconduct on the part of former Director of Instructional Technology Sherry Bird Long. Imagine their displeasure when the Columbus Dispatch disclosed the figure in question was more than a quarter of a million dollars.

Bird Long allegedly improperly steered work to her husband's firm, E-Z Enterprises, and expedited payments to the family business. She resigned on April 25, while a state auditor's investigation is ongoing.

On May 2, Columbus School Board member Bill Moss sent a memo to Buccilla regarding "Rumors about the Treasurer." The memo begins, "Mr. Buccilla, rumors are afloat that Sherry Bird Long is/was an agent/downline in your and/or your wife's health supplement business. It is rumored that other CPS employees are sales agents or downlines in your family's health products business."

Buccilla wrote back to Moss the next day, disclosing that "There are four individuals who, after being introduced to the Starlight supplements, requested information on becoming an independent distributor for the company. My wife and I assisted them with their distributorships. As a result of their independent distributorships, we have received commissions on their product purchases totaling approximately \$200. This is an approximate cumulative total of commissions for all four distributorships from January 1999 to present."

Besides Bird Long, Buccilla listed three other current or former Columbus Public Schools employees who distributed the health supplements, including an account clerk in the Treasurer's Department.

Buccilla defended the practice in his response to Moss by pointing out, "The Columbus Board of Education has not adopted a 'no solicitation' policy; therefore, many employees who are distributors of Amway, Avon, Herbalife, Longaberger, Mary Kay, Starlight, Tupperware and other products may offer these items to fellow employees. Should the Board of Education wish to implement a no solicitation policy, or direct me to develop regulations for solicitation in the workplace, I would be happy to provide information to the Policy Committee at an upcoming meeting."

Bird Long's involvement with Buccilla's Starlight distributorship began when she saw the treasurer using wellness supplements at a meeting, Buccilla explained to Columbus Alive. "She was already using [the supplements] and getting them from a distributor in Virginia, so I put her in touch with my wife so [Bird Long] could become an independent distributor," he said.

Still, Moss wonders whether Buccilla in some way compromised the treasurer's office when he allowed Bird Long to sell products for his family business.

"Not at all," Buccilla countered. "I was not aware" of Bird Long's alleged improprieties, the treasurer told Alive. "I would have had to have been aware in order to be compromised. When I was aware, I acted promptly." Buccilla stressed that it was he who referred the Bird Long matter to the Ohio State Auditor and the Ohio Ethics Commission, though Moss says the referral came only after Moss brought the allegations to the district's attention.

Also of concern to Moss is the fact that at least some of the checks that were paid to Bird Long's husband's business were manually written. This was one of the practices that State Auditor James Petro cited as a defective practice when he audited the district during the tenure of the previous treasurer.

Buccilla was hired with the clear understanding that he would fix such obvious and dubious problems. So, for this practice to come from somebody doing business with him raises a whole spectrum of questions, going to the core of safeguards in the treasurer's office.

"I still want to know, and so do the people in the Columbus School District, just how Ms. Bird Long's activities went undetected and how was she able to get away with a practice that Mr. Buccilla had promised to stop," Moss stated.

Buccilla indicated that there needs to be additional controls and safeguards in the district's purchasing policies, but, he said, there will always be a chance that somebody will abuse the system. "She [Bird Long] followed the rules under the current system. It was her place and level of trust within the system which allowed her to do what she did," Buccilla told Columbus Alive.

Buccilla specifically denied a rumor that his family and the family of Sherry Bird Long were scheduled to go on a cruise together before the allegations against Bird Long were made public. "The cruise rumor is false," Buccilla wrote to Moss.

"In the meanwhile, if you need further explanation, please contact me," Buccilla concluded.

I'm sure, along with the state auditor's office and the ethics commission, the Alive and many other newspapers will want to know about business as usual and unusual in the Columbus Public Schools treasurer's office.

05/17/2001

**Death vs. life (sentence)**

**Five jurors say they didn't understand the law when they sent Jay D. Scott to Death Row**

by Bob Fittrakis

Jay D. Scott might not have been sent to Death Row had his jury been properly informed of the law, according to statements obtained by Scott's attorneys. A fifth juror who sentenced Scott to death is now questioning the fairness of that verdict, and he claims that Scott may have received life in prison had the jury been aware of that option.

"I wish we could go back in time and be informed of what we needed to know at Mr. Scott's sentencing. We would have come up with a different result—I'm sure of it," said juror John Patten in a statement released by Scott's attorney, John Pyle, on Friday, May 11, four days before Scott's scheduled execution.

Scott was convicted of the 1983 murder of 74-year-old Cleveland delicatessen owner Vinney Prince. Scott was to be executed on May 15—his third scheduled date with death—despite protestations from his attorney that, as a diagnosed schizophrenic, Scott was unfit to understand the punishment. The U.S. Circuit Court of Appeals stopped Tuesday's execution three minutes before Scott was to be killed so the court can review the case.

Pyle charges that Scott "grew up in a nightmare that his jurors never learned about at trial." He cites Scott's "horrific childhood and the unimaginable suffering he experienced at the hands of abusive, alcoholic and drug dependent parents."

While there's little doubt that Scott is afflicted with serious mental illness, Pyle raises the question of whether or not Scott "may also have been suffering from some degree of mental illness at the time of trial." Under Ohio law, Scott's present mental illness is not a factor in his execution as long as he's aware that he's being killed for a crime he committed.

"As it was, we [the jury] were not aware of what we needed to know to make a good decision," Patten said. "Mr. Scott was represented by appointed attorneys who were not well prepared. The picture we were left with was that Jay D. Scott was as bad a person as you could find."

Patten claims, "All of us [jurors] were called into the trial judge's chambers right after it was all over and told that Jay D. Scott was a career criminal. We were also told about his being guilty of another murder that had occurred around the same time as the one in our case. So any juror who recently signed a declaration was aware of this."

In his April 10 statement denying clemency for Scott, Ohio Governor Bob Taft concluded, "There is no indication that the jurors, from whom Scott's attorneys obtained statements, were told about Mr. Scott's prior violent criminal behavior or asked how such information may have impacted their decision."

Five Scott jurors have signed a sworn declaration saying that they have "grave doubts" about executing Scott.

On March 31, juror Verlene S. Estremera stated: "I find it troubling that the defense attorneys failed to represent any mitigating or extenuating circumstances regarding Mr. Scott and his life and background. I now understand that there was information about Mr. Scott's upbringing that was not presented to us that would have been useful to know; it would have been useful as a juror to know, for example, that Mr. Scott grew up in circumstances of neglect, abuse, and severe poverty, and that he was exposed to extreme violence as a child; it would have been very useful to know that he suffered from a history of mental illness as serious as schizophrenia."

Estremera said that she couldn't speak for the other jurors, but "had I known this information it would have made a difference with respect to Mr. Scott's sentence."

Patten also claims that he seriously misunderstood Ohio law, as did the rest of the jury, which would allow one juror to veto the death sentence and move on to consider life in prison as an alternative.

Patten alleged that there was a "holdout juror in Scott's case during the sentencing."

"It was clear that this juror did not want to vote for a death sentence. She felt a lot of pressure to change her vote, and probably ultimately gave in only because she thought that if she couldn't convince anyone else to change their vote, that she had to change hers. Had we known that under the law her holding out did not mean we would be a hung jury, but instead meant we were then to consider the alternative life sentences before us, we would have ended up with a life sentence for Mr. Scott. I'm sure of it," Patten said.

Juror Bernice Williams also alleges that the jurors did not adequately understand the law at the time of Scott's sentencing. In a March 27 statement, she asserted, "I find it troubling to be informed that the law in Ohio is such that in a death penalty case the vote of a single juror is sufficient to prevent a death sentence; we were not instructed of this and I did not understand this."

Scott's attorneys' appeals claimed that their client's execution would be a violation of the Eighth Amendment prohibition against "cruel and unusual punishment," and that the "evolving standards" of justice in the U.S. bar the execution of the mentally ill. If Scott is executed, despite jurors' admissions that

they did not understand the law when they sentenced him to death, it will prove just how fickle those standards are.

05/17/2001

## **MEDIA WATCH**

### **Indicting Cincinnati coverage**

The riots in Cincinnati resulted in headlines all over the country—indeed, all over the world. Just the kind of publicity Ohio needs, right? Unfortunately, coverage of the indictment of the police officer who, in part, sparked the imbroglio left a little to be desired closer to home.

Let's look at the Columbus Dispatch's reporting last week on the misdemeanor indictments against white Cincinnati police officer Stephen Roach, who fatally shot Timothy Thomas, an unarmed black man. On May 7, Roach was indicted for negligent homicide and obstructing official business.

The next day, the Dispatch's page-one, above-the-fold headline screamed, "Cincinnati Officer Indicted."

The Independent of London ran the more accurate: "Cincinnati policeman faces minor charge over killing."

The Guardian of London ran: "Policeman escapes race murder charge." Negligent homicide is not murder.

The Dispatch headline seems designed to send a placating message to the citizens of Columbus, particularly the black community, that somehow justice had been done.

The graphics accompanying the Dispatch story pointed out that Thomas was wanted on 14 warrants. This editorial decision gives the impression that Thomas was a bad kid, perhaps worthy of his fate.

Readers are far more likely to quickly grasp the headlines and the graphics than they are to make their way down to the 12th paragraph, where the writer, Rita Price, correctly pointed out that "Roach pursued Thomas and used deadly force over a series of 14 traffic warrants."

In the seventh paragraph of its story, the Independent noted, "Mr. Thomas was shot after fleeing officers who were trying to arrest him on 14 outstanding warrants—all of which were for relatively minor charges."

In the Dispatch article, we learn that "the 19-year-old [Thomas] was killed one month ago yesterday after he ran from Roach down a dark, litter-strewn alley in Over-the-Rhine, an impoverished, mostly black neighborhood north of downtown."

Perhaps an explanation of the patterns of tax abatements and capital investment and disinvestments in different areas of downtown Cincinnati would have been in order. Who's responsible for the conditions in the Over-the-Rhine neighborhood? The scary black kids who lurk in the alleys of the deepest, darkest inner-city, or the white politicians who spent tens of millions of dollars subsidizing football and baseball stadiums which are also litter-strewn, and one of the few places likely to hire an impoverished black kid temporarily to pick up trash?

A few days later, the Dispatch ran an AP report under the headline: "Cincinnati Police Officer's Parents Agonize Over Ordeal." The lead tells us of the terrible plight of Roach's parents, who found it "difficult to hear strangers speak poorly of their son." We also learn that Roach was an honor-roll student and a football player in high school, and in contrast, "Thomas was wanted on 14 pending charges and was fleeing police when Roach fatally shot him in a dark alley in Cincinnati."

This propagandistic coverage echoes the most vulgar stereotypes of the pre-civil rights movement media descriptions of "dark" town. With a little research, the Dispatch might have been able to find the well-known case of *Tennessee v. Garner* (1985). The Supreme Court is clear that a police officer can only shoot a fleeing felon if the officer "has probable cause to believe the suspect poses a significant threat of death or serious physical injury to the officer or others." Being young and black with 14 misdemeanor traffic violations doesn't meet that standard no matter how much the media slants its coverage.

When will public access TV return to the air?

The standoff between the city of Columbus and former public access television provider Columbus Community Cable Access Inc., better known as Community 21, has come to a peaceful end. The station, which turned down a public access contract offer from the city last month, finally agreed to give the city back \$90,000 worth of equipment which was bought and paid for with city money.

For weeks, the station wrangled with City Attorney Janet Jackson's office, whose "we paid for it" argument seems to have convinced the station to turn over the goods. City officials are allowing Community 21 staffers some time to clean up their former equipment.

In the meantime, members of Columbus City Council have complained about the lack of a public medium for amateur TV producers for the last month; Community 21 has been off the air since turning down the contract offer in April. So City Technology Director Jesse Jones announced at the May 14 council meeting that the city was working on an interim solution—specifically an interim person to collect tapes and make sure they get on the air. Jones hoped to brief council by

the end of the week as to who the temporary public access curator would be. Commercial broadcast station Channel 19 is rumored to be among the candidates.

Jones is currently putting together a task force to make recommendations about the future of public access in Columbus.

05/24/2001

## **Short fuses**

### **Routine fireworks safety legislation has launched explosive new charges in the Statehouse**

by Bob Fittrakis

Every year about this time there's a push to improve Ohio's fireworks safety laws, lest any local amateurs hurt themselves or others trying to recreate Red, White & Boom in their backyards. There's also a certain irony, overlooked by these safety efforts, that we celebrate our July Fourth Independence Day with fireworks produced in Communist China.

So it's not surprising that last week, Ohio House Bill 161, which continues a moratorium on new fireworks licenses, was forwarded to the state Senate.

But with the legislation, there are some explosive allegations flying around the Statehouse concerning the tragic events of July 3, 1996, when the Flying Dragon fireworks store exploded and burned in Scottown, Ohio, leaving nine dead and 11 seriously injured.

Larry Lomaz, who owns Midwest Fireworks Manufacturing Company in Deerfield, Ohio, released court records related to that tragedy. The documents are likely to set off their own political explosion. The court records reveal that Barbara Hess, the State Fire Marshal supervisor "responsible for conducting the normal seasonal fire safety inspection of the Flying Dragon in June 1996," swore that she was "ordered not to do so."

Lomaz has long contended that Bruce Zoldan, of Youngstown's B.J. Alan Co. and owner of the Flying Dragon, is using his political connections to dominate Ohio's fireworks market. A July 22, 1997, "Confidential" letter from Cincinnati attorney Robert A. Steinberg to William C. Becker of the Ohio State Court of Claims Defense Section noted that "Mrs. Hess revealed that her supervisor, Chief Fire Marshal Billy Phillips, inappropriately ordered her to perform assessments of six prospective fireworks premises for Bruce Zoldan on state time."

The six assessments, Hess swore, were to help Zoldan obtain new fireworks licenses despite the moratorium, due to loopholes in the law. Hess also said "that Zoldan, in Phillips' presence, threatened her with physical violence if she discussed this matter. Howard Ellison [Zoldan's attorney] made a similar threat. Phillips neither objected to nor reported this activity."

Zoldan's in-house counsel, Bill Weimer, dismissed Hess' claim as "old news."

Zoldan told Columbus Alive the charge is “absolutely untrue.” He asserts that he’s caught up in an old feud between Phillips and Hess. “I’m willing to take a polygraph test at any time if she would do the same,” Zoldan offered.

In 1995, Phillips was cleared after a five-month investigation by Inspector General Richard Ward concerning use of state files, improper processing of fireworks applications and misuse of Ohio State Fair passes. Phillips left the State Fire Marshal’s office soon after and was replaced by Dan Lehman. “Mr. Lehman refused to allow her [Hess] to conduct a seasonal safety inspection of the Flying Dragon in June of 1996,” according to Steinberg’s letter.

In the civil suit that resulted from the Flying Dragon explosion, attorneys for plaintiff John Wallace entered a motion to disqualify the Fire Marshal’s state counsel from representing Hess. They argued, “Plaintiffs believe...that a corrupt relationship between Bruce Zoldan, the Ohio Pyrotechnics Association (a public relations organ Zoldan formed), and Defendant Fire Marshal Division resulted in the Fire Marshal intentionally failing to make its normal seasonal inspection of the Flying Dragon.”

“Additionally unusual events occurred on July 28, 1996. Although the three Fire Marshals present [at the Flying Dragon] had observed a building full of illegal Class B fireworks... they did not follow their normal procedure of seizing the entire inventory of illegal fireworks. Nor did they follow their normal procedure of referring the seller for criminal prosecution. Nor did they make any efforts to shut down the Flying Dragon facility, as Ms. Hess would have done had she conducted an inspection. Instead they left an entire building containing illegal Class B fireworks untouched as well as other illegal fireworks that were inside the store and in nearby trailers,” the plaintiff’s memorandum reads.

Zoldan argues that Lomaz has unclean hands himself. A December 31, 1991, Associated Press story reported that U.S. District Court Judge James S. Gwin “issued a permanent injunction against Midwest Fireworks Manufacturing Co. Inc. of Deerfield” and “ordered the company to stop distributing fireworks that are banned under the Federal Hazardous Substance Act.”

Lomaz counters that this is just Zoldan, who holds approximately half the state’s fireworks licenses, flexing his muscle through the Consumer Products Safety Commission.

Zoldan also told Alive that his dispute with Hess centers around his not giving her son-in-law a fireworks license and facility. Hess’ deposition in the Flying Dragon case asserts that Zoldan and Phillips pressured her to perform unlawful acts and promised her that “if I would do inspections on sites and assist them with their loophole that they would allow my son-in-law who was a bootlegger fireworks person to open a facility...and Billy Phillips knew what was taking place here.

And if I discussed this, that I would pay the consequences. They would either break my legs—start breaking my legs...”

Zoldan adamantly denies Hess’ account and claims that he did meet with her and Phillips, but the event was “friendly” from start to finish. Hess’ deposition raises an old charge leveled against imported fireworks from China—that it’s a front for broader criminal activity. “Because the bottom line here is not fireworks. It’s processing of drugs and laundering money,” Hess swore in the court document.

06/07/2001

## **Full Moon rising**

**Shrub is continuing to repay the Messiah dubbed “the man with the vision” by Bush Sr.**

by Bob Fittrakis

The Reverend Sun Myung Moon continued his lunacy last week with another mass wedding—this time in Midtown Manhattan, where he hitched Catholic Archbishop Emmanuel Milango to a Korean acupuncturist. But that’s just the sideshow duly reported by the Columbus Dispatch.

The Christian Science Monitor provided a much better look at Moon’s recent public prominence under Bush the Younger’s administration. Last fall, Moon raised his profile by joining with Louis Farrakhan of the Nation of Islam to co-sponsor the Million Family March in Washington. In April, the eightysomething Moon completed a 52-city tour in 52 days dedicated to “strengthening family values in America.” Does the rhetoric sound familiar? The tour drew “backers ranging from a former director of Operation Push to a founding member of the Christian Coalition...[and] as many as 3,000 local ministers, politicians and church members to some venues,” the Monitor reported.

A Moon-sponsored AIDS/HIV school curriculum centered around abstinence has been adopted by a few schools. Perhaps they should adopt a political science curriculum that requires students to read the 1978 Congressional report on “Koreagate,” which linked Moon’s Unification Church to covert operations of the Korean Central Intelligence Agency.

Moon, an ardent foe of democracy and pitchman for a worldwide theology, controls both the Washington Times and United Press International, along with dozens of other newspapers and magazines. News reports place Moon’s subsidy to the money-losing Washington Times at \$100 million a year. Not too high a price for Ronald Reagan’s “favorite” newspaper and the Bush family’s biggest political promoter.

In 1995, a Moon organization paid former President George Bush and his wife Barbara Bush a large sum of money to speak at Moon-sponsored events. London’s Daily Mail puts the figure at \$1 million; Consortiumnews.com puts it between \$3 million and \$10 million for speeches in Japan, Argentina and the U.S.

Of course, the Bushes and Moons have covert activities in common, with Bush Sr. as former CIA Director and longtime Moon associate Kim Jong Pil working for the South Korean CIA and assisting the Unification Church’s influence-building in both the U.S. and Japan.

Moon's gospel is that humans are the children of Satan because the serpent seduced Eve in the Garden. The only way people can find their "true lineage with God" is through Moon and his wife—"the true parents."

The Monitor quotes Moon at a New Hampshire speech: "If a woman deliberately avoids having children, she is a substandard animal." He has also suggested that American women are descended from a "line of prostitutes."

Ironically, one of Moon's key early backers was Ryoichi Sasakawa, a leading figure in Japan's Yakuza organized crime family, according to the definitive tome *Yakuza* by David E. Kaplan and Alec Dubro. Maybe Sasakawa tutored Moon on the prostitution racket, making the self-proclaimed Messiah an expert.

In January 1995, Moon's Women's Federation for World Peace, the one that paid Bush Sr. for the speeches, also bailed out Jerry Falwell's debt-ridden Liberty University. According to IRS documents, the Moon front funneled \$3.5 million through an "educational grant" to the Christian Heritage Foundation, which in turn bought up a big chunk of Liberty's debt.

Critics have long charged that Moon is systematically buying well-known religious, cultural and political figures with his mysterious sources of money. His agenda is not hidden—a worldwide theocracy where he and his wife reign. Moon openly declares, in speeches to his followers, that his goal is "the natural subjugation of the U.S. and its people under theocratic rule."

Bush Sr. called Moon "the man with the vision." Through his ubiquitous front groups, with innocuous names like the American Freedom Coalition, the cult leader is using his ties and influence with the new Bush administration for a last-gasp attempt to align the forces of a new American fascism.

From the outset, it was clear that Shrub would continue repaying the support first granted to Bush the Elder. According to the *Boston Globe*, Moon's *Washington Times* won a reserved front-row seat between the prized stations of Reuters and the *New York Times* in the press room at Bush-Cheney transition headquarters. "The warm reception for the *Washington Times*... surprised even its staff at the first press briefing at the Bush-Cheney headquarters," the *Globe* reported on January 7.

If you're interested in reading about the Messiah and his actual family values, the memoir of ex-daughter-in-law Nansook Hong, *In the Shadow of the Moons*, is a good starting point. She portrays the "true family" and their kids as spoiled brats doted on hand and foot by brainwashed American cult members.

Hong writes: "No one knows the pain of a straying husband like True Mother, she [Mrs. Moon] assured me. I was stunned. We had all heard rumors for years about

Sun Myung Moon's affairs and the children he sired out of wedlock, but here was True Mother confirming the truth of these stories."

"What Father did was in God's plan," Hong explained. Apparently it's also God's plan for Reverend Moon to own Kahr Arms, which recently acquired Auto-Ordnance Corp, maker of the legendary "Tommy gun."

After all, Jesus owes Moon a lot. Just ask the reverend. Since, according to Moon's theology, only married individuals can enter the kingdom of heaven, Moon had to match Jesus up with an "elderly Korean woman" retroactively in order to get Christ in to see God the Father, Hong tells us. Not as hard to get the hook-up with Bush the Father and his Only Befuddled Son.

06/14/2001

## **MEDIA WATCH**

### **A footnote to alternative history**

Columbus media historians should consult the inside back page of this year's Community Festival program. A paid advertisement from Mimi Morris, the former editor of the Columbus Guardian, and Michael Weber, the paper's award-winning investigative reporter, offers new insight on the demise of the alternative newsweekly.

When the Guardian folded four-and-a-half years ago, Alternative Media Inc. (AMI) owned it and two other newsweeklies, including its flagship, the Detroit Metro Times.

In the fall of 1979, Metro Times co-founders Ron Williams and Laura Markham moved to Detroit and wooed the large progressive community there. At the time, Williams was representing In These Times out of Chicago, but quickly saw the potential for funding a progressive alternative in Detroit, one of the nation's most liberal cities.

Throughout the 1980s, Metro Times, under Williams' and Markham's direction, lobbed broadsides at the politics of President Ronald Reagan and the greed of Reaganomics. But the way Williams closed down the Guardian in the 1990s would have made any Reaganite robber baron proud.

In 1996, Weber and Morris, who Williams had originally recruited to move to Columbus from New York City, were reportedly asked to meet Williams at Port Columbus airport, where the reporter and editor were fired to save costs. Williams' cost saving did not save the paper. Staffers report that they put the Guardian to bed right before the Christmas holidays that year and, without prior notification, Williams had a termination insert added to the finished paper. Thus, the legend of "Chainsaw" Ron Williams was born: alternative socialist hipster in style, just another ruthless CEO in practice.

Williams' next move was to sell Alternative Media Inc., built with anti-corporate sweat equity and massive left-wing community support in Detroit, to a Scranton, Pennsylvania, media conglomerate for a reported \$21 million. Sightings had Williams at both his new London apartment and Virgin Island home, where he was supposedly contemplating his next alternative media contributions.

Perhaps the most shocking line in the Morris-Weber ad reads as follows: "AMI also has long since destroyed the entire archive of [the] Columbus Guardian, leaving almost no trace of the award-winning work produced by the sweat and tears of dozens of devoted staffers over the paper's four-year life." Some current Columbus Alive staffers wrote for the Guardian, and the best continuous coverage of the battle waged by Columbus activists to shut down the

trash-burning power plant appeared in the paper—coverage that is now, apparently, lost.

The Comfest program ad notes that Morris and Weber received a settlement after suing AMI. They are to be congratulated for their long struggle on behalf of workers' rights and Media Watch concurs in their opinion that: "The issues raised in this case were important ones: the erosion of civil rights and worker protection laws in the news industry being transformed by the excessive profit demands of ever-larger corporate conglomerates."

### **McVeigh sparks interest in hell**

Media treatment of an execution is usually pretty predictable. Tough-on-crime prosecutors breath a sigh of relief, defense attorneys concede humble defeat, while pro- and anti-death penalty advocates give their usual quotes about "closure" or "cruel and unusual punishment," depending on what side of the fence they sit.

But Media Watch can't remember ever seeing so much interest in hell—that is, whether or not the mythical conception of divine punishment would be the condemned's ultimate fate.

Media coverage of the Timothy McVeigh execution seems to indicate Americans didn't just want the most heinous domestic terrorist of all time to simply die, they wanted to assure themselves he was stoking the flames below. The Washington Post and New York Times both included quotes from people who were sure McVeigh would be confined to hell. In a letter to the Buffalo News, McVeigh stated, "If I am going to hell, I am going to have a lot of company."

For those who were unsure what McVeigh's ultimate destination would be, the Columbus Dispatch printed an Associated Press story on Sunday, June 10, that offered a progressive array of viewpoints. Christians, Jews, Muslims and a Hindu all weighed in on whether the Oklahoma City bomber was headed for eternal damnation as he waited for his lethal injection.

Repentance is the key in Christianity and Islam, the AP reported—repent or go to hell. Much the same for Judaism, though its conception of the afterlife is less clear. Hinduism takes a slightly different approach, claiming McVeigh would experience many rebirths before he understood his proper earthly role.

It's an interesting philosophical debate, if a somewhat strange one for newspapers to sink their teeth into. Imagine the outrage if the Associated Press framed an article around pundits pondering whether abortion doctors were headed for the devil.

Perhaps the AP could have also questioned religious leaders as to whether President George W. Bush—who sent more than 130 convicted killers to Death Row when he was Texas governor—was headed for hell too. Granted, that's fewer than the 168 innocent victims whose lives were lost in the Oklahoma City tragedy, but God's the ultimate judge, right?

Follow up stories have been few—no one's been able to confirm where McVeigh's soul now rests. It will be interesting to see if the media fascination with divine punishment rests with him.

06/21/2001

## **Right makes might**

### **Progressives shouldn't let the politics of division splinter their fight for democracy**

by Bob Fittrakis

One of my favorite writers and researchers was in town last Thursday. Chip Berlet, senior analyst at Political Research Associates, lectured on his new book, co-written with historian Matthew Lyons, titled *Right-Wing Populism in America: Too Close For Comfort* (Guilford Press). The book is an essential guide for sorting out the political octopus we call the "right" in the United States.

Berlet and Lyons, in their thick tome, ask a critical question: Why can such blatantly anti-democratic political forces thrive in our country? While the mainstream media briefly focused on the rise of right-wing militias and other anti-federal groups after the Oklahoma City bombing, the press conspicuously avoided Timothy McVeigh's neo-Nazi sentiments prior to his recent execution.

Berlet and Lyons document how McVeigh "moved from conspiracist anti-government beliefs into neo-Nazi ideology" before he blew up the Oklahoma City federal building on April 19, 1995. McVeigh's affection for neo-Nazi William Pierce's *The Turner Diaries* is well known. What Berlet and Lyons managed to do is place that primer for a race war within "its central apocalyptic theme, the cleansing nature of ritual violence—a theme reminiscent of German Nazi ideology, which also sought a millenarian Thousand-Year Reich."

In his Columbus lecture, Berlet warned that it's too easy and incorrect to dismiss McVeigh as insane. The tendency to disparage McVeigh and his ilk as a lunatic fringe creates a political atmosphere that allows the FBI and other law enforcement agencies to repress the democratic left as well as the anti-democratic right. It also tends to ignore the values often espoused in mainstream politics and culture by the right that are similar to McVeigh's.

Berlet and Lyons argue that a powerful combination of anti-elitist rhetoric, conspiracy theories and ethnic scapegoating propels myriad right-wing movements. And it's been this way throughout U.S. history. They spell out, in an insightful chart, a long-standing "Proceduralist narrative used in repressive right-wing populism." In layman's terms, they suggest that right-wing populists create a caricature of "elite parasites." (The fact that our current president fits this category so nicely is unfortunate.)

So the right-wing populists direct their anger toward these—you name them—"secret elites," "insiders," "international bankers," "liberal secular humanists," "government bureaucrats," "globalists," "Freemasons," "Illuminati" or Jews. But these enemies, mostly imagined, cause the right-wingers not to attack visible corporate power in the U.S.; while they are angry at the people at the top,

they take their anger out on the people at the bottom. They turn their scapegoating and repressive and destructive actions against the poorest and most powerless. Why do they go after welfare mothers, blacks, immigrants and gays rather than real corporate welfare mothers with their tax abatements and subsidies?

Part of the answer is that it's the path of least resistance; the same reason water flows downhill. Another part of the answer is that progressive activists have not developed essential ground rules for countering right-wing populists.

Berlet forcefully argues that right-wing populism is driven by real, not imaginary, economic grievances. He stresses that it's important for the left to allow the right "an absolute right to seek redress of their grievances." He argues that it's a mistake to rely on the corporate-dominated state to limit the free speech rights of racists, sexists or homophobes. Ultimately, this just reinforces the right-wing's paranoia and conspiracy theories.

He also suggests that the progressive community has to do a much better job of distinguishing between right-wing leadership and their followers. Research often shows that followers are ill-informed and aren't drawn to a group because of its anti-democratic ideology but because they are "angry."

While it's important to criticize and counter the arguments of right-wing leaders, Berlet points out that it's equally important to listen to the grievances of their followers and not assume they are "sophisticated political agents."

Berlet believes that progressives have often been sloppy in refuting right-wing populism and resorted to simple anti-right slogans. This does little to counter the right's rhetoric that's often couched in American cultural imagery. Calling right-wing populists "racist, sexist bigots" doesn't refute their beliefs that affirmative action plans allow women and blacks to take their jobs away or that gays are out to establish "special rights" for themselves.

Part of this nonsense is actually fed to them by mainstream Republican politicians through orchestrated strategies and campaigns, from Richard Nixon's "Southern strategy," where he denounced "the Northeastern liberal elite," and Ronald Reagan's opening of his 1980 campaign in New Philadelphia, Mississippi, birthplace of the modern Ku Klux Klan, to Bush Senior's Willie Horton commercial and Bush Junior's wrapping himself in the Confederate flag during the South Carolina primary.

Berlet argues that progressives must build the broadest possible coalition in seeking to advance human rights and social justice. Recently he wrote, "Don't let your critics or establishment figures divide your coalition by targeting people or groups with unpopular ideas. The following familiar refrain is old and tired: If only your group didn't include [fill in the blank: anarchists, communists, feminists, gays

and lesbians, vegans, witches, atheists] you would be more effective. Baloney. It's a trick. Allow one slice and the blade of division keeps cutting. Set your group's principles of unity in a democratic fashion and then welcome as participants all who abide by those rules."

Good thoughts and advice this Community Festival weekend. Keep the faith.

07/05/2001

## **MEDIA WATCH**

WCBE to CD101: Do you want our help?

It might sound like a good deal for the financially strapped public radio station at face value: WCBE gets its recently cut school board funding reimbursed, some free consulting from CD101 and, on top of that, the school district even gets a little extra cash.

The hitch? WCBE gives up its coveted antenna spot on the Leveque Tower and swaps it with CD101's more remote tower in Grove City.

While Ingleside Radio President Roger Vaughn has been courting the Columbus school district, which holds WCBE's license, his proposal for the commercial station to swap antenna sites with the public radio gem hasn't exactly been met with open arms by WCBE employees.

On June 19, the Columbus Board of Education cut \$362,000 annually in funding for WCBE, leaving the station that also relies largely on private donations in a sticky financial situation. The news was a surprise, said WCBE Operations Coordinator Dan Mushalko. During a staff meeting, Mushalko and others found out not from the district but from a phone call from a Columbus Dispatch reporter. Realizing they would need to somehow account for the 25 percent or so of their annual budget that had been lost, station officials started brainstorming.

Earlier, on June 13, with talk of budget cuts looming, Vaughan wrote the district in hopes of striking the antenna deal. CD101 has offered the district \$1.2 million for the swap, with an additional offer of \$362,000 per year to WCBE for five years. CD101 has also offered to provide consulting services to help the station reach the self-sufficiency goal it set for 2006.

The consulting offer raised an eyebrow among WCBE staffers, considering WCBE is ranked 11th in Arbitron ratings and CD101 is ranked 19th in the city.

The antenna swap raised the other eyebrow. WCBE would lose coverage on the North Side, its bread and butter when it comes to pledge drives; gaining some coverage on the South Side isn't seen as an equal trade-off. Some WCBE staffers see the antenna swap as akin to signing a death certificate.

Instead, the public station hopes more listeners will be able to kick in some money to the station. About seven percent of WCBE listeners donate money to the station. If WCBE could get that number up to the national public radio average of 10 percent, Mushalko estimates that the brunt of the lost school board money would be compensated. Sure, a national program might have to be cut during the belt-tightening, but it beats losing part of the station's core audience due to an antenna swap.

In case there were any doubts about WCBE's thoughts on the antenna swap, a June 19 letter from WCBE General Manager Michael Randolph to Vaughan should clear them up. "Thank you for your letter of June 13 offering your assistance to WCBE. It is good to know that other local companies like us are ready to jump in and help keep the airwaves in Columbus diverse," Randolph wrote. "While I was glad to see your offer of the \$362,000/year to help our budget, I am a little concerned on how this is going to affect your budget. With our stronger ratings and obvious success in generating revenue, may I suggest that I send some of my management team to [CD101] as consultants on how to make CD101 a stronger player in the market?"

None dare call it a conspiracy

The U.S. Commission on Civil Rights' recently published report on the Florida election debacle was widely portrayed as a pro-Gore political document. The Commission's conclusions that the Florida election results represented "injustice, ineptitude and inefficiency" are factually based and in line with a variety of news reports that have dribbled out separately and without much fanfare.

The Commission's report that 54 percent of the rejected ballots in Florida were cast by black voters has profound implications. Simple math reveals that black voters—who voted for Gore by 90 percent—were 10 times as likely as whites to have their votes voided. The report specifically singled out Governor Jeb Bush and his close friend and Republican ally Secretary of State Katherine Harris for blame.

Still, the Commission's reputed "political" report could find no "conclusive evidence" that the President's brother and his top appointed officials "conspired" to deny voting rights for black voters, although the Commission suggested the U.S. Justice Department might want to investigate.

The Justice Department should start with the so-called "felon list" controversy. Greg Palast of the BBC initially reported that a large number of non-felons in Florida were denied their constitutional right to vote because their names appeared on a felon list.

In a two-part series running May 31 and June 1, the Washington Post similarly concluded that "hundreds, perhaps thousands, of non-felons in Florida" were improperly removed from voting rolls. The Post also concluded that "it is clear that at least 2,000 felons whose voting rights had been automatically restored in other states were kept off the rolls, and in many cases, denied the right the vote." The Post noted that Florida's strict rules against any past felon voting—mirrored

and cherished throughout the states of the old Confederacy—resulted in “31 percent of the state’s black men” being disqualified as felons.

The Commission documented that the “felon list” supplied by Harris to local election boards had a “14.1-percent error rate.” As ConsortiumNews.com notes: “Much of that resulted from overt decisions by Jeb Bush’s subordinates to include ‘false positives,’ that is, people with names, addresses or other data similar to felons.”

Florida state official Emmett “Bucky” Mitchell wrote in an e-mail to the Republican contractor who supplied the felon list, “Obviously, we want to capture more names that possibly aren’t matches and let the [county election] supervisors make a final determination rather than exclude certain matches altogether.” Many county officials claim they weren’t given these instructions and that the list was presented to them as known felons without voting rights.

The Los Angeles Times, in a May 21 story, reported, “The botched effort to stop felons from voting could have affected the ultimate outcome.” The Times noted, “The reason: those on the list were disproportionately African-American. Blacks made up 66 percent of those named as felons in Miami-Dade, the state’s largest county, for example, and 54 percent in Hillsborough County, which includes Tampa.”

Additionally, the Post reiterated the obvious: “Black neighborhoods lost more presidential votes than any other areas because of outmoded voting machines and confusion about ballots.”

But none dare call it a conspiracy, even though all the data suggest a deliberate and systematic attempt by George W. Bush’s brother and his close friend Katherine Harries to disenfranchise black voters who supported Al Gore by a nine-to-one margin.

07/12/2001

**The man behind the plan**

**Don Haydon, who will lead the public schools' billion-dollar building plan, didn't leave his last job on a high note**

by Bob Fittrakis

Don Haydon could become the most popular guy in Columbus if the proposed "billion-dollar" Columbus Public Schools reconstruction and renovation bond levy passes. The district's newly arrived chief operations officer, hired late last summer from Minneapolis, is an unknown quantity due for closer scrutiny. After all, even with the state offering to kick in 28 percent of construction costs, it still means Columbus' inner-city school district will have to debt-finance \$720 million for the building spree.

The fiscally conservative perennial school board candidate Bill Buckel points out that with voter approval in the past, Columbus schools issued \$92 million in bonds in 1988. When they are finally paid off in 2012, the interest cost will have totaled \$80 million. Of course, Buckel's not factoring in the cost of inflation.

The more important question is what will the city schools do with a billion dollars in construction money? You've got urban developers interested in inner-city school property and some of the historic school buildings. You've got construction companies, lawyers, bond companies and all sorts of other politically connected businesspeople dying to get a piece of the billion-dollar golden cake. Haydon's called the hundred-million-dollar-a-year, decade-long program "do-able."

On his resume, Haydon mentions that he "directed completion of [a] \$200 million deferred maintenance and renovation program." The Minneapolis district is similar in size and budget to Columbus Public Schools, but the program he'll manage here will be five times as large and at least five times as fraught with political peril.

Haydon seems to have the backing of the Columbus Dispatch so far. In April, Dispatch columnist Barbara Carmen noted, "During his relatively brief tenure as the District's Chief Operations Officer, Don Haydon has earned praise and respect." Last December, a Dispatch editorial stated that Haydon, who "has been praised for overseeing a school construction program in Minnesota, is leading the [\$1 billion] project."

Despite the praise, Haydon didn't leave Minneapolis on a high note. On May 19, 2000, the Minneapolis Star Tribune wrote in a page-one Metro story: "A local food wholesaler that provides breakfast sandwiches for Minneapolis public school students last month recalled several products because of possible contamination."

With Don Haydon in charge, the district selected Grand Foods of Minneapolis, a company that didn't have a USDA inspection program in place, to provide the sandwiches. The district saved \$22,000 on the bid, but when the city's environmental health department inspected the Grand Foods plant, two major problems were found, according to the news report: meat was being thawed at room temperature instead of in the cooler, and the food was being kept out of the cooler longer than desirable.

In January 2000, without the school district's knowledge, the Minnesota Agriculture Department inspected the plant and found listeria, a food-borne bacteria that can cause headaches, nausea, fever, abdominal pain and diarrhea. Occasionally, it can cause serious, even fatal, infections in young children, the elderly and people with weakened immune systems. The Star Tribune reported that Grand Foods not only "lacked USDA oversight," but also suffered from "the use of temporary, untrained staff and the lack of microbiological testing for bacteria."

Haydon conceded to the Star Tribune, "That the district should have stuck with its own requirement for the contract."

"Still, he [Haydon] said, inspection of the plant wouldn't have led anyone to predict the listeria find," the newspaper reported. "From a contractual standpoint, did we mess up? Yep. We shouldn't have waived the requirement,' Haydon said. 'But did we put the kids at risk? Probably not.'"

With the Columbus reconstruction and renovation plan, we've got asbestos, safety problems and a host of construction requirements—and a billion dollars at stake instead of \$87,000 in breakfast sandwiches. Let's hope that Haydon learned his lesson on waiving contract requirements and inspections with the food scare in Minneapolis.

Byrd is the best anti-death penalty case

The first meeting of Central Ohioans to Stop Executions, or COTSE, is scheduled for July 15, from 1:30 p.m. to 4 p.m., at the Upper Arlington Public Library. It's a joint project of Amnesty International and Ohioans to Stop Executions.

For the past several years, a small group of activists have worked tirelessly to abolish the death penalty. Ohio's first two state-sanctioned killings since 1963 predictably involved the mentally retarded and brain damaged Wilford Berry, the so-called Volunteer who waived his appeal rights, and the certified mentally ill Jay D. Scott.

In both these cases, the men clearly had murdered the victims. Michael Manley, a COTSE spokesperson, believes that the death penalty issue will reach its height of importance with the scheduled September 12 execution of John Byrd, who has a strong actual innocence claim.

The only direct evidence against Byrd remains that of a reprehensible jailhouse snitch, Ronald Armstead. In exchange for the testimony that convicted Byrd, Armstead won his freedom by perjuring himself and failing to disclose to the jury the 15 years in prison he was facing.

John Brewer, who is serving life in prison, confessed that he was the sole killer of the man Byrd is convicted of murdering. Physical evidence places Brewer's footprint on the store counter and his testimony is consistent with the coroner's account of the murder.

Hamilton County Prosecutors are hoping to wrap up the Byrd execution with as little fanfare as possible. Byrd has responded by demanding the electric chair and refusing to wear a hood—he wants his state-sponsored murder to be as publicly gruesome as possible. At the COTSE meeting, there will be an update on the Byrd case from a representative of the Ohio Public Defender's Office and a discussion of the Ohio death penalty moratorium campaign.

07/19/2001

## **NEWS BRIEFS**

### **Costly closing**

**Columbus schools COO Don Haydon lives in Bexley, not Columbus, thanks in part to a \$32,000 deal from the Greater Columbus Chamber of Commerce**

by Bob Fittrakis

It's not clear yet if Columbus Public Schools will ask taxpayers to foot part of the bill for its planned \$1 billion building and renovation project. But if a bond levy is passed, at least one man won't see the increase on his own tax bill: The man leading the building plan.

Columbus Public Schools Chief Operating Officer Don Haydon lives in Bexley—not in the Columbus school district—where he pays \$7,054 in yearly property taxes, most of which goes to the Bexley school district, according to public records.

Haydon, who relocated here from Minnesota last year, had a strong financial incentive for moving into his \$515,000 Bexley home: The local chamber of commerce offered him \$32,000 if he lived outside of Columbus.

Documents obtained by Columbus Alive indicate that Sally Jackson, president and CEO of the Greater Columbus Chamber of Commerce, paid the closing fees for Haydon's home last November.

The agreement is outlined in a May 17, 2000, fax from Jackson to then-Superintendent Rosa Smith. It begins: "Based on our conversation today, it is my understanding that you have identified an excellent candidate to serve as Chief Operating Officer of Columbus Public Schools. In order to finalize the employment agreement, this person is requiring compensation for closing costs (to include Realtors' fees and any other incidental fees) which may total \$25,000 to \$30,000 out of pocket, and which you are unable to provide through Columbus Public Schools if he establishes his primary residence outside the school district boundaries."

"Should the candidate choose to reside outside the district, you have my commitment that the Greater Columbus Chamber of Commerce will cover the closing costs," Jackson pledged.

Also, Jackson wrote that a local Realtor "has agreed to waive all real estate fees through King Thompson and all mortgage origination fees through King Thompson Mortgage Company if they represent your candidate in these transactions on the purchase of a home in Columbus. In addition, through their network they may be able to represent him in the sale of his Minneapolis home with significant reduction in fees."

Haydon, who administered a \$200 million school renovation project in Minneapolis, is currently touting a decade-long, \$1 billion renovation project for Columbus Public Schools.

Columbus Alive's calls to Haydon seeking comment for this story were referred to a Columbus Public Schools spokesperson, who provided Alive with additional documents related to the COO's hiring.

One document, an employment offer signed by Haydon on May 28, 2000, and "subject to Columbus Public Schools Board of Education's approval on Tuesday, June 6, 2000," spells out various incentives in addition to Haydon's \$104,780 annual salary, including the residency incentive: "The board shall pay actual, reasonable and necessary closing costs, including real estate fees, on a primary residence the Chief Operating Officer sells in order to establish his primary residence in the Columbus Public School District. This provision is void if the Chief Operating Officer buys a primary residence outside the Columbus Public School District."

The employment offer does not indicate the chamber of commerce's involvement should Haydon purchase a home outside the Columbus school district.

Another document provided by Columbus Public Schools lists the "Relocation Costs for Don Haydon," including \$32,028 for "closing cost on home," paid by the Greater Columbus Chamber of Commerce on November 29, 2000. Columbus Public Schools paid an additional \$69,469 for Haydon's placement and relocation, including moving costs, meals, hotel, airfare, "U-Haul trailer for classic car move" and five months of rent (at \$965 per month) listed under "temporary living expenses."

School board member Bill Moss has long contended that the chamber of commerce is trying to take control of the school district. When asked about the chamber's arrangement with Haydon, Moss quipped, "Looks like they've bought the district. The real story is that this is the first time that they've ever done this."

Paul Erwin, vice president of marketing for the chamber, disagreed with Moss. Erwin argues that paying Haydon's closing costs "fits into the mission of the chamber to create a stronger community and stronger region."

"We've aided before, working with the teacher's union in publishing recruitment ads, supplying experts to the district," Erwin explained.

Moss suggested that a statute reading "No such bequest, gift, or endowment shall be accepted by the board if the conditions remove any portion of the public schools from the control of the board" may apply to the Haydon situation. The board should have approved the compensation agreement, Moss insisted.

“Look, this is a secret, behind-the-scenes deal that should have been brought before the board and done in the full light of day, not in the darkness. If the chamber is giving our COO over \$32,000 to live outside our district, I want to vote on it. Nobody elected Sally Jackson to make decisions for the Columbus School Board,” Moss remarked.

Board member David Dobos, who was board president at the time of Haydon’s hiring, contended that it was not a secret deal. “It was communicated to the entire board, I believe in a memo form, from Dr. Smith,” he said. “It may have been on the board agenda, in the consent agenda, and the language, as it often is, may not have been specific. It may have said, ‘provision made for payment of closing costs.’”

“If board members read their memos and board packets, they would have been aware of the chamber’s involvement,” Dobos added.

He said the chamber’s payment to Haydon was neither discussed in private executive session nor at a public meeting. But, Dobos stressed his presidency’s reputation for being “very open” and that he wouldn’t have opposed discussing the issue.

Dobos could not specifically recall whether the chamber had ever paid anyone else’s closing costs, yet noted that the “chamber had been involved in the district in one form or another” in helping to recruit various individual employees for the district.

07/26/2001

**They don't want him to fry**

**Why sanitize John Byrd's execution? Because there's no direct evidence against the Death Row inmate, other than the testimony of a jailhouse snitch**

by Bob Fittrakis

Ohio prison Director Reginald A. Wilkinson yearns for John W. Byrd Jr. to go quietly into the dark abyss of death by lethal injection. Wilkinson, Governor Bob Taft and Attorney General Betty Montgomery want Byrd to roll over and play—I mean, be—dead.

Wilkinson announced last week that he wants a moratorium on using Old Sparky, Ohio's official electric chair; a bill pending in the Statehouse would also end electrocution as one of two ways Ohio kills its Death Row convicts.

Byrd wants to die in the electric chair with no hood covering his face—basically, he wants his execution to be as gruesome and public as possible, and to stare his accusers in the eyes as his flesh fries. But the captains of the death penalty are scrambling to take that choice away from him before Byrd's September 12 execution.

They hope to obscure the fact that they're killing a man without any direct evidence against him, other than the word of a felon and a jailhouse snitch working on behalf of the Hamilton County prosecutors. They're killing the wrong man and he refuses to cooperate.

Montgomery and Taft have always preferred to execute those who don't fight back, like a documented mentally retarded volunteer. The hypocrisy of the right-wing Republican crowd is staggering as they joyously suck up to the Christian Right and wear their WWJD bracelets while forgetting the Ten Commandments.

I absolutely support Byrd's choice of death by the electric chair with no hood. Byrd recently told me that, if the execution is carried out, he hopes his death "helps to bring down this barbaric system, brings down the pillars in the temple."

"They want to ignore the fact that the first two guys who basically surrendered were paralyzed by drugs and then suffocated," Byrd said, referring to first two executed in Ohio since the reinstatement of the death penalty, Wilford Berry and Jay D. Scott, who died by lethal injection. "I'm not going to surrender to this." Nor should he.

Byrd has been on Death Row since he was 18 years old. He's now 37. On April 18, 1983, Byrd woke up in a Hamilton County jail thinking he'd been arrested for public intoxication. He was alone in a cell when law enforcement officers told him

he was incarcerated for murder. They asked him to “roll over” on the two guys he’d been riding around with in a van the night before—John Brewer and William Woodall. Byrd refused, saying he had blacked out and didn’t know a murder had taken place. He couldn’t recall any of the details from his booze- and drug-filled night.

On the night of April 17, 1983, King Kwik convenience store clerk Monte Tewksbury died from a single stab wound. Byrd, Brewer and Woodall were all charged with aggravated murder. But only Byrd was charged with killing Tewksbury, though Hamilton County prosecutors had no direct evidence against him. Brewer and Woodall received life in prison; Byrd got a death sentence.

The following facts emerged at the trials. Tewksbury, who did not die instantly, identified the man who stabbed him as wearing a plaid shirt. When Byrd was arrested two hours later in the van, he was not wearing a plaid shirt. The prosecution could never link Byrd to the murder weapon. And, most important, all the physical evidence pointed to Brewer, not Byrd.

Police found Brewer’s shoe print on the store counter near the spot Tewksbury was stabbed. Police also found Tewksbury’s personal possessions in the area under and behind Brewer’s seat in the van. Both Brewer and Woodall had lots of small bills in their pockets, which matched the contents of the cash register at the store. Byrd had just \$5.

The only direct evidence the state could muster against Byrd was the testimony of jailhouse snitch Ronald Armstead, a black man, who claimed that Byrd, a white man, had confessed to him in the Cincinnati jail—not a likely scenario in a mostly racially divided jail in one of the U.S.’s most racially divided cities. Armstead perjured himself on the stand by failing to tell the jury he was in jail on a parole violation after violently beating a nurse and a prison guard and that he was facing up to 15 years in prison. The Hamilton County prosecutor vouched for Armstead’s character.

Armstead, who had a long career of criminal convictions, made the absurd claim that he was simply doing his duty and testifying as a good citizen—a lie of monumental proportion, that the prosecution let stand before the jury. Armstead later acknowledged he had a deal with the prosecution, which freed him soon after the trial. This was curious, since the same prosecutor’s office had vehemently opposed Armstead’s parole the year before, citing evidence that he was a career criminal with prior convictions for sodomy, assault and drug offenses. Armstead is now in Las Vegas where he was charged with robberies in 1995 and 1999.

Since the mid-1980s, Brewer has been telling fellow prisoners that they’ve got the wrong man on Death Row. He first signed an affidavit in 1989 admitting that he killed Tewksbury. He reaffirmed that affidavit just this year. Attorney General

Betty Montgomery will tell you that Brewer had nothing to lose by signing the affidavit. That's a lie. By signing the affidavit, Brewer sacrificed any chance that he might be released on parole.

Another standard lie Montgomery's peddling is that "over 50 judges" had reviewed Byrd's case. The fact is, Byrd has been asking judges to grant him an evidentiary hearing since 1988 so he could present his evidence and witnesses to prove that he didn't kill Tewksbury. Not one judge has ever allowed Byrd to present his evidence in court with a hearing as to his actual claim of innocence.

Don't believe Montgomery and Taft's politically motivated assurance that it couldn't happen, that an innocent man couldn't be convicted in Ohio. Between 1927 and 1986, the state of Ohio released six men who had been condemned to death for murder, based on evidence of actual innocence. Add another 12 innocent men who were released after being convicted of murder, without death penalty specifications. This averages one innocent man being released every four years during that 60-year period.

Montgomery and Taft want Byrd to die quietly because the facts surrounding his death penalty conviction are so unsettling. Stay strong, Johnny Byrd. Rage on against the injustice.

On Sunday, July 29, an anti-death penalty benefit concert and teach-in at Little Brother's will highlight the Byrd case and raise money to help investigate his claims of innocence. It begins at 6 p.m. and features speakers such as Tom Luken, former Congressman from Cincinnati, Columbus Alive columnist Carl Upchurch and yours truly. There may also be live phone calls from prisoners on Death Row. Bands taking the stage are Great American, 13 O'Clock, Dan Dougan and Ukulele Man. Call 253-2571 for info.

08/02/2001

## **MEDIA WATCH**

### **Dispatch follows Alive's lead on Haydon story**

There's an apocryphal story that's thrown around newsrooms and j-schools to warn young reporters against burying their leads (one of the rules of standard journalism is to put the most important information at the top of the story):

A cub reporter, covering his first town council meeting, dutifully and accurately wrote about the highlights of the meeting in chronological order. The town clerk read important correspondence, the council members introduced and argued about and voted on important legislation, the mayor discussed some big plans for the future, and, at the of the meeting (and at the end of the reporter's story), a woman stood up with a gun and started shooting.

The lesson learned is, put the bit about the gun up front with a nice big headline.

The Columbus Dispatch must have forgotten this lesson with the brewing scandal over the Greater Columbus Chamber of Commerce's \$32,000 payment to Columbus Public Schools COO Don Haydon.

On July 18, the day after school board member Bill Moss first questioned the Haydon deal at a board meeting, the Dispatch briefly mentioned the chamber controversy in the 13th paragraph of a 20-paragraph story on page two of the Metro section. Education reporter Bill Bush seems to have dismissed the scandal out of hand because the complaint came from the firebrand Moss.

"Moss also used the meeting to launch attacks against board President Stephanie Hightower and Don Haydon, district chief operations officer," Bush wrote. "...he attacked Haydon, saying he allowed the Greater Columbus Chamber of Commerce to pay the \$32,000 closing costs to sell his house in Minneapolis in spring 2000, when he moved to Bexley to begin his job with Columbus schools."

Sounds like Moss' usual stump speech—all fire and no brimstone. You wouldn't know from the Dispatch's initial coverage that this is a really big deal.

Columbus Alive set the record straight the next day, July 19.

In a three-quarter page, in-depth article titled "Costly closing," Alive's Bob Fittrakis was the first to report the details of the scandal: That the chamber paid the closing costs so Haydon could buy a \$515,000 house in Bexley (the school district would have paid the costs for him to live in Columbus); that a local Realtor agreed, through the chamber, to waive even more fees; that the deal was not mentioned in Haydon's employment contract with the board; and that board members claimed to have not heard about or voted on the deal, which was

brokered by chamber President Sally Jackson and former schools Superintendent Rosa Smith.

Oops! Looks like it really was scandal!

The Dispatch's Bush was forced to follow up the next day. His July 20 article echoed many of the details Alive broke the day before.

As usual, The Other Paper followed up a week late. The weekly's July 26 cover story rehashed much of the story uncovered by Alive on July 19.

The Dispatch followed this with another story the next day, this time finally giving the scandal prominent placement with a banner headline at the top of Metro's page one. The Dispatch's July 27 story first reported that the Franklin County Prosecutor and Ohio Ethics Commission are investigating the case.

Well, sorta first reported it. Curiously, the Toledo Blade wrote—on July 21—that the Ohio Ethics Commission is examining the case.

The Dispatch is always quick to pat itself on the back when it breaks a story. In his July 18 story about Moss' complaints about Haydon and Hightower, Bush wrote, "The Dispatch broke the Hightower story in February."

So why haven't Bush's follow-up stories about the chamber scandal included the phrase: "Columbus Alive broke the Haydon story..."

### **Where's the point?**

The latest People for the Ethical Treatment of Animals campaign proves that someone somewhere certainly has his head up his ass. But is it the activist group's latest meat-peddling target or the group's own marketing strategists?

Monday, the first Wendy's restaurant on Broad Street and the corporation's Dublin headquarters were visited by a truck-mounted traveling billboard that depicts a contortionist disappearing into his own nether regions. The cryptic text reads, "No One Told Dave That 'Where's The Beef?' Was A Rhetorical Question."

So what the hell is that supposed to mean?

According to PETA, meat takes much longer than plant foods to digest, and therefore it may be a major factor in such diseases as colon cancer. "While Dave's up there, he might as well look and see what beef's doing to his colon," said Andrew Butler, a PETA campaign coordinator.

PETA hopes people will be intrigued by the ad and check out the activists' website for more info. While a quick trip to [wickedwendys.com](http://wickedwendys.com) doesn't clear up the billboard's message, you can play the "Have I Got My Head Up My Ass?" game, featuring Dave Thomas' head on the contortionist's body, lots of gross squishing and popping noises, and enough puns to make it seem like 12-year-old boys on the schoolyard were PETA's intended audience with this lower than lowbrow campaign.

08/02/2001

## **Vendor relations**

### **The Chamber of Commerce's \$32,000 deal with a school official may violate state law**

by Bob Fittrakis

The scandal involving the Greater Columbus Chamber of Commerce's \$32,000 deal with a high-level public schools administrator is thickening. New information obtained by Columbus Alive indicates that, as a school district vendor, the chamber's payment may violate state law.

On July 23, the Franklin County Prosecutor's office requested copies of all "documents, communications, or employment contracts relating to the employment of Don Haydon by the Columbus School District."

Three days earlier, a complaint was filed with the Ohio Ethics Commission alleging that Greater Columbus Chamber of Commerce President and Chief Executive Officer Sally Jackson improperly spent \$32,028 in chamber money to pay the closing costs for the home of Haydon, chief operating officer of Columbus Public Schools.

A memo from the school district's general counsel, Giselle Johnson, to Superintendent Gene Harris states, "At this time, we do not know the complete focus of this investigation, nor is the prosecutor obliged to tell us. We have gathered the requested documents and will forward them to the prosecutor in the next several days. We have also been informed of a complaint filed with the Ohio Ethics Commission, but have not received any requests for records."

As Alive first reported on July 19, the chamber paid more than \$32,000 to Haydon, to cover closing costs on his Minnesota home, so the new Columbus schools COO could buy a \$515,000 house in Bexley (where he pays more than \$7,000 in yearly property taxes to the Bexley school district). If Haydon had purchased a home within the Columbus district, the public schools would have paid the closing fees.

Haydon didn't return a phone message by presstime seeking comment for this story.

Jim Phillips, the chamber's attorney, told Alive this week that the chamber didn't know the deal wasn't approved by the school board—and it wasn't the chamber's job to see that the superintendent got the board's approval.

"There was obviously a failure to communicate," Phillips said. "We didn't know that they didn't go through proper channels. How would we know?"

But questions now being raised go beyond who knew what and when. School records obtained by Columbus Alive document that in the last fiscal year, from July 1, 2000, to June 30, 2001, the chamber was paid \$63,527 as a Columbus Public Schools vendor.

On July 14, 2000, Columbus Public Schools paid the chamber \$30,000 under the description "Professional and Technical." On February 14, 2001, the school district paid the chamber another \$30,000 for the "Continuation of [the] Adopt-A-School" program. Also, in the 1996-97 fiscal year, the school district paid the chamber \$31,760, including two separate \$15,000 checks.

This may establish a history of vendor-vendee relationships between the chamber and the school district, compounding the chamber's legal problems; it shifts the chamber's touted role as benevolent outside benefactor to just another vendor of services.

School board member Bill Moss, who originally raised the issue of the chamber's payment to Haydon, said, "Most people think that the chamber is operating out of good will in pushing businesses to adopt a school. That's the story that they tell. But in reality, we've been paying them coercion money to get them to do what they should be doing in the first place, if they really cared about the economic growth and vitality of Columbus."

Moss said he was also surprised to learn that the school district reimbursed the chamber \$1,907 for former Superintendent Rosa Smith's trip to Scotland in 1999. "I was led to believe they were picking up the expenses on that junket," he said.

Additionally, according to Moss, chamber President Jackson chairs the school district's Business Advisory Council, set up to recommend personnel development and help recruit top talent in the tight labor market.

"We're paying them money as a vendor while they're providing incentives for people to live outside our district," Moss said. "We give them \$30,000 to adopt a school, and they give \$32,000 to our COO to move out of our district. We'd be better off if we just sent Bexley \$7,000 directly in school taxes and pocketed the remaining \$25,000."

The chamber's role as a paid service provider to the school district raises legal and ethical questions. A March 2000 Auditor of State Bulletin warned, "School districts also should be aware that an individual district official's or employee's receipt of compensation from private vendors doing business with the district may raise serious issues under one or more of Ohio's ethics laws."

Ohio law states, "No public servant shall knowingly solicit or accept and no person shall knowingly promise or give to a public servant...any compensation...as a supplement to the public servant's compensation." Ohio law

also provides that “No person shall promise or give to a public official or employee anything that is of value that is of such a character as to manifest a substantial and improper influence upon the public official or employee with respect to that person’s duties.”

State ethics law violations are generally first-degree misdemeanors, providing penalties up to six months in jail and fines up to \$1,000; the emergence of the chamber as a vendor for the school district may raise the felony specter of “unlawful interest in a public contract.”

The Columbus Public Schools hired Haydon last year with the understanding that he would oversee a rebuilding project estimated at \$1 billion over 10 years. Many of the city’s leading builders, developers and financiers sit on the chamber’s board and are Jackson’s bosses.

When asked by Alive, on Tuesday morning, about the vendor relationship with the district, the chamber’s Phillips said he couldn’t respond. “This is the first I’ve heard of it,” he said.

But, Phillips added of the Haydon deal, “The only thing the chamber gets out of this is a better school district, which is the same thing that everybody gets out of this.” The scrutiny this case is receiving could chill future relationships between the schools and the chamber, he said. “To discourage public-private partnerships isn’t going to benefit Columbus.”

08/09/2001

## **Undercover Air**

### **Is the CIA back in business at Rickenbacker International?**

by Bob Fittrakis

Are we a big ol' lucky dog of a city, or what? I couldn't be more excited about Saturday's Business section front-page story in the Dispatch. The lead told us: "Rickenbacker International Airport will begin receiving cargo shipments from Malaysia as a result of service added by Evergreen International Airlines."

Thank God we finally got somebody to replace the former Southern Air Transport (SAT) after the company went bankrupt amidst allegations that its pilots and planes were used in CIA drug-running operations.

Evergreen began racing "time-sensitive cargo" from Kuala Lumpur to Rickenbacker on Sunday. They're aiding some of our best corporate citizens "...such as The Limited and Eddie Bauer," according to the Dispatch, where no doubt garments are made in state-of-the-art cheery facilities by well-paid Third World employees. I was so excited I took a few minutes to research Evergreen's history.

Evergreen, originally based in McMinnville, Oregon, expanded from a small helicopter in the 1960s "to a major international airline with secret government contracts" according to the Portland, Oregon Free Press. The Oregonian reported that "Evergreen Airline Company, Evergreen International Airlines, Inc., was built on remnants of two older airlines—one a wholly owned CIA proprietary, or front company, and the other a virtual branch of the U.S. Forest Service that for years secretly had helped the CIA recruit paramilitary personnel."

In 1975, after a series of embarrassing revelations during Senator Frank Church's investigation of the CIA, the "company" liquidated Intermountain Aviation Inc. of Marana, Arizona near Tucson. Intermountain's assets were purchased by two Oregon companies that the CIA selected: Evergreen and Rosenbalm Aviation Inc. But Evergreen was the big winner. One of the CIA's top aviation officers, the legendary covert ops expert George Doole worked for Evergreen as a director. Prior to this, Doole managed all of the CIA's proprietary airlines. The CIA selected Evergreen to take over the agency's airbase at Marana. An investigation by the Pulitzer Prize-winning Oregonian documented that "The CIA offered Intermountain's substantial Arizona assets only to Evergreen."

What followed was a decade of privileged treatment and government contracts to the airline. Evergreen purchased the CIA's Arizona assets at a fraction of their real worth. An Arthur Andersen and Co. financial statement indicates that Evergreen's assets nearly doubled from \$25 million to more than \$45 million one

year after the deal. Evergreen's revenues rose from \$8-10 million range in 1975 to \$77.9 million by 1979, according to U.S. Civil Aeronautics Board documents.

The Washington Post reported on Evergreen's CIA connection in 1980 after it was chosen to fly the former Shah of Iran from Panama to Cairo.

In 1984, CBS News reported that the CIA was using a "network of private companies" to fly military weapons to Central America to support the Contra rebels trying to overthrow the Sandinista regime in Nicaragua. CBS named both Southern Air and Evergreen Air as involved in the arms shipments. The day after the broadcast, the Washington Post reported that "Private airlines, including Evergreen, were owned by the CIA during the Vietnam War, but the agency has said that the airline has since been sold."

The New York Times jumped in a day later with the following lead: "The Central Intelligence Agency is using small private airlines to fly guns and other military supplies to United States-backed forces in Central America, and false flight plans are sometimes filed to cover up the shipments...." The Times mentioned Evergreen Air by name.

When Doole died on March 9, 1985, the Times reported that Evergreen International Aviation in Marana placed a bronze plaque on the wall acknowledging Doole's more than 20-year service with the CIA. Like Rickenbacker, the huge airfield formerly operated by the CIA was now owned by the county government (Pinal County, AZ). The plaque noted that Doole was "founder, chief executive officer & board of directors of Air America, Inc., Air Asia Company Ltd., Civil Air Transport Company Ltd." Air America's planes were used, according to U.S. Intelligence documents, to facilitate the transportation of opium from Laos to U.S. military bases in the Philippines and Thailand during the Vietnam War. The airline's nickname was "Opium Air."

Following the incident when Sandinistas shot down a Southern Air Transport C-123K cargo plane that led to the Iran-Contra arms and drug-running scandal, the Washington Post reported that SAT President William G. Langton had been previously associated with Evergreen International Airlines. The Oregonian investigative report came out in 1988 revealing how well Evergreen Airlines was doing. But by 1994, the airline had defaulted on \$125 million in junk bonds, according to the Portland Free Press.

In 1997, Evergreen was caught up in a huge scandal when scores of former military planes were diverted to covert CIA operations under the guise of "firefighting." The Free Press reported that Evergreen International Airlines was involved in the covert activities. Gary Eitel, a decorated Vietnam combat pilot and law-enforcement officer, found employment at Evergreen and "observed that card-carrying CIA personnel were on Evergreen property acting as Evergreen employees."

In last Saturday's paper, the Dispatch's last sentence stated that: "Still, Rickenbacker officials are hoping for even more cargo activity, and [Jeff] Clark said Evergreen is in the process of determining whether it will operate additional flights from Columbus to South America."

Columbia may be a good place to start for those "time-sensitive" deliveries, eh?

08/23/2001

### **Ten percent scrape**

## **A breakfast held for the man in charge of the schools' billion-dollar building campaign raises questions about school officials' coziness with developers**

by Bob Fittrakis

What should we make of Columbus Board of Education President Stephanie Hightower's breakfast soiree on September 26, 2000, where she introduced now-embattled school district Chief Operations Officer Don Haydon to local minority contractors?

Hightower's fellow board member Bill Moss is calling the event a "smoking gun" for a potential rip-off of the school district's planned billion-dollar capital rebuilding campaign. As evidence, Moss points to the breakfast's sponsorship by former City Council President and Les Wexner's current political "fixer" extraordinaire, Jerry Hammond, through his business, Hammond and Associates.

The September breakfast surely falls somewhere between the mere "appearance of impropriety" and evidence of a cozy relationship between school officials and developers when a billion dollars' worth of public contracts is at stake.

With Haydon now under investigation for accepting more than \$32,000 from the Greater Columbus Chamber of Commerce to aid him in purchasing his half-million dollar Bexley mansion outside the Columbus school district, the new revelation about Hammond's and Hightower's roles in bringing minority contractors and Haydon together in the absence of other board members is sure to spark a new wave of media investigation and speculation.

Board member Loretta Heard, who is black, confirms she "wasn't invited" to the minority contractor breakfast. Heard's assessment was, "It's Stephanie bringing together the minority contractors with Haydon to enhance her own power so that the contractors will owe her."

"She's been interested and requesting information about the school's property holdings ever since she's been on the board. People are going to watch her more closely to see what she does with the school's property," Heard said.

Moss said that people he's talked to told him that in addition to Hammond, then-Superintendent Rosa Smith was at the Hightower gathering, as well as controversial minority builder T.G. Banks. Banks spent a few months behind bars during a major contract-steering scandal that rocked George Voinovich's gubernatorial administration and led to the resignation and imprisonment of the governor's chief of staff, Paul Mifsud.

“Anyone who claims to be doing an investigation of the Haydon/Chamber matter and does not look at this breakfast sponsored by Jerry Hammond at Hightower’s house, and look at the fact that her husband is a developer, is not really conducting a proper investigation,” Moss said. “And certainly one of the areas of inquiry should be what lands are being purchased and sold and who is doing the buying and selling. We should keep in mind that Don Haydon will be making recommendations about which buildings to close and property to sell.”

Hightower’s husband, David Baker, serves as president of the Urban Growth Corporation.

What Moss and others fear is the old “10 percent scrape off” or “golden crumbs” scam—organized crime’s mantra that 10 percent of any public contract can be stolen without raising suspicion.

Here’s how it works: Columbus school district taxpayers will be asked to pass a levy for the rebuilding effort. The higher taxes will be sold under the guise of doing noble things for poor inner-city schoolchildren. Meanwhile, the wealthy developers, builders and bondwriters make out like bandits on the deal.

Here’s what to look for: Overpriced bonds a tick or two over market rates that will make the major banks and money lenders happy; a few school board officials will help steer contracts for political and financial reasons to minority “fronts” for wealthy white builders and developers; the school board will give away prime real estate at bargain-basement prices to developers while the mainstream media brags about how lucky we are to be rid of the property; and over-priced and politically connected law firms and PR companies will make a fortune covering up the systematic rip-off.

The sale of desirable school property to developers has been questioned before. Moss recalls, “They would have given away Central High School [current site of COSI] if I hadn’t fought them and made them pay what it’s really worth.”

In August 1998, Columbus Alive reported the interest of Jerry Hammond and other prominent businessmen in acquiring and developing the athletic track and field property of the Mohawk Africentric School on the corner of Grant and Livingston avenues. The project was not educational in nature, but reportedly involved building high-priced high-rise apartments.

In Youngstown, you’d just pay the 10 percent up front for the deal directly to a mob-controlled politician. In Columbus, we’re much more refined. We do it through so-called civic leaders, their business cohorts and elected officials.

The sheer beauty of Columbus’ version of insider information and unlawful interest in a public contract is something to behold. After they steal the \$100 million over 10 years, they’ll probably stage a huge rally to celebrate the

community's accomplishments with the requisite ministers and self-proclaimed community do-gooders patting each other on the back and giving each other awards for their altruism.

Make no mistake, the plans are already in place for the 10 percent scrape. This latest revelation will simply mean more PR funding needed to put a happy face on it.

As you read this, Hightower is busy shaking down wealthy Chamber types to run her own "slate" of candidates for this year's school board race. Hightower, endorsed by the Democratic Party, reportedly is soliciting money for a slate that includes two Republicans, Jeff Cabot and Ruth McNeil, and two Democrats, Andrew Ginther and Betty Drummond.

Why Hightower, a black Democrat, is promoting Cabot, a well-connected white guy who came under heavy fire from the black community for the perception that he ran a racist campaign on behalf of Dorothy Teater against the city's first black mayor, Michael Coleman, is another mystery.

Franklin County Democratic Party Chair Denny White said he was aware of Hightower's puzzling behavior and said he plans to meet with her and tell her that "she shouldn't be doing it" and that it will have "negative repercussions when she comes to the party for endorsements in the future."

"She shouldn't be feeding the little monsters like Cabot because they grow up to be big monsters. If I was the chair of the Republican Party and Cabot does well in the school board race, I would be thinking of him as a future mayoral candidate," White added, and warned, "If [Hightower] creates that monster, she'll be held politically responsible for it."

There's also the possibility that Hightower, who's own campaign received a reported \$150,000 in donations from wealthy supporters, many Republicans, could taint the entire ticket with the recent news of the Hammond-sponsored gathering at her house.

08/30/2001

## **FEATURED ARTICLE**

### **13 DAYS TO DIE**

**Less than two weeks before John Byrd's scheduled execution, much of the evidence against him still doesn't add up**

by Bob Fittrakis

John W. Byrd is scheduled to be executed on September 12 for a crime he insists he did not commit. It may not be unusual to hear protestations of innocence coming from Death Row, but Byrd's case raises so many questions that even some death penalty proponents are concerned about the fallibility of the ultimate, irrevocable punishment: Byrd was convicted based only on flimsy circumstantial evidence and the perjured testimony of a jailhouse snitch. No physical evidence was introduced at trial that links Byrd to the crime for which he was sentenced to die.

Now, prominent politicians from both the Democratic and Republican parties—including death penalty foes like former Governor Jack Gilligan, former U.S. Congressman Tom Luken and conservative State Representative Tom Brinkman—are urging Governor Bob Taft not to execute Byrd.

Byrd is adamant that he did not kill Monte Tewksbury on the night of April 17, 1983. Prosecutors in Hamilton County, where Byrd was convicted, are just as adamant that Byrd is the actual killer. At an August 12 pro-execution rally in Cincinnati, current Prosecutor Michael Allen called Byrd a "heathen killer" and denounced Gilligan, Luken and Brinkman as "dishonest" for suggesting that Byrd wasn't the murderer.

Included in almost every TV news story on Byrd is the victim's widow, Sharon Tewksbury, usually clutching her late husband's photo and demanding "closure" for her family. Appearing less frequently in the news are Byrd's mother, in a wheelchair, and his sister pleading for his life.

In Cincinnati and Columbus, death penalty opponents have recently squared off against pro-execution forces, Hamilton County prosecutors and the Tewksbury clan in a series of highly publicized demonstrations. Emotional public arguments about Byrd's impending execution have often obscured the facts, but Columbus Alive reporters have spent more than a year sifting through the voluminous public documents generated by the Byrd case. The following is a summation of the investigation.

John Byrd and two friends, John Brewer and William "Danny" Woodall, were arrested at approximately 1 a.m. on April 18, 1983, in a red work truck. The truck matched the description of the vehicle seen fleeing the scene of the King Kwik

convenience store where Tewksbury, the store clerk, had been robbed and stabbed.

Items from the King Kwik robbery were found in the truck; the three men were arrested and later charged with robbery and aggravated murder—but only Byrd was charged with stabbing and killing Tewksbury. For Byrd to be eligible for the death penalty under Ohio law, the prosecution had to prove that he purposely killed Tewksbury and that he was the principal offender.

Prosecutors did not seek the death penalty against either Brewer or Woodall, who were convicted of lesser crimes, despite physical evidence linking Brewer to the murder scene. Following their trials, both Brewer and Woodall signed affidavits stating Brewer delivered the death blow to Tewksbury—evidence that courts have refused to consider as grounds for a new evidentiary hearing for Byrd.

Meanwhile, Byrd is preparing to take his final 17 steps from the death house holding cell to be strapped into the electric chair. While he wants to live, Byrd has chosen death by electrocution—Ohio's most brutal form of capital punishment—to protest what he feels is an unjust system that railroaded him onto Death Row.

Prosecution or persecution?

Ohio Public Defender David Bodiker calls Byrd's trial "a debacle. A disaster." The Public Defender's office has represented Byrd only after his conviction, and has been cleaning up after what it sees as a shoddy trial defense ever since.

Bodiker points out that Byrd went to trial on August 1, 1983—less than 90 days after his indictment. The rush to court left Byrd virtually defenseless.

"As of July 21, 10 days before trial, the prosecution had not responded to the defendant's request for a bill of particulars, or for basic discovery. The requests for these had been filed in early June. The items were officially provided on July 26, five days before trial... At a pre-trial hearing on July 21, defense counsel complained that they had no information as to why Byrd was the principal offender," Bodiker stressed in an August debate with State Treasurer Joe Deters, the former Hamilton County Prosecutor, at the Columbus Metropolitan Club.

Bodiker emphasized, "There is no evidence that they [Byrd's court-appointed private attorneys] conducted any investigation, that they talked to any witnesses, or that they hired or consulted any experts regarding the blood, the scene of the crime, the weapon used, or how the fatal wound was inflicted on the victim.

Before the trial, they informed the prosecution that they had no discovery to provide to them and that they were calling no witnesses.”

Court records do not reveal any objections made regarding the hasty nature of the trial. Bodiker says, “The defense counsel in fact seemed eager to accommodate the judge’s schedule and to get the trial over with quickly.”

Critics of the Hamilton County Prosecutor’s office, including the American Civil Liberties Union of Ohio, argue that the aggressive nature of the prosecutor’s office, and prosecutors’ cozy relationships with common pleas court judges (who all come out of the prosecutor’s office), makes Hamilton County defense attorneys the most compliant of Ohio’s largest cities.

Deters counters the charge that the trial was unfair, as quoted in a Cincinnati Post article: “It’s been 18 years and 70 judges—that’s seven-zero. Seventy judges have looked at this case and decided he’s guilty.”

Such hyperbole has been par for the course as the rhetoric on both sides of the Byrd debate has reached a fevered pitch this summer. The ACLU, for instance, easily disputed Deters’ exaggerated claim at an August 21 press conference.

“The way they count is, if the Supreme Court declines to hear the case four times, they count that as 36 judges,” explained Jeff Gamso, ACLU vice president. “Since John Byrd began his post-conviction proceedings in 1988, he has never been afforded discovery of evidence from the prosecutor’s files to prove his claims... All courts have summarily denied Byrd’s claims on the basis of ‘paper hearings,’ without benefit of any actual testimony.”

The ACLU press statement noted, “The Ohio Supreme Court has never granted review in over 120 death penalty cases that have been all the way through post-conviction proceedings in this state. The trial and appellate courts in Hamilton County have never granted relief in a single post-conviction case since the inception of Ohio’s death penalty in 1981.”

Gamso said, “There’s never been an evidentiary hearing, it’s so misleading to imply fairness. It’s always denied.”

It’s common practice in Hamilton County, and elsewhere, for the post-conviction prosecutor—in this case William Breyer, the brother of Woody Breyer, who prosecuted Byrd at the original trial—to write the trial judge’s findings of fact and conclusions of law dismissing defendants’ post-conviction petitions. Ostensibly, the judge reviews the prosecutor’s findings before issuing them.

In a letter dated March 29, 1991, William Breyer wrote to Judge J. Howard Sundermann of Hamilton County Common Pleas Court, “Since I drafted the proposed entry which resulted in reversal, I must apologize, though I confess that

I am still astounded by the interpretation the Court of Appeals reached regarding the language in the entry.” The court temporarily reversed Byrd’s conviction because Breyer’s written record failed to mention that the judge had independently reviewed the prosecutor’s findings. Breyer added a new entry to the records stating that the judge had “considered the ‘entire record’” in reaching the conclusions written by the prosecutor. The appeals court quickly sided with the prosecutor.

## The evidence

With his August 26 article “Revisiting the Byrd case,” the Columbus Dispatch’s Alan Johnson included a chart that listed the five “strongest arguments for Byrd’s guilt” from Ohio Attorney General Betty Montgomery’s office. That Montgomery’s “strongest arguments” are so weak precisely underscores why so many death penalty opponents are rallying behind Byrd—and why even some death penalty supporters question the fairness of Byrd’s execution. Court records include ample evidence to refute the state’s case for the death penalty.

Montgomery’s argument: “Blood drops on Byrd’s pants and the van seat—near where Byrd was crouching—were Type O, the same as Tewksbury’s. Brewer had no blood on him.”

The evidence: The blood in question consisted of two small specks on Byrd’s work pants and a blood stain on the side of the driver’s seat; it was inconclusive whether the blood was Tewksbury’s. Woodall was sitting in the driver’s seat where the blood was found and Brewer was in the passenger seat next to him. Woodall had been bleeding that night from a cut above his eye and has the same blood type as Tewksbury.

In an August 17, 1989, motion of summary judgment submitted by William Breyer and then-Hamilton County Prosecuting Attorney Arthur M. Ney Jr., the prosecutors conceded: “The jury was aware that the knife was not identified as the murder weapon, that the blood stains could not be shown to be the victim’s, and that the shoe prints were not those of defendant Byrd. These matters simply are not central to the issue of defendant’s guilt.”

Judge Sundermann’s official finding of fact denying Byrd an evidentiary hearing stated, “The source of the blood in the van or on the defendant’s pants was not a crucial issue at trial... the blood stains could not be shown to be the victim’s.”

The state’s own admissions about the weakness of the blood evidence has not deterred Montgomery nor the Cincinnati Post from championing Byrd’s execution based on “blood-stained clothes.” Byrd, in previous court proceedings, has asked that the blood evidence and other physical evidence be further tested;

prosecutors have fought these motions. In an 1993 affidavit, Woodall claimed that the blood on the van seat resulted from Brewer wiping off the knife blade on the side of the seat after Brewer, not Byrd, stabbed Tewksbury.

Montgomery's argument: "Byrd was wearing Tewksbury's Pulsar watch when arrested."

The evidence: Tewksbury may have been wearing a Pulsar watch when robbed, but the watch was never produced as evidence at trial and its whereabouts, like the murder weapon, are unknown. The Dispatch wrote, "Police mistakenly thought it [the Pulsar watch] was Byrd's watch and later gave it to his mother. A police property-room card listing the Pulsar watch was lost; a photocopy showed up the day before Byrd's trial began."

Public defender Dick Vickers told Columbus Alive, "There was no watch at trial. It was never introduced into evidence. You have to wonder about the police investigators if they would lose the original evidence log-in card and then mistakenly send evidence in a capital murder case to the mother of the defendant. It's like keystone cops."

Byrd's mother acknowledges that the sheriff's department sent her a watch, but it was a Timex, not a Pulsar. Byrd claims he was wearing a Timex watch, not a gold Pulsar.

Montgomery's argument: "At the U-Tote-M convenience store robbery a man identified as Byrd used a knife to attack a door behind which a store clerk was hiding. Dennis Nitz, a customer, testified that Byrd's size and hair color were consistent with the stabber's."

The evidence: After leaving the King Kwik, Woodall later allegedly drove Byrd and Brewer to the U-Tote-M. Byrd was never tried for the U-Tote-M robbery, but investigative records exist.

In a crime lab report dated April 21, 1983, William Dean of the Institute for Forensic Medicine, Toxicology and Criminalistics in Hamilton County, compared the knife, Specimen Q-1, shown in Sunday's Dispatch and relied on by Montgomery, to the wooden door at the U-Tote-M, Specimen Q-27, and concluded: "The hole in the door, Q-27, was not made by the point of the knife, Q-1."

Also, police found a hair from a single caucasian in a nylon stocking mask worn during the robbery and concluded: "Comparisons of the hair from Q-8 to hairs from Byrd and Brewer were inconclusive." Dennis Nitz, the witness, told police that the man with the knife was wearing "tan pants"; Byrd's pants were blue.

Gregory W. Meyers, chief counsel of the Public Defender's Death Penalty Division, appealed for Byrd's clemency by stressing that Nitz "unequivocally said that the masked man who had the knife wore tan pants. When arrested a short time later, John Byrd wore blue pants. Tan and blue are too far apart on the color spectrum to create any kind of circumstantial bridge strong enough to prove John Byrd stabbed Monte Tewksbury."

Yet it's precisely that flimsy circumstantial bridge that the Ohio Supreme Court is relying on to condemn Byrd to death.

Montgomery's argument: "The knife recovered in the truck was identified by Nitz as consistent with the knife he saw in Byrd's hand. Hamilton County Coroner Leonard Parrott said the dimensions of the knife were consistent with Tewksbury's wounds."

The evidence: Prosecutors took a weapon from another crime, the U-Tote-M robbery, that Byrd was never tried for, and theorized that it was the murder weapon in the King Kwik robbery. This is inconsistent with the state's own admissions, since the state concedes "that the knife was not identified as the murder weapon" at Byrd's trial.

The state admitted again it wasn't the murder weapon when the Hamilton County Common Pleas Court wrote in its October 2, 1989, finding of fact: "the knife, could not be shown to be the murder weapon."

Deters and others stress how important the U-Tote-M evidence was in sending Byrd to the electric chair. Deters said, "The [Ohio] Supreme Court itself said the most probative part was the same and similar crime he committed just minutes later in the exact same fashion and Byrd can't deny it."

Montgomery's argument: "Inmate Ronald Armstead testified that Byrd, while in the Hamilton County Jail, bragged to him that he killed Tewksbury. Prison records also indicate Woodall stated Byrd bragged about stabbing Tewksbury."

The evidence: After Columbus Alive first reported on jailhouse snitch Ronald Armstead's extensive record of violent felony convictions, the Attorney General and Hamilton County prosecutors have de-emphasized the role of their undisputable star witness. State officials are now pushing the physical evidence they earlier conceded was inconclusive, even though they previously argued at trial and at state and federal appeals courts over the years that Armstead's testimony was the sole factor in Byrd's capital conviction and death sentence.

In 1995, Federal Judge James Graham concluded: “The principal evidence presented at trial to suggest that Byrd was the person who stabbed Monte Tewksbury came from Ronald Armstead, who, at the time of trial, was serving a sentence at the Cincinnati workhouse.”

Last year, the Sixth Circuit Court of Appeals stated, “All agree that Armstead’s testimony was vitally important to the jury’s determination that petitioner was the principal offender in the aggravated murder of Monte Tewksbury.”

There’s a good reason why the state now wants to distance itself from the Byrd trial’s most important testimony: It was perjured. Affidavits from eight former workhouse inmates swear that Armstead, a well-known informant and drug addict, manufactured the confession to obtain parole. He was facing up to 15 years in prison for parole violations, and not only failed to disclose that to the jury, but the prosecutor falsely vouched for his truthfulness (see sidebar).

Byrd’s supposed bragging to Woodall comes not from Woodall’s testimony, but from Armstead’s. Prior to his death this year, Woodall, an admitted white supremacist, consistently denied that he ever admitted anything to Ronald Armstead, who is black. In 1993, Woodall signed an affidavit stating that John Brewer was the person who stabbed Monte Tewksbury. In 1989 and 2001, Brewer signed similar affidavits admitting that he, Brewer, murdered Tewksbury.

### Hostile witness

Byrd, who has consistently denied that he stabbed Tewksbury, has long claimed to Columbus Alive and the Columbus Free Press, and in a recent WBNS-TV interview, that prosecutors initially approached him about a deal if he testified against Brewer and Woodall. Byrd said he declined since he had no memory of the night. Several witnesses said he had been drinking, smoking pot and taking Quaaludes.

For 15 years, co-defendant John Brewer has admitted that he killed Tewksbury. Robert Pottinger, who was with Byrd, Brewer and Woodall on the day of Tewksbury’s slaying and who later served time in the same prison as Woodall on another charge, said, “I talked to Danny Woodall... All the indications I got was it was Johnny Brewer that killed him [Tewksbury].”

Like Byrd, Pottinger says he was offered a deal in exchange for testimony in the Tewksbury case. “They tried to offer me deals, offer me immunity, everything. The man wanted me to say what he wanted me to say,” Pottinger told Columbus Alive. “When I wouldn’t do that, they treated me as a hostile witness.”

Pottinger also alleges that before his testimony at Byrd's and Brewer's trials, he was coached by a prosecutor in the prosecutor's office. He recalled, "[During a trial], I said, 'Hey man, he just told me the answers to the questions up there in his office that he's asking me right now.' Everybody ignored it. I said that in the courtroom, on the stand."

Ohio's battle over the life and death of John Byrd is also a question about whether our government makes mistakes. Since 1973, 92 wrongly convicted Death Row inmates have been released from other government jurisdictions. And there have been plenty of mistakes made in the Byrd case. The prosecutors admit they couldn't produce the murder weapon, the watch, or any other physical evidence linking Byrd to the actual killing of Tewksbury. They never did a DNA test on the blood on Byrd's pants.

Despite misleading news accounts suggesting Governor Bob Taft's choice is either to kill Byrd or set him free, the public defenders representing Byrd have never asked for his release. At Byrd's August 20 clemency hearing, Greg W. Meyers told the Ohio Parole Board, "[Byrd] will never walk the street, nor should he," but that the circumstances surrounding Byrd's death sentence "ought to leave you feeling queasy about whether we should kill John Byrd."

Ironically, one person who appears to agree with Meyers' call for life in prison without parole is Monte Tewksbury's widow, Sharon, who told the Columbus Dispatch that neither she nor her husband were "strong supporters of the death penalty."

The Dispatch quoted Mrs. Tewksbury as saying, "I would be fine with prison for life without parole. But I can't feel confident he would be in prison for life."

The final decision is up to Governor Taft, who has the power to commute Byrd's death sentence to life in prison without parole. Howard Tolley Jr., a human rights expert and professor of political science at the University of Cincinnati, told Alive, "Ohio must not dehumanize the condemned. John Byrd is a dangerous criminal who should suffer the retribution of a life term. His execution would be a gross miscarriage of justice—the trial was egregiously tainted by perjured testimony and there are substantial doubts that the actual killer was sentenced to death."

09/06/2001

**NEWS BRIEF**

**“Byrd never left the van”**

**“Byrd never left the van”**

**A new affidavit contradicts testimony that sent John Byrd to Death Row**

by Martin Yant and Bob Fittrakis

John W. Byrd Jr. was not the knife-wielding man in a robbery committed later the same night Monte Tewksbury was murdered, according to a sworn statement signed last week by Robert E. Pottinger Jr. Pottinger claims he was with Byrd and two others at the second robbery the night of April 17, 1983.

The Ohio Supreme Court ruled that Byrd's identification as the knife wielder in the U-Tote-M convenience store robbery was “highly probative” evidence that he stabbed Tewksbury to death at a King Kwik store, a crime for which Byrd is scheduled to be executed September 12.

But in an August 31 affidavit obtained by Columbus Alive, Pottinger—who says he was picked up by Byrd, John Brewer and William Woodall after Tewksbury's murder—states that Byrd “was heavily intoxicated that night, had passed out and did not participate in the U-Tote-M robbery.”

“The witnesses who identified Byrd as the masked man who stabbed at the door of the restroom in which the store's clerk had hidden were wrong,” Pottinger's affidavit states. “Byrd never left the van during this robbery.”

Pottinger's affidavit conforms with two statements signed by Brewer in which Brewer says that he, not Byrd, killed Tewksbury. In a 1989 affidavit, Brewer says that when he and Byrd entered the King Kwik store, Byrd “staggered...and was having a hard time standing up.” In an affidavit signed this year, Brewer says Byrd “appeared to be highly intoxicated” the night of the murder.

In 1993, Woodall also signed an affidavit swearing Brewer was the killer. “John Byrd Jr. appeared highly intoxicated and was almost unable to walk,” Woodall stated. “When John E. Brewer exited the King Kwik store and entered the vehicle in which we were riding, the knife he was carrying was covered with blood... Brewer attempted to wipe the knife blade on the right-hand side of the driver's seat in the vehicle.”

Both Byrd's co-defendants, and now Pottinger, say Brewer stabbed Tewksbury. “I talked to Danny Woodall. I was in the same prison with him for awhile... All the indications I got was it was Johnny Brewer that killed him,” Pottinger told Alive.

At both the King Kwik and U-Tote-M robberies, Brewer's footprint was found on the store counters.

Pottinger, whose possible involvement in one or both of the robberies was revealed in the August 30 issue of Columbus Alive, does not say in his affidavit who entered the King Kwik with Brewer.

But Kim Hamer, Byrd's sister, says Pottinger admitted to her in a telephone conversation on August 29 that he was the man who stabbed at the restroom door in an attempt to get at the U-Tote-M store clerk who had hidden inside.

Jim Henneberry, a U-Tote-M employee, described the man with the knife as wearing "tan pants" and a "jacket" that was "red and black." A U-Tote-M customer, Dennis Nitz, also told police that the man with the knife was wearing "tan pants." The witnesses described both U-Tote-M robbers as wearing masks.

When Byrd, Brewer and Woodall were arrested shortly after the second robbery, Byrd was wearing blue slacks and a sweater with wide blue, yellow and black stripes. Brewer and Woodall were wearing blue jeans.

Prosecutor Woody Breyer conceded to the jury that, despite the eyewitness identification of a knife wielder in a black and red jacket and tan pants, that Byrd was wearing the "same sweater he was wearing when he left Northside, [the] striped sweater."

In order to explain away two eyewitness accounts of a robber with "tan pants," prosecutor Breyer offered the jury his own theory that Nitz must have been wearing the tan pants: "You have seen them all that they were all blue. I speculate that that tan he wore he [Nitz] had tan pants. I will tell you this, Nitz wasn't concerned with what color pants he had on, and he is trying to help the police. He made a mistake. He's a kid, lucky to be alive today, given that one fault, that faulty recall."

The prosecutors' forensic reports determined that a knife found in the red work van when Byrd, Brewer and Woodall were arrested was not, in fact, the knife wielded at the U-Tote-M scene. Pottinger was not in the van when the three were arrested.

Pottinger previously told Alive that, following the arrest of the three co-defendants, he was detained in a juvenile facility on pending murder charges but ultimately was never charged with anything. A major reason why, Pottinger says in his affidavit, is that "Byrd, Brewer and Woodall later told me that they had agreed to keep my name out of the case because I was only 17."

Pottinger was convicted in 1987 of receiving stolen property and was placed on parole. He was convicted of robbery in 1989 and spent nearly 11 years in prison. He is now on parole in Tennessee.

With Pottinger's affidavit discrediting the claim that Byrd was the man with the knife in both robberies the night of April 17, 1983, the only remaining evidence that Byrd killed Tewksbury is the testimony of Ronald Armstead, who claimed that Byrd confessed to the crime while both were in the Hamilton County Jail.

Armstead had been arrested 22 times before his testimony at Byrd's trial. He has been arrested at least four times since, most recently in 1996.

A concerted effort by Columbus Alive to locate Armstead for comment has determined that he is working on an Alaskan cruise ship. Members of Armstead's own family said they were unable to get word to him that one of his sisters died on August 10.

Judging from the comments of a rental agent at the Las Vegas apartment complex at which Armstead lived until recently, Armstead is apparently a good liar. The agent told Thomas W. Casler, an investigator with the Office of the Nevada Federal Public Defender, that she decided not to sue Armstead for the five weeks' rent he owed when he left because he claimed he had just been diagnosed with cancer. The rental agent said she later learned from a family member that this was not true.

09/13/2001

## **FEATURED ARTICLE**

### **The fifth man in the van**

### **Another witness has come forward to accuse John Brewer of the King Kwik murder**

by Bob Fittrakis  
and Martin Yant

He had a large knife, with which he had stabbed someone before. It was his idea to rob the King Kwik store in suburban Cincinnati, during which clerk Monte Tewksbury was fatally stabbed. He later bragged that he was the killer.

His name was John Brewer, not John Byrd Jr., whose execution for killing Tewksbury was postponed by a federal appeals court on Monday, the same day Governor Bob Taft denied Byrd clemency. Brewer has admitted to the slaying in two affidavits, but the courts that have considered appeals so far didn't find Brewer's confessions credible.

John Lee Fryman does. Unlike the judges, Fryman says, he was with Brewer, Byrd and their co-defendant, William Woodall, as they planned the King Kwik robbery on April 17, 1983. In fact, Brewer tried to get Fryman to go along. He declined, Fryman says, because he had plans for another robbery that night.

Fryman, who is serving a life sentence for murder at Warren Correctional Institution, says prosecutors will point to his record and attack his credibility the same way they have desperately tried to discredit Robert E. Pottinger Jr.'s claim in last week's Columbus Alive that he was with Brewer, Byrd and Woodall during the robbery at U-Tote-M convenience store about an hour after the robbery in which Tewksbury was killed.

Pottinger told Alive that Byrd was so drunk at that time he had passed out and did not leave their van at the U-Tote-M. The Ohio Supreme Court has ruled that Byrd's identification as the knife wielder in the U-Tote-M robbery was "highly probative" evidence that he stabbed Tewksbury to death at the King Kwik store.

Fryman said he spent the morning and early afternoon of April 17, 1983, driving around the Northside area of Cincinnati with Brewer, Byrd and another man. Fryman said the four of them drove around "drinking, getting high and other good stuff" until early in the afternoon. "It doesn't surprise me that [Pottinger says] Bird Dog [Byrd] was passed out, because he had had a fifth of Daniels before noon," Fryman said.

"I was up front with John Brewer, who was begging me to be the driver for them that night," Fryman said. "We went and he showed me the place they were going to rob."

Fryman said he turned down Brewer and eventually dropped them off at Brewer's house. "Brewer talked Woodall into being the driver later that day," Fryman said. "The only reason Woodall was involved is because I turned them down."

Fryman said it was clear that Brewer was the mastermind of the robberies. "He was the one giving the orders. He was the one who cased the place. He was the one who tried to get me to be the driver," Fryman said. "He turned the radio up as I was driving so the two in the back couldn't hear what he was telling me," Fryman said. "He acted like the guys in the back were flunkies."

Brewer was definitely not a flunky. Fryman said Brewer once had stabbed someone during a fight with the same eight- or nine-inch knife Brewer had with him the day Tewksbury was stabbed to death. In addition, Fryman said, Brewer bragged to him and many others when they were in prison together in Lucasville that he, not Byrd, had killed Tewksbury.

Fryman said that when he heard about the arrest of Brewer, Byrd and Woodall on the radio the next day, he went to Pottinger's house, packed him up and drove Pottinger to Florida because he had heard that police were looking for a fourth suspect.

When Pottinger was told about Fryman's comments, he said: "He's telling the truth."

Columbus Alive broke the story concerning Pottinger's role in the U-Tote-M robbery on August 30 in an article titled "The man in the plaid shirt?" The story documented evidence in police files linking Pottinger to both the King Kwik robbery, where Tewksbury was killed, and the U-Tote-M robbery. Pottinger, then 17 years old, confirmed to Alive in an interview that he had been jailed as a "murder suspect" in the Training Institute of Central Ohio, a juvenile facility.

The next day, at the request of Columbus Alive, Pottinger signed an affidavit notarized in Tennessee. On Tuesday, September 4, John Byrd's sister, Kim Hamer, turned over a copy of the affidavit to Governor Taft's office along with a tape of a conversation she had recorded with Pottinger.

On Thursday, September 6, Alive published a story on Pottinger's affidavit and the new evidence establishing him as a fourth man and murder suspect in the Tewksbury case. As Alive hit the streets, two members of the Ohio Attorney General's office and a law enforcement officer flew to Tennessee for what appeared to be an old-fashioned rousting and interrogation of Pottinger. The Attorney General's office confirmed the trip to the Columbus Dispatch.

"I just got released" from the TBI [Tennessee Bureau of Investigation] about five minutes ago," Pottinger told Alive. "There were some people from the [Ohio]

Attorney General's office up there... They come and got me from work this morning."

The focus of the Attorney General's questioning concerned the affidavit. Pottinger said, "I told them it's valid."

Pottinger recounted his interrogation and exchange with an unidentified man from Ohio: "The man was standing there telling me, you know, that paper you signed doesn't mean shit," and Pottinger replied, "Yeah, you flew down here from Cincinnati, or from Columbus, to tell me that, didn't ya... He couldn't say nothing."

"They asked me about the U-Tote-M. They asked me if Johnny was passed out, and I told them exactly this: Johnny Byrd was not in the U-Tote-M store... I was very clear.

"That's the exact words: 'Johnny Byrd was never in the U-Tote-M store, never,'" Pottinger explained. "They asked me how I knew and I told them I was in the van... and they was arrested a couple hours later. And I told them they let me out of the van.

"Dude, I'm positive, 100 percent without a doubt, John William Byrd Jr. was not in the U-Tote-M... I'm standing by the affidavit and, whatever happens, you know, I guess it's time for me to pay the piper, huh?" Pottinger said, "I'm not going to fight them or nothing. I'm not going to argue with 'em. I'm gonna go. I even gave the guy my phone number, you know, my pager number. Page me, and I'll turn myself in."

When Brewer signed two affidavits stating that he did the stabbing at the King Kwik, the Attorney General's office and Hamilton County prosecutors claimed Brewer had nothing to lose, despite the parole implications. Brewer is serving a life sentence for his role in the King Kwik robbery.

But the state has had a harder time explaining Pottinger's affidavit, which Hamilton County Prosecutor Michael Allen dismissed as "nonsense."

When asked why he was coming forward now, Pottinger said, "I think I'm doing everything I can do to help me clear my conscience... Of course I'm afraid. Of course I am, man, you know? I'm afraid I'm facing some years in prison again. I've gotten out, I've worked, I've not been in any trouble, I go to see my parole officer regularly... I have a nice girlfriend, I've had a job."

"Dude, I take my girlfriend's little boy to karate practice and stuff man, I take him to school and pick him up in the afternoons," Pottinger continued. "Do you know how much I'm losing? I'm losing my whole life by putting this out there. I had to. I mean, I wouldn't even be a man if I didn't."

09/20/2001

### **New evidence backs statements**

### **Another witness supports the claim that Robert Pottinger was with John Byrd and John Brewer the night Monte Tewksbury was murdered**

by Martin Yant and Bob Fittrakis

Mounting evidence backs a man's claim that he was with John Brewer and John W. Byrd Jr. the day Byrd later allegedly killed a suburban Cincinnati convenience store clerk. A new witness also supports the contention—made since he was first arrested 18 years ago—that Byrd was too drunk to do much of anything the night Monte Tewksbury was murdered.

Because of Byrd's condition, John Lee Fryman told Columbus Alive last week, he believed Robert E. Pottinger Jr.'s claim in the previous issue of Alive that Byrd had passed out and did not participate in a robbery after Tewksbury's murder on April 17, 1983.

Pottinger's statement is important because the Ohio Supreme Court has ruled that Byrd's identification as the knife wielder in the second robbery was "highly probative" evidence that he stabbed Tewksbury to death at a King Kwik store one hour earlier. If, as Pottinger claims, Byrd didn't participate in the second robbery, then he couldn't have been wielding the knife. Pottinger would not say who joined Brewer for the second robbery.

Byrd's execution for the Tewksbury murder was scheduled for September 12, but was stayed until October 8 by a federal appeals court September 10.

But that didn't stop Ohio Attorney General Betty Montgomery from pursuing Byrd's immediate execution. Just after the worst attack on the United States in history, during which the Supreme Court justices were holed up in a bunker, Montgomery filed an unsuccessful motion last Tuesday, September 11, asking the high court to overturn the stay before Byrd's death warrant expired at midnight Wednesday.

"We were quite surprised, considering the circumstances," an employee at the Supreme Court clerk's office said.

The state of Texas, with its reputation for zealously carrying out executions, appeared enlightened by comparison. Governor Rick Perry stayed an execution planned for September 11 for 30 days to ensure the condemned inmate had "full and complete access to the court system," which the Supreme Court's closure precluded.

Because of threats Pottinger says were made against him by Montgomery's office after his statement became known, the Tennessee resident was reluctant

to talk about Fryman's comments last week other than to say Fryman was "telling the truth."

Pottinger elaborated this week, though, including commenting on Fryman's claim that he took Pottinger to Florida the day after Tewksbury's murder when he learned that police believed a fourth man was with Byrd, Brewer and driver William Woodall during one or both robberies.

"I did go to Florida with Fryman," Pottinger said.

Pottinger also said Fryman had a friend with them when they rode around the Cincinnati area earlier the day of the robberies and murder.

Fryman, who is serving a life sentence for murder at Warren Correctional Institution, identified the man who was with him as Tim Taylor. Taylor confirmed that he had on occasion been with Fryman when Fryman picked up some Northside friends. Taylor said it would be hard to say for sure if one of those days was April 17, 1983, however. When he was told that Fryman said they stole some gas grills together that night, Taylor said that "definitely was a possibility."

Taylor added that he stopped running around with Fryman shortly after that because of Fryman's tendency to get into trouble.

Pottinger also backed Fryman's claim that Brewer had stabbed someone in a fight shortly before the stabbing of Tewksbury.

"Yeah, I heard that Brewer had stabbed somebody," Pottinger said. "There was some blood on the front of Fryman's little silver car. That was the story. It was a silver Pinto station wagon. We used to drive around in it."

Pottinger mentioned being with Fryman when he testified at Byrd's trial in the following exchange:

Q: And where did you meet him [Byrd]?

A: My house.

Q: What time?

A: 12 o'clock.

Q: Did you do any beer-drinking or...?

A: Yes, sir.

Q: What else?

A: Smoked a little bit of pot.

Q: Did you find John Brewer?

A: Yes, sir.

Q: Where?

A: Working with his father.

Q: Did you call him off the job?

A: Yes, sir.

Q: And then what happened?

A: We went riding around.

Q: In whose car?

A: Johnny Fryman's.

Q: Who?

A: Johnny Fryman's.

Q: Where did you ride?

A: Just around Northside.

Q: Did you eventually get in touch with Woodall?

A: Yes, sir.

Q: When, when did you have all three of them together. That is Byrd, Brewer and Woodall?

A: Around 6:30-7:00 that evening.

In a letter to Columbus Alive in response to Alive's revelation that Pottinger was present for the second robbery, John Byrd wrote: "It's just unreal. What else is hidden away, or has been destroyed by Hamilton County prosecutors? The prosecutors are always talking about something being withheld. This new information that came out about Mr. Pottinger had to be withheld from my trial counsel... If they would have had that kind of information, there's no doubt when Mr. Pottinger was put on the stand they would have used it.

"The constant lying from both the Hamilton County prosecutors and the Attorney General's office is beyond comprehension. The lies don't match up [to] the facts. But yet I'm called a liar and a number of other names."

Meanwhile, Ohio Public Defender David Bodiker confirmed the existence of two affidavits Woodall signed in 1989, in addition to one signed in 1993, in which Woodall stated that Brewer, not Byrd, killed Tewksbury. Bodiker said his office also had a copy of a letter in which inmate Tom Sergeant offered to give the Hamilton County prosecutors the name of the juvenile involved in the robbery, in an apparent reference to Pottinger.

Alive obtained an Ohio Department of Rehabilitation and Corrections document showing that Hamilton County prosecutors and State Trooper Howard Hudson questioned Woodall on January 29 this year, just before Woodall was taken to the hospital with "Chest Pains, Possible Heart Attack" at 3:35 p.m.

Although Woodall refused to sign an affidavit saying Byrd killed Tewksbury, and had signed three affidavits saying Brewer did it—Brewer himself admitted to the killing in two affidavits—the prosecutors and Hudson signed statements claiming that the terminally ill Woodall told them Byrd did it.

According to their accounts at Byrd's clemency hearing, the prosecutors returned two days later to talk to Woodall at the OSU Medical Center while Woodall was

writing his will. Once again, they failed to secure an affidavit, a taped statement or any other definitive evidence. Yet conservative Sixth Circuit Judge Alice M. Batchelder insisted on referring to the prosecution's statements as a deathbed confession by Woodall in her dissent of the court's action to stay Brewer's execution.

Woodall's medical records show that, although Woodall had terminal cancer, the prison was treating him with low-level painkillers that were the equivalent of aspirin. Prison sources claim that the state was doing everything possible to pressure Woodall into signing an affidavit implicating Byrd for the murder of Tewksbury.

#### More evidence

- The Ohio Public Defender's Memorandum in Support of Jurisdiction filed with the Ohio Supreme Court on August 22 notes, "The police in their radio broadcast [the night of the murder] made it clear that they were searching for an individual who was wearing plaid. In fact, the police originally stopped another vehicle in the immediate area of King Kwik at least partially based on the fact that one of the occupants of the vehicle was wearing plaid."

Fryman, who was with Byrd and Brewer earlier the day of their arrest, said that Brewer definitely was wearing a shirt at the time. Fryman said he believed the shirt was plaid, but he couldn't say for sure. When Brewer was arrested, he was only wearing a thin mesh T-shirt.

- Informants like Ronald Armstead, who testified that Byrd confessed to him that he killed Tewksbury, are plentiful in Hamilton County death penalty cases. Jailhouse snitches have testified for the prosecutors in no fewer than 10 capital trials in Hamilton County.

"The only...jailhouse snitches to testify in capital cases, to my knowledge, all come from Hamilton County," said Bodiker. "You have to wonder why their criminals are so civic-minded, or why the prosecutors are so lucky in only that county."

- Dennis Nitz, one of two witnesses at the second robbery, told Columbus Alive that he stands by his testimony that the robber wielding a knife wore tan pants. Byrd, the alleged knife wielder, was wearing blue pants that night. In his closing argument, the Hamilton County prosecutor who handled the case said Nitz was mistaken about the pants' color.

09/27/2001

## **WAR CORRESPONDANCE**

### **Anthrax ground zero**

In the aftermath of the terrorist attacks on the World Trade Center and Pentagon, and a report that one of the terrorists trained on a crop-dusting plane, the media has increasingly turned its speculation of future horror to chemical and biological warfare.

The Cleveland Plain Dealer wrote last Wednesday, September 19: "With a dusting of anthrax spores from a helicopter or a mist of nerve gas in a subway ventilation system, terrorists could carry out a stealthy chemical or biological strike as lethal as the World Trade Center suicide mission."

Fortunately, in central Ohio, we have the Battelle Memorial Institute here to protect us.

On September 4, the New York Times reported that since 1979, Battelle has increased its employees involved in chemical and biological warfare research from 500 to 800 at its King Avenue and West Jefferson laboratories.

In order to keep us safe from "terrorist attacks," Battelle is involved in manufacturing a more deadly strain of anthrax, the Times reported. As Battelle explained to the Columbus Dispatch, you have to develop the more deadly lethal strain so that a vaccine can be found. It's termed "defensive" work.

The Times also reported that to keep us safe from terrorism, the Central Intelligence Agency once replicated a Soviet-era biological bomb to study how well it would disperse biological agents like anthrax under varying atmospheric conditions. The Times said two sets of tests were conducted at Battelle.

The United States is reported to have the largest inventory of biological and chemical agents in the world. All are officially for defensive purposes. Assisting Battelle in its "defensive" biological weapons program is Dr. Kenneth Alibek, described in a 1998 Dispatch article as a former "top official in a massive Soviet effort to develop biological weapons for possible use against American forces."

The Dispatch reported that "Alibek was first Deputy Director Biopreparat, the civilian arm of the Soviet biological-weapons program." He supervised 3,200 workers in over 40 facilities. Following World War II, various former Nazi scientists reportedly worked at Battelle as a byproduct of Operation Paper Clip, a Cold War operation to secure Hitler's best and brightest before the Soviets snatched them.

The Russian government has charged that Battelle's activity violates a 1972 global treaty banning secret research on biological weapons. The 1972 protocol

specifically forbids nations from developing or acquiring weapons that spread disease, but allows work on vaccines and other “protective measures.” Since the CIA bomb was built and tested for purely “defensive” measures, the military denies it’s violating the treaty.

The Jefferson Township Fire Department has assured West Jefferson and central Ohio residents that everything is safe. Fire Lieutenant Timothy Stainer told the Dayton Daily News, “We have had training specific to anthrax.” The training drills occur four times a year.

Battelle’s website notes, “The United States Department of Defense openly acknowledges the capacity of both potential adversaries and terrorists to employ weapons of mass destruction, particularly chemical and biological (CB) weapons... Battelle’s CB defense product line is organized to support these programs.”

I haven’t felt this reassured about my safety since Ronald Reagan named our nuclear missiles “Peacekeepers.” If Americans can’t tell the difference between freedom-loving defensive anthrax and evil terroristic bin Laden-type anthrax, then they ought to just get the hell out of central Ohio.

—Bob Fittrakis  
with research by Marty Yant

10/04/2001

**Old-school propaganda**

**Dispatch editorial dismissing the Haydon scandal was “an honest mistake”**

by Bob Fittrakis

The Columbus Dispatch’s September 28 editorial “An honest mistake” is so brilliantly “retro,” future generations of spinmeisters and cover-up artists will look in awe at the masterpiece. This is old-school Dispatch—naked, blatant intimidation at work.

Of course it should have been titled “Hey Prosecutor Ron O’Brien, back the hell off.” Powerful and wealthy people want the Greater Columbus Chamber of Commerce’s payment to Columbus Public Schools Chief Operations Officer Dan Haydon swept under the rug.

Haydon, brought to Columbus to oversee a projected billion-dollar school building campaign, received a \$32,000 reimbursement from the Chamber so he could live outside the district, and was rebated another \$2,000 real-estate referral fee (the school district would have paid the \$32,000 closing costs if Haydon purchased a home in Columbus). The Ohio Ethics Commission has forwarded its investigative report to Franklin County Prosecutor O’Brien for possible criminal charges against the Chamber and others. Under Ohio ethics laws, third-party vendors are prohibited from paying public employees.

But the Dispatch tells us in the lead sentence that it’s really about “good intentions.” In the media monopoly world constructed by the Dispatch, the “Abatements-R-Us” executive committee of the bourgeoisie Chamber are “well-meaning community leaders” engaged in “earnest efforts to help Columbus Public Schools.”

No mention of profit-making here. In the Dispatch’s world, Chamber members are as benevolent as Carmelite nuns. None of them—none of them—thought for an instant of the billion-dollar gravy train Haydon was engineering.

Forget about the Chamber’s involvement in promoting the notorious Win-Win Agreement that has created a race and class apartheid system in central Ohio schools. The Haydon payment was “the product of only the best of intentions: to strengthen the city’s schools.” I don’t want to be overly cynical, but I doubt that Chamber President and CEO Sally Jackson of New Albany was really thinking about the majority minority Columbus schoolchildren when the Chamber wrote a check to Haydon to live in a Bexley residence costing more than half a million dollars.

According to the Dispatch, “the school district has an informal policy of not paying real-estate costs for those choosing to live outside the district.”

Informally, the board put it in writing to Haydon.

I suppose the state of Ohio also has an informal policy of not allowing public officials to accept \$32,000 gifts from school vendors. Because that's what the Chamber is, a vendor of the Columbus Public Schools. Each year, they shake down the underfunded city district for a \$30,000 "Adopt-A-School" program. The Dispatch described the relationship this way: "The Chamber has been a committed partner in Adopt-A-School and career programs. It is perhaps the district's biggest and best advocate."

The Dispatch knows about the vendor relationship, although you won't read it in the daily paper. They know it in part because the vice president of the Chamber is Michael J. Fiorile, president and chief executive of the Dispatch Broadcast Group. Fiorile oversees both Dispatch television stations, WBNS-TV and Ohio News Network, as well as three radio stations. Fiorile will succeed current Chamber Board Chairman Alex Schumate next year. The paper is not mentioning Fiorile's key role with the Chamber in its news stories and editorials directed at getting the prosecutor and ethics commission to back off criminal charges.

The Dispatch's old-school propaganda tells us that the mammon-worshippers at the Chamber "have a commendable and unmatched history of supporting the school system." Yes, it's true. They've supported the system much like the rope supports the hanging man, as the old adage goes. The Chamber has a long history of supporting corporate-friendly candidates for the Columbus School Board, who always seem to favor giving tax abatements to profitable local businesses when that money was meant for school coffers. In the Chamber's world, only middle-class homeowners should pay school taxes, not wealthy corporations. Their agenda is not the welfare of the kids, but wealthfare for the rich.

The business elite drafted Stephanie Hightower and ponied up \$150,000 for her to win a \$240-a-month school board seat. On Hightower's first day on the job, she secured the board vice presidency. Within a year, she was board president and hosting a private breakfast for selected "minority contractors" with Don Haydon.

"While many other organizations have grown weary of the task, the Chamber has stepped up again and again," the Dispatch opines. What they don't tell you is that the Chamber has stepped up to the trough again and again and is now eyeing a billion dollars in construction contracts and a severely compromised COO.

The Dispatch concludes that "to punish, in this case, potentially would cause irreparable harm to the long-standing beneficial relationship between the Chamber and school district."

Long-standing “beneficial” relationship? Columbus Public Schools was rated the worst large district in Ohio and placed in a state of academic emergency.

The real message of the editorial is simple: We got busted and there’s nothing you can do about it. We’ll tell you when a crime’s been committed. Stay tuned for news at 11.

NO 10/11/2001

10/18/2001

**NEWS BRIEF**

**Finally, a real appeal**

**For the first time in 18 years, the courts will hear new evidence in the Byrd case**

by Bob Fitrakis and Martin Yant

In a stunning decision on October 9, the Sixth Circuit U.S. Court of Appeals stayed the execution of Death Row inmate John W. Byrd Jr. for at least 45 days while a federal district court investigates Byrd's claim that he is innocent of the stabbing for which he was sentenced to die.

Meanwhile, new information obtained by Columbus Alive points to a troubling aspect of Byrd's original prosecution: that Debbie Brewer, the sister of Byrd's accomplice John Brewer, may have been a police informant who led investigators away from her brother and toward Byrd as the suspected killer of Monte Tewksbury.

What the Sixth Circuit Court wants investigated is the role jailhouse snitches played in Byrd's conviction; whether there was a deal between jailhouse snitch Ronald Armstead and the Hamilton County Prosecutor's office; and whether there was any collusion between the prosecutor's office, the Ohio Attorney General's office and the Ohio Department of Corrections regarding the Byrd case.

A majority of the judges ordered that the chief judge of the Southern District of Ohio appoint a magistrate judge "to promptly conduct an appropriate factual hearing." The circuit court directed, "The hearing should develop a record with regard to John Byrd's claim of innocence presented to the Ohio courts but on which no testimony of witnesses or evidence was taken."

Despite the Hamilton County Prosecutor's disingenuous mantra that "70 judges have looked at this case and decided he's guilty," this will be the first evidentiary hearing in the Byrd case since the original 1983 trial.

The circuit court specifically stated: "We direct that the scope of the factual inquiry conducted by the Magistrate Judge shall include testimony relating to matters set forth in the affidavits of John Brewer, Dan Cahill, Darryl Messer, Roger Hall and Benny Fields." The latter four men served in prison with Brewer over the years and all signed affidavits stating that Brewer admitted to or made incriminating statements related to the killing.

Brewer, co-defendant with Byrd, signed affidavits both in 1989 and earlier this year admitting that he, not Byrd, was the killer of Cincinnati convenience store clerk Tewksbury. Brewer is currently serving a life term for his role in the Tewksbury murder.

Brewer's footprint was found on the counter at the King Kwik convenience store where Tewksbury was slain. The Ohio Public Defender's office contends that the decision to indict and try Byrd for capital murder never made sense, since the prosecution conceded there was no physical evidence directly linking Byrd to the murder.

Sources close to the investigation claim that one reason Byrd, instead of Brewer, was originally indicted for capital murder rests with Brewer's sister Debbie. Sources say she became a police informant following her arrest in a drug bust at the time and was helping develop evidence in the Tewksbury case.

Initially Debbie Brewer's evidence pointed to Robert Pottinger (on August 30, Columbus Alive broke the story of Pottinger's involvement in the case as the long-rumored "fourth man" with the three accomplices on the night of Tewksbury's murder). The prosecutor's office instead focused on either Byrd or Brewer as the murder suspect. Byrd's attorneys point out that it would have been difficult for the prosecutor to get a capital conviction against Pottinger, a juvenile at the time, and that this may have influenced the failure to investigate him fully as a suspect.

John Lee Fryman—who, court records indicate, was with Byrd and Brewer earlier in the day on which Tewksbury was killed—says he believes Brewer committed the murder.

Fryman, now an inmate at Warren Correctional Institute, told Columbus Alive that Debbie Brewer became a snitch after being busted for drugs. Debbie originally "set up" Fryman and Pottinger as suspects in the Tewksbury robbery and murder, Fryman claims. He says she encouraged them to stay at her apartment and "smoke one more joint" until the police arrived to arrest them. Fryman says that when it turned out that John Brewer was a chief suspect, his sister then put the word out that it was John Byrd who killed Tewksbury.

At the secret grand jury proceedings where Byrd was indicted for capital murder with death penalty specifications, the prosecutor relied on the testimony of Leroy Tunstall, the owner of the truck that was used in the crime. Tunstall's employee, William "Danny" Woodall (the third convicted accomplice), drove Brewer and Byrd to the King Kwik. In a document released by the prosecution, Tunstall told the grand jury that he overheard Debbie Brewer talking to her brother on the phone, crying and screaming "Johnny Byrd did it."

If Debbie Brewer had been called to testify at trial, it may have come out, according to the sources, that she was a police informant. When asked about the possibility that Debbie Brewer was a police informant, Ohio Public Defender David Bodiker said, "I think she was a snitch. I think she bought her brother John better treatment."

Instead of Debbie, at trial the prosecutors used a jailhouse snitch—the former heroin addict, pimp and violent felon Ronald Armstead—to provide the only “direct evidence” against Byrd. Armstead, who was facing up to 15 years on a parole violation after violently assaulting a prison nurse and guard and escaping incarceration, testified that Byrd confessed to him in jail that he murdered Tewksbury.

The Sixth Circuit Court has ordered that the magistrate examine “Documents prepared by the Hamilton County Prosecutor’s office and/or Hamilton County Sheriff’s Department authorizing, directing or identifying Ronald Armstead, Virgil Jordan, Marvin Randolph and Robert Jones to be questioned in matters relating to the issue of innocence.” Columbus Alive first raised the issue of the credibility of Armstead’s story in the August 3, 2000, article “Convicted by a snitch.”

Armstead was released from prison a few months after his testimony at the Byrd trial and later acknowledged to a federal public defender investigator that he wrote a letter reminding the Hamilton County Prosecutor of their “deal.” An extensive investigation by Alive has turned up evidence that Armstead was arrested for robberies in Las Vegas in the 1990s and that he is now apparently spending most of his time offshore working on a cruise ship. When asked whether the difficulty of locating Armstead would be a problem for Byrd’s defense, Bodiker replied that it’s “the prosecutor’s problem.”

“Mr. Armstead has made several substantially inconsistent statements regarding John Byrd. In one statement he says that he went to prosecutors following remarks that Byrd made on May 26 when he and John were watching TV, but we know that he testified before the grand jury a few weeks earlier,” Bodiker said.

“Armstead provided inaccurate testimony; he swore that he had nothing over his head which was a lie; he fudged on other statements, particularly his criminal record,” Bodiker charged. “I think the only thing he got right was his mother’s name.”

According to documents filed by the Ohio Public Defender’s office, Hamilton County prosecutors have used snitches in at least 10 Death Row convictions. The public defender could find no similar use of snitches in any other Ohio county.

The Sixth Circuit Court also specifically ordered, “Documents prepared or received by the Hamilton County Prosecutor’s office or Hamilton County Sheriff’s Department or Cincinnati Police Department relating to Ronald Armstead’s incarceration, testimony and parole revocation hearing and disposition” are to be examined.

Also, the circuit court order mandates that “Documents or reports received by the Attorney General’s office or Hamilton County Prosecutor’s office from the Ohio Department of Corrections or its institutions relating to this matter” must be examined.

Critics of the Hamilton County Prosecutor’s office charge that the Attorney General’s office and the Department of Corrections have worked closely in covering up evidence in the Byrd case. Columbus Alive acquired records indicating that prison officials were treating Woodall, who was serving a life sentence for the Tewksbury murder and died earlier this year, with the equivalent of over-the-counter painkillers for his cancer. Prison sources claim that Woodall was being pressured to sign an affidavit saying Byrd was the killer, which Woodall refused to do, and after questioning from the prosecutor’s office and a state trooper, Woodall went to the hospital with heart attack symptoms. Woodall previously had signed three affidavits saying that Brewer was the actual killer.

NO 10/25/2001

11/01/2001

## **Operation Blowback**

by Bob Fitrakis

The CIA's famous word for unintended consequences—"blowback"—explains it all: bin Laden, Al-Qaeda, the Taliban.

It's a good thing Americans are notoriously ahistorical. Otherwise they might remember how the U.S. installed Pakistani military dictator General Zia ul-Haq in 1977. They might also remember President Jimmy Carter's National Security Advisor, Zbigniew Brzezinski—wearing a bizarre turban that looked like it was borrowed from an Indian Sikh rather than an Afghan warrior—standing on the border of the Soviet Union and shouting to the Mujaheddin to “wage a jihad!” against the Communists. In the summer of 1979, Brzezinski advised Carter to sign a secret directive to support the fledgling Mujaheddin movement. That was six months before Soviet tanks rolled into Kabul.

In a series of articles and books, Brzezinski, a former Columbia University professor, analyzed how the multi-ethnic Soviet Union could be destroyed through inflaming the religious passions of 50 million to 60 million Central Asian Muslims.

The Mujaheddin took the message to heart. They're now waging a jihad against us.

Soon after the anti-Soviet jihad began, Dan Rather, in more authentic headgear, broadcast live alongside what he called “Afghan freedom fighters...who were engaged in a deeply patriotic fight to the death for home and hearth.”

Rather made heroes of Afghan opium runners like Yunas Khalis, who fought to control Afghanistan's poppy fields more than he fought the Soviets. Seven heroin labs near Khalis' headquarters in Ribat helped fund the jihad. U.S. taxpayers kicked in too, through the construction of an irrigation system in the Helmand Valley, where 60 percent of Afghanistan's opium grows.

The Reagan-Bush administration enthusiastically joined the jihad against the Soviets. The concomitant drugs and arms bazaar flourished in the northwest Pakistan town of Darra with America's loyal allies, the Pakistani Inter-Service Intelligence (ISI), regulating both the opium and arms trades to the Mujaheddin.

The U.S. government pressured China, Egypt and Saudi Arabia to support the covert operation. Egyptian President Anwar Sadat remarked shortly before his assassination by the Mujaheddin network that “The U.S. contacted me, they told me, ‘Please open your stores for us so that we can give the Afghans the arms they need to fight.’” Sadat was the first famous casualty of the blowback.

The Saudi royal family, despite pressure, declined direct participation. Instead they sent Osama bin Laden—the son of one of Saudi Arabia’s wealthiest citizens—to Afghanistan. Government records indicate the CIA’s covert action in creating the Mujaheddin and bin Laden’s terrorist apparatus cost \$3.2 billion, the most expensive covert operation in the CIA’s history.

So lucrative was the opium and drug business in the Golden Crescent—where Afghanistan, Pakistan and Iran meet—the off-shore accounts in Pakistan’s largest bank, Habib, overflowed. The Bank of Credit and Commerce International (BCCI), founded by Agha Hasan Abedi, pitched in to help with the money laundering and became notorious as the most corrupt bank in world history. BCCI now stands for the Bank of Crooks and Criminals International, after going belly-up in 1991 with a reported \$20 billion missing.

Well there’s bound to be some wealth generated when, according to DEA documents, 40 heroin syndicates were operating in Pakistan in the mid-1980s through an estimated 200 heroin manufacturing facilities. In May 1984, Vice President George Bush traveled to Pakistan to confer with our dictator, General Zia. Bush the Elder, the former CIA director, handed the drug problem over to the CIA, despite its notorious history of involvement with cocaine traffickers in Central America and heroin trafficking in Central Asia. Bush granted the CIA primary responsibility for controlling drug informants and other “assets” in the Golden Crescent.

By 1989, the Soviets were in full retreat from Afghanistan while bin Laden and his Mujaheddin and Taliban allies were firmly in control of heroin traffic in Central Asia. Bin Laden’s biographer, Yossef Bodansky, envisioned BCCI as a “world bank for fundamentalists” before its collapse.

In 1992, the United States Senate’s Foreign Relations Committee issued a massive report on the BCCI scandal. If you want to understand where bin Laden’s money came from—though the media originally reported he inherited \$300 million from his father, they’ve now correctly adjusted that to \$20 million—you need to know of BCCI’s role in the world of guns and drugs. You might want to start with Section 13 of the Senate report, titled “BCCI, the CIA and Foreign Intelligence.”

Caught up in the scandal were Jimmy Carter’s ethically challenged former Director of the Office of Management and Budget, Bert Lance, former Secretary of Defense Clark Clifford and other infamous individuals. The Senate’s BCCI report recommended further investigation was needed into “international criminal financier Mark Rich.” Remember Rich—the guy pardoned by Bill Clinton? The report states, “Rich’s commodities firms were used by BCCI in connection with BCCI’s involve[ment] in U.S. guaranteed programs through the Department of Agriculture.”

Cincinnati's Charles Keating was included in two of the Senate committee's 20 recommendations for further investigation. The report noted, "The financial dealings of BCCI directors with Charles Keating and several Keating affiliates and front-companies, including the possibility that BCCI-related entities may have laundered funds for Keating to move them outside the United States."

BCCI funds also allegedly financed the controversial WTI incinerator in East Liverpool, Ohio, with the Swiss firm Von Roll. Four of Von Roll's top officials were convicted for selling material for the Iraqi "Supergun." Government documents also link WTI to Mafia families in the U.S. and the incinerator was involved in a political money-laundering scandal connected to Governor George Voinovich's administration.

The Times of London reported on September 20 that Deloitte and Touche, the accounting firm, was being dragged into the hunt for Osama bin Laden's terror network. The Times reported that BCCI was used to launder terrorist money and as the chief depository for CIA covert funds paid to bin Laden during the Afghan war with the Soviets.

The St. Louis Post-Dispatch also noted that day, "Before it [BCCI] was shut down in 1991, it was used to fund the Mujaheddin, then fighting the Soviet-supported government of Afghanistan. The money came from U.S. and Saudi intelligence."

It's blowback time indeed.

NO 11/08/2001

11/15/2001

## **Sideshow justice**

### **Prosecutors turned Byrd's hearing into a circus, targeting his lawyers instead of evidence**

by Bob Fittrakis and Martin Yant

What do you do if you're the prosecution in the John Byrd evidentiary hearing and defense witness after witness corroborates Byrd's claim of actual innocence in the murder of Monte Tewksbury? When you don't have any physical evidence against Byrd and your "star" witness is a violent ex-felon and notorious jailhouse snitch whose whereabouts are conveniently unknown?

What do you do? You attack the Ohio Public Defender's office.

What started off promisingly for Byrd on Monday ended on Friday with Ohio Public Defender David Bodiker stepping down from Byrd's defense team while Byrd's lawyers were threatened with disciplinary action and possible criminal indictments.

Arrogant prosecution witnesses waiting to testify were right when they repeatedly complained about Byrd's hearing being "a joke," but for the wrong reason. It wasn't Byrd's evidence that was the problem. It was the prosecution's lack of evidence that caused them to attack the Public Defender's office. The federal appeals court that ordered the hearing needs to look into U.S. Magistrate Michael Merz's decisions that allowed prosecutors to put public defenders on the stand in a sideshow that distracted from the purpose of the trial: Byrd's claims of innocence.

John Brewer kicked off the circus on Monday, November 5, with detailed testimony about how he stabbed Tewksbury instead of the man who is facing death for the crime. Brewer's footprint was on the counter of the convenience store where Tewksbury was murdered and his pockets reflected the contents of the cash register. Brewer, serving more than 41 years in prison for his participation in the murder, admitted over and over again to being the actual killer.

It's understandable that after James Canepa, the assistant attorney general, repeatedly and repetitively grilled Brewer, the exasperated convict asked the rhetorical question, "Are you retarded?" But hey, this is Ohio, where intentionally sounding mentally deficient is often a prerequisite for holding public office.

Later witnesses Benny Fields, Darryl Messer and Roger Hall testified that Brewer told them years ago that he, not Byrd, killed Tewksbury.

Two black inmates, Elwood Jones and Abdul Mughni, testified that Ronald Armstead, the jailhouse snitch in the case, had laughed and bragged about

cutting a deal with Hamilton County prosecutors to escape the remainder of a 15-year prison sentence in exchange for his testimony against Byrd. Inmate Oliver Duff III swore he overheard Armstead and another inmate saying “they were going to work the case for the prosecutor... in order to get leverage in their own personal cases.”

Prosecution documents concede that prosecutors had no direct evidence against Byrd other than the preposterous testimony of Armstead, the “star” witness. Armstead, who is black, claimed that Byrd, an admitted white racist at the time, confessed to him while in jail. Denver Nicely Jr., Byrd’s former jailmate, told the court that Byrd was “extremely” racist and “never associated with black people” while in the Hamilton County Jail.

The prosecution also relied on circumstantial evidence, without any direct evidence, that Byrd wielded a knife at a second robbery the night of the Tewksbury murder. Then on Tuesday, Bobby Pottinger told the court that Byrd was passed out in the van during that robbery and that it was he—not Byrd—who went into the store with Brewer, thus destroying the “highly probative evidence” that the Ohio Supreme Court relied on to sanction Byrd’s execution.

Lost in all the shouting was the potential testimony of John Lee Fryman. Fryman says he was ready to reiterate his claim—first made in the September 13 issue of Columbus Alive—that, when he was with Byrd and Brewer before the robberies, Brewer had a large knife like the one used to kill Tewksbury and Byrd was stone drunk. Fryman was subpoenaed but never called to the stand to testify.

Martin Yant, co-author of this column, was subpoenaed by the Attorney General to testify about the Pottinger affidavit obtained by Columbus Alive. Yant was also never called to the stand.

Among the other subpoenaed witnesses who didn’t take the stand was Dan Cahill, who swore in an affidavit earlier this year that he served time in prisons where Brewer, Byrd and accomplice Danny Woodall were inmates, and that all three confirmed it was Brewer, not Byrd, who killed Tewksbury.

Despite the staggering amount of evidence in Byrd’s favor, the prosecutors were successful in spinning their version of the trial to most news outlets in Ohio. Wes Hills of the Dayton Daily News dutifully reported, “As with Monday’s testimony, the parade of murderers, robbers, muggers and arsonists continued earlier Tuesday.” Funny, Hills failed to mention that the word of oft-convicted felon Armstead, in jail at the time for assaulting a nurse and a prison guard with a hospital bed crank, was good enough for the Hamilton County prosecutors when Byrd was sent to Death Row.

Another “joke” was the misleading coverage of the hearing by Associated Press correspondent James Hannah. Instead of sticking to the facts, which the AP

generally prides itself in doing, Hannah reported on November 8 that Byrd “suffered a setback... when a prosecutor testified that attorneys who represented Byrd in his 1983 murder trial told him that Byrd had admitted stabbing the victim.”

Most Ohio news outlets, which relied on AP’s coverage of the hearing, made Byrd’s “setback” their headline without realizing that Hannah neglected to report that the prosecutor who made that claim, Daniel Breyer, happened to be the one who originally prosecuted Byrd, and that his brother, William Breyer, handled Hamilton County’s state appeals. How hearsay evidence—which Byrd’s trial attorney disputed—from such a prejudiced witness could be considered a “setback” is hard to fathom.

With little else going for it other than the Dayton Daily News and AP reporters, the prosecution proceeded to hammer the Public Defender’s office for not turning over all the affidavits signed by John Brewer containing his confession to the murder. Only Alan Johnson of the Columbus Dispatch seemed willing to point out that one of the affidavits was a duplicate and that Brewer admitted the same thing in all of them—that he, not Byrd, killed Tewksbury.

Lost again in the reporting were Columbus Alive’s well-documented facts that the prosecutor had not only failed to turn over evidence regarding Pottinger as a murder suspect in Byrd’s original trial, but that Daniel Breyer vouched for Armstead’s false testimony that he wasn’t facing any additional time in prison at the time of Byrd’s original trial.

Whatever happens in the ongoing freak show orchestrated by Magistrate Merz and the prosecutors, the public in Ohio should demand that Byrd receive a fair trial—something he’s been denied from the beginning by prosecutors with political ambitions who will say and do anything to win. Unlike sporting contests, winning at any cost equals death in this deadly and unprincipled game.

11/29/2001

## **FEATURED ARTICLE**

### **Infallible in Ohio**

by Bob Fittrakis

After spending more than 18 years on Death Row, John W. Byrd Jr.'s fate may finally be decided this week. U.S. Magistrate Michael Merz's fact-finding report to the Sixth Circuit U.S. Court of Appeals in Cincinnati—following an unprecedented evidentiary hearing on Byrd's claim of innocence in the stabbing of convenience store clerk Monte Tewksbury—is due tomorrow, November 30.

The more Merz sticks to the actual testimony of witnesses, and avoids the sideshow orchestrated by the Ohio Attorney General's office and Hamilton County prosecutors, the better off Byrd will be. Essentially, the AG's office showed up with no case—no physical evidence and without their notorious snitch, Ronald Armstead. But Merz let prosecutors create a case by allowing them to question Byrd's post-conviction public defenders and turn the hearing into an inquisition over duplicate and redundant affidavits, rather than sticking with the assignment of hearing Byrd's claims of actual innocence.

The AG's office, through legal sleight-of-hand, appeared to be pulling a rabbit out of its prosecutorial hat while hiding facts favoring Byrd's innocence up its sleeve. Death penalty watchdogs have long charged that the snitch-happy Hamilton County prosecutors are out of control. With the Attorney General's attack on the Ohio Public Defender's office at the mid-November hearing, the ethics of the state's highest law enforcement officer must also be called into question.

Sure, the PD's office is staffed by anti-death penalty zealots—that's their job. Just like the AG's office is staffed by spin doctors and attorneys who will swear under oath that Betty Montgomery is even more infallible than the Pope. In their black-and-white world, prosecutors never make mistakes.

But five days prior to Byrd's hearing, the Ninth Circuit U.S. Court of Appeals overturned the death sentence of a San Bernardino, California, man who was convicted of a double murder in 1983—the same year as Byrd's original conviction. All 11 judges agreed that the court-appointed lawyer did a horrendous job and failed to adequately represent Demetrie L. Mayfield. Recall that at Byrd's original trial, his court-appointed attorney basically failed to mount a defense—despite the existence in police files of a fourth suspect, Bobby Pottinger, who turned up in a recent Columbus Alive investigation. The similarity between the Byrd case and the overturned California case is striking.

And just two weeks prior to Byrd's evidentiary hearing, a federal court in Chicago awarded James Newsome \$15 million for being wrongly imprisoned for 15 years in the slaying of a grocery store owner. The jury determined that Newsome had been framed by two Chicago homicide detectives who coached eyewitnesses.

The Byrd case is rife with the same allegations, but in his case the witnesses were snitches, and the key eyewitness, John Brewer, now admits that he did the stabbing. Plus, Brewer's footprint was on the convenience store counter and the apparent contents of the cash register were in his possession.

During Byrd's week-long hearing, a Virginia circuit court judge overturned the murder conviction of Jeffrey David Cox after he spent 11 years in prison. Unlike Ohio, Virginia's Attorney General supported the action. Montgomery the omniscient, rather than acknowledge the occasional wrongdoing in the real world, would instead err on the side of killing the innocent—no doubt a practice favored by the Taliban and other rogue states along with Ohio.

The same day Cox was freed, four men were freed of murder charges in Illinois when DNA testing exonerated them. The Hamilton County prosecutor's office vigorously opposed additional blood testing requested by the public defender's office in the Byrd case, arguing that it didn't matter since Armstead, their jailhouse snitch (and violent felon), was such a reliable, stand-up witness. A blue-ribbon task force in Illinois has recommended that no death sentence be allowed in cases relying on the sole or primary word of jailhouse snitches. Such a reform in Ohio would commute the death penalty to life in prison for 10 Death Row inmates—all from Hamilton County.

The Hamilton County prosecutors' and Attorney General's assumption of godlike qualities has created a conflict on the Sixth Circuit. As the Washington Post reported on November 12, "An angry dispute over capital punishment has erupted at a federal court in Ohio."

The Post recounted the bizarre events preceding Byrd's hearing and confirmed what Columbus Alive previously reported: That on September 11, amidst the chaos of the terrorist attacks, Montgomery attempted to get the U.S. Supreme Court to lift Byrd's temporary stay of execution and proceed with his electrocution. Montgomery spokesperson Joe Case told the Post, "We were not aware of the gravity of the [attack] until later in the day. We had to do our job as enforcers of the law."

Left unexplained is how, early on, virtually every other person in the U.S. was aware of the gravity of the attack. Perhaps Montgomery is not quite as infallible or omniscient as she suggests.

Whatever way Merz's report goes, one fact remains: The Attorney General's attacks on the Ohio Public Defender's Office are intended to have a chilling effect on the last line of defense for the poor and disproportionately minority Death Row inmates. If justice is to be served in Ohio, we have to admit that our state is no different than California or Virginia or Illinois. And those who act as if they have a private line directly to God and claim they never make mistakes must be seen for the bullies they are.

## A snitch in time

John W. Byrd Jr. would never have been sentenced to death for the murder of a Hamilton County convenience store clerk if rules recently proposed by a blue-ribbon committee in Illinois were in force in Ohio at the time of Byrd's conviction in 1983.

The first of 12 reform measures recently proposed by the Illinois Death Penalty Education Project would severely restrict the testimony of a jailhouse snitch like Ronald Armstead, whose testimony that Byrd told him he killed clerk Monte Tewksbury was the most crucial evidence against Byrd.

The Illinois panel, which includes former state and federal judges, recommended life without parole as the maximum penalty in cases where testimony against the defendant is given by a jailhouse snitch in exchange for the kind of special treatment Armstead received.

The panel also recommended that such testimony should be admitted in capital trials only when corroborated by tape recordings in which the defendant confesses. If a snitch's testimony is admitted without such recordings, the committee recommended life without parole as the maximum penalty.

Armstead, who became impossible to find when his testimony was disputed by John Brewer's (Brewer admitted that he, not his accomplice Byrd, killed Tewksbury), should have no problem finding a job in California. Armstead, who had been arrested 22 times before his testimony at Byrd's trial and at least four times since, is a licensed guard in the Golden State, where the security business is booming in the wake of September's terrorists attacks.

How could someone with Armstead's background get a security guard's license? Apparently pretty easily.

"A company's security force isn't generating any revenue for them, so a lot of companies just drag people in, hose them off and put them in a uniform," a security consultant recently told the Los Angeles Times.

To hire an unarmed security guard in California, an employer must submit the candidate's fingerprints to the state, which supposedly runs them through California and FBI files, but many convicted felons pass muster anyway.

Candidates for a license also have to pass a written test on the powers of arrest. With 26 arrests to his credit, that's one test Armstead should have passed with flying colors.

—Martin Yant

12/06/2001

## **FEATURED ARTICLE**

### **Stormy Weather**

#### **The government's top-secret efforts to control Mother Nature**

by Bob Fittrakis and Fritz Chess

With the grounding of virtually all civilian air flights in the immediate aftermath of the September 11 terrorist attacks, the bizarre speculation about what's happening in North American air space heightened. Columbus Alive received numerous citizen reports concerning airplanes "spraying" or leaving behind mysterious "chemtrails" or "contrail grids" in the sky. Some feared we were under biochemical attack while others postulated we were being inoculated against anthrax or some other biochemical hazard.

During a flight to Phoenix in early October, a Columbus Alive reporter noted that air traffic was like a nest of hornets over southwest Ohio and Indiana, with jets spraying everywhere. One plane appeared to be a Boeing KC-135 Stratotanker, a refueling plane.

What's the difference between a "chemtrail" and a normal contrail (or vapor trail), the wisps of condensation you expect to see in a jet's wake? Typically contrails can only form at temperatures below negative-76 degrees Fahrenheit and at humidity levels of 70 percent or more at high altitudes, according to National Oceanic and Atmospheric Administration meteorologist Thomas Schlattes. Even in most ideal conditions, a jet contrail lasts no more than 30 minutes.

So what are the big, bilious trails that seem to hang indefinitely and slowly feather out and appear to turn into cirrus clouds? Or the contrails seemingly purposely splayed over cities in geometrically precise grid patterns? These are "chemtrails," and the mystery of their source and purpose has been fueling increasing speculation among government skeptics and on watchdog websites like chemtrailcentral.com, chemtrail.com and carnicom.com.

For the past decade, the official government response to inquiries about the jet contrails appearing across the continent is to attribute the phenomenon to increased commercial air traffic. In 1997, the Christian Science Monitor reported the government's claim that the jet contrails were actually causing clouds to form.

Yet, in the month after the attack on the World Trade Center, there was very little commercial airline traffic and virtually no private civilian air flights. Still, white jets billowing lingering plumes frequently appeared in the skies over Columbus. An Alive reporter, using high-quality binoculars, could see that some of the white planes had orange markings. In addition to Stratotankers, KC-10 Extenders, another refueling plane, appeared to be used for spraying.

There's nothing new about these sightings. It may seem to be the stuff of X-Files-style paranoia or grist for conspiracy theorists (and skeptics like Jay Reynolds, writing at [goodsky.homestead.com](http://goodsky.homestead.com), have made thorough attempts to debunk the theories). But as chemtrail sightings become more common, mainstream scientists (and the mainstream press) are taking note. One scientist familiar with chemtrail experiments even agreed to speak with Columbus Alive (though he refused to allow his name to be used), saying that public disclosure of the experiments is inevitable and maybe imminent.

The Canadian Ottawa Citizen reported a "fervor over chemtrails" on May 16: "What one sees here reflects sightings across North America." The Citizen noted, "West Quebec Post publisher Fred Ryan reports that his readers have been photographing and comparing them [pictures of chemtrails], and such manifestations are listed on the web."

"Ground fallout [from the chemtrails] analyzed in the United States contained carcinogens and bacteria. Coincidentally in the past decade, most jet fuel was re-engineered to reduce fire hazards by adding a long-banned pesticide, which was reportedly also found in gel samples from chemtrails. Also found were toxic micro-fibers, much finer than asbestos," the Citizen wrote.

Chemtrail sightings have been reported in 14 NATO nations. Investigative reporter William Thomas notes that "Croatian chemtrails began the day after that country joined NATO."

Which begs one simple question: Why?

Explanations range from chemtrails' use in military communications applications to scientific experiments designed to control the weather, thwarting global warming or relieving droughts.

A scientist working at Wright-Patterson Air Force Base, who insisted on anonymity, told Columbus Alive that two different secret projects have been conducted. One involved cloud creation experiments to lessen the effect of global warming. The other involved radiation reflection off clouds in conjunction with the military's High Frequency Active Auroral Research Program (HAARP) in Alaska.

The scientist claims that the two most common substances being sprayed into chemtrails are aluminum oxide and barium stearate. When you see planes flying back and forth marking parallel lines, X-patterns and grids in a clear sky, that's aluminum oxide, according to the scientist. The goal is to create an artificial sunscreen to reflect solar radiation back into space to alleviate global warming.

In some cases, barium may be sprayed in a similar manner for the purpose of "high-tech 3-D radar imaging. The barium can be used for a 'wire' to shoot an

electromagnetic beam through to take 3-D images of the ground far over the horizon,” according to the scientist.

Thomas, writing in the November-December 2001 issue of NEXUS New Times magazine, essentially confirmed this assessment of the activities at the Dayton air base. “The barium spread in exercises conducted out of Wright-Patterson Air Force Base acts as an electrolyte, enhancing conductivity of radar and radio waves,” Thomas reported. “Wright-Pat has also long been deeply engaged in HAARP’s electromagnetic warfare program.”

Ken Caldeira, a scientist at Lawrence Livermore Labs and one of the country’s leading experts on weather modification, conducted the original computer modeling for the use of aluminum oxide to fight global warming. He told Columbus Alive, “We originally did this study to show that this program [using massive spraying for weather modification] shouldn’t be done,” due to negative health effects. Caldeira said there are persistent rumors that the Bush administration will announce geo-engineering weather modification projects this spring. Caldeira sees this as “political suicide.”

## Patenting Mother Nature

The amount of information available on weather modification and defense applications surrounding the HAARP project proves that chemtrails aren’t so secret after all. Public documents have trickled out of government offices and committees for the last 50 years. And the most valuable cache of data about weather-control efforts is freely available from a very reliable source: the U.S. Patent and Trademark Office.

Throughout the Cold War, both the United States and the Soviet Union actively investigated the military use of weather modification. In 1958, Captain Howard T. Orville served as the White House’s chief advisor on weather modification. He publicly admitted that the military was studying “ways to manipulate the charges of the earth and sky and so affect the weather through electronic beams to ionize and de-ionize the atmosphere.”

Professor Gordon J.F. MacDonald, serving on the President’s Science Advisory Committee in 1966, frequently published papers on the military use of weather modification. In the book *Unless Peace Comes*, MacDonald titled a chapter “How To Wreck The Environment.” He described the military applications of weather modification including climate change, melting the polar ice caps, techniques for depleting the ozone layer over the enemy, engineering earthquakes, manipulating ocean waves and using the earth’s energy fields for brain wave manipulation.

“The key to geophysical warfare is the identification of environmental instabilities to which the addition of a small amount of energy would release vastly greater amounts of energy,” MacDonald commented.

In the early 1970s, the U.S. Congressional Subcommittee on Oceans and International Environment held investigative hearings on the military’s research into weather and climate modification. The committee’s findings were shocking at the time, including detailed plans for creating tidal waves through the coordinated use of nuclear weapons.

A 1977 United Nations treaty, The Convention on the Prohibition of Military or Any Other Hostile Use of the Environmental Modification Techniques, prohibited “the use of techniques that would have widespread, long-lasting or severe effects through deliberate manipulation of natural processes and cause such phenomena as earthquakes, tidal waves and changes in climate and weather patterns.”

The revival of the Cold War during the Reagan years produced a slew of new inventions in the area of weather modification. Presumably to cool off the earth, an August 1982 patent, number 4347284, outlined plans to produce a “White covered sheet material capable of reflecting ultraviolet rays” from the sun.

Numerous other patents attempted to perfect “aerial spraying of liquids,” like patent number 4412654, registered in November 1983: “A laminar microjet atomizer and method of aerial spraying involved the use of a streamlined body having a slot in the trailing edge thereof to afford a quiescent zone within the [airplane] wing and into which liquid for spraying is introduced.”

Not to be outdone, a patent was filed in July 1986 detailing a “Liquid propane generator for cloud-seeding apparatus.” The abstract reads: “Apparatus is provided for release of liquid propane from the holding chamber of a cloud-seeding rocket.” A new and improved “liquid atomizing apparatus for aerial spraying” was patented in August 1990. “The generator is driven from a power take-off from the engine of the spraying aircraft, a drive assembly includes a device for controlling the speed of the generator relative to speed of the engine,” reads patent number 4948050.

The breakup of the Soviet Union in the 1990s ushered in brave new opportunities in weather modification. The New York Times reported on September 24, 1992, that a Russian company was openly selling electronic equipment to manipulate the weather in a specific area. The Times noted that certain Russian farmers used the weather-control technology to alter the climate for better crop yields.

A little over a month later, the Wall Street Journal reported that Russian company Elate Intelligence Technologies Inc. was selling weather-control equipment using

the slogan “Weather made to order.” The Journal quoted Igor Pirogoff as saying that Hurricane Andrew, which did an estimated \$17 billion in damage, could have been turned “into a wimpy little squall” by his company.

South Africa’s Water Resource Commission admitted to being involved in the actual testing of “hygroscopic seeding particles from a seeding flare” in an October 1994 patent: “In a confidential technical trial which was conducted on a small isolated cloud formation above the Nelspruit area in the Transvaal province of the Republic of South Africa, two flares were ignited electrically from inside the aircraft...to produce rain.”

Russia’s open selling of former Soviet military weather modification devices often made for interesting news stories. “Malaysia to battle smog with cyclones” is a headline in the November 13, 1997, Wall Street Journal. “The plan calls for the use of new Russian technology to create cyclones—the giant storms also known as typhoons and hurricanes—to cause torrential rains washing the smoke out of the air,” the Journal reported.

By 1997, the great global reinsurance firms—the companies that insure the insurers, like the Swiss Reinsurance Company and Lloyd’s of London—were complaining publicly of global warming and the added risk of climate-related insurance losses. Beating the drum in the U.S. for weather-modification technology to combat global warming was none other than the father of the H-bomb, Edward Teller. His public interest in the issue coincided with the December 1997 Kyoto Conference on global warming and greenhouse gas emissions.

In April this year, the New York Times described Teller as director emeritus of the Livermore Weapons Laboratory and “an ardent advocate of the Reagan administration’s Star Wars anti-missile plan and, more recently, has promoted the idea of manipulating the earth’s atmosphere to counteract global warming.”

The U.S. Air Force admitted to CNN in July that it had broken up a storm over the Atlantic using products made by a company called Dyn-O-Mat. The company’s website, [dynamat.com](http://dynamat.com), lists “environmental absorbent products” such as Dyn-O-Drought and Dyn-O-Storm.

As recently as November 13, another patent was filed outlining a “method of modifying weather.” The abstract reads: “The polymer is dispersed into the cloud and the wind of the storm agitates the mixture causing the polymer to absorb the rain. This reaction forms a gelatinous substance which precipitate to the surface below. Thus, diminishing the cloud’s ability to rain.”

Sunbury resident Dan King remembers a stormy day in July when he was driving on a newly resurfaced section of I-71 and “the rainwater looked like dish soap water on the highway. I thought it was just from the resurfacing,” he said, “but

when I got out in the country I saw the same thing. Piles of suds at the side of the road.”

The scientist who works at Wright-Patterson told Alive that barium stearate is basically a soap bonded to a metal and could have produced the soapy rain.

It's impossible to know which chemicals are being sprayed or for what reason since, according to the government, chemtrails don't exist. But, increasingly, government skeptics and other watchdogs are demanding to know if chemtrail spraying poses any health risks.

In his NEXUS New Times article, William Thomas wrote, “Chemtrails can cause drought by soaking up all available moisture, and drooping chemical curtains fall through vast colonies of UV-mutated bacteria, viruses and fungi living in the upper atmosphere. Could these malevolent micro-organisms be piggy-backing on the plumes?”

Thomas suggests that the spraying following September 11 has nothing to do with a deliberate biological attack or the inoculation of the American public. Rather, it's simply an ongoing attempt by humans to fool with Mother Nature.

12/06/2001

## **NEWS BRIEF**

### **Request denied**

### **A federal magistrate recommends that John Byrd be sent back to Death Row, despite the lack of evidence against him**

by Bob Fittrakis and Martin Yant

Federal Magistrate Michael R. Merz's 169-page Report and Recommendations regarding John W. Byrd Jr.'s claim of actual innocence was released last Friday, following an unprecedented evidentiary hearing ordered by a federal appeals court. Merz concluded that Byrd "has not proven to the level of clear and convincing evidence that he is actually innocent of the principal offender death specification of which he was convicted. Therefore his request to file a second federal habeas corpus petition should be denied."

Byrd—who was convicted of the 1983 murder of Cincinnati convenience store clerk Monte Tewksbury—is running out of possible ways to leave Death Row alive. "I'm probably screwed, but I'm going to keep fighting to the end," Byrd said during a telephone interview after Merz's opinion was released.

Byrd said he wasn't surprised by Merz's opinion. "Merz made it clear from the very beginning that he didn't view our case favorably," Byrd said. "He orchestrated the whole hearing to come out the way it did."

Merz may not believe there is "clear and convincing evidence" of Byrd's innocence, but there's never been any physical evidence of Byrd's guilt. He was convicted on the testimony of violent felon and jailhouse snitch Ronald Armstead, who was freed after an alleged deal with the prosecutors soon after Byrd's trial. At Byrd's hearing, jail inmate after jail inmate testified that Armstead told them he deliberately set Byrd up. This testimony was routinely dismissed by Merz in his report.

Merz got upset that the Ohio Public Defender's office failed to turn over three repetitious affidavits signed by John Brewer (in all the affidavits, two of which were properly turned over, Brewer repeatedly claimed that he, not Byrd, stabbed Tewksbury), but the magistrate accepts without question the prosecution's failure to turn over far more important documents.

The most important missing document, Byrd said, was the transcript of Armstead's grand jury testimony, which the defense believed would show Armstead was acting as an agent of the state (something he denied at trial). Merz noted, "If permitted to file his new petition, Byrd intends to argue that the informers were planted by the prosecutors as forbidden in *Messiah v. United States*." Merz accepted the Hamilton County prosecutors' explanation that the missing documents were either destroyed, lost or never existed in the first place.

“I’ve been told by someone in the Hamilton County prosecutor’s office, who is disgusted with what is going on there, that the missing Armstead transcript was just recently destroyed,” Byrd claimed.

Hamilton County Prosecutor Daniel Breyer conceded under oath that he brought Armstead and three other snitches from the jail to his office. Merz accepts Breyer’s claim that Armstead, who was facing up to 15 years in prison on a parole revocation, was the only snitch who didn’t ask for a deal. The prosecutor said he independently acted as a good Samaritan when, after Armstead’s testimony, Breyer quickly wrote a letter to the parole board which helped free Armstead.

Merz also cited Breyer’s testimony as proof that Byrd stabbed Tewksbury. Breyer claims that Byrd’s original trial attorney told the prosecutor he didn’t want to put Byrd on the stand because the defendant might lie. The defense attorney says that conversation never took place. But Merz cites William Breyer’s appellate briefs as evidence that Daniel Breyer is telling the truth. (William Breyer, who is handling the Byrd appeals for Hamilton County, is Daniel Breyer’s brother.)

Merz’s methodology is best displayed on page 70 of the report in the matter of the Pulsar watch. Allegedly, Byrd and his accomplices took a Pulsar watch from Tewksbury. But no Pulsar watch was produced by the prosecution at Byrd’s original trial, nor has the prosecution produced an original copy of a police logbook showing Byrd wore such a watch.

Merz accepts without question the last-minute recollection of a deputy sheriff that Byrd was wearing a Pulsar watch. The prosecution didn’t produce the Pulsar watch because it was “lost.” That didn’t stop Merz from writing in his opinion: “A Pulsar watch was taken from Byrd when he was booked into the jail and there is no testimony that Byrd usually wore such a watch.”

Merz dismissed the testimony of defense witness Bobby Pottinger, who signed an affidavit claiming that Byrd was not the knife-wielder at a second robbery later the night of Tewksbury’s murder. The Ohio Supreme Court has deemed the circumstantial evidence suggesting that Byrd was the knife-wielder as “highly probative” and has used it to uphold his death sentence.

Pottinger’s story, Merz said, “is not in the slightest bit credible,” in part because Pottinger was drinking and had sex with Byrd’s sister, Kim Hamer, and another woman the night before he signed an affidavit this summer.

According to the Associated Press, Pottinger acknowledged that he signed the affidavits shortly after he had sex with Hamer and another woman but was not promised sex in exchange for signing the documents.

More important, Pottinger was interviewed by Columbus Alive on August 28—before Hamer even talked to him—and Pottinger admitted to the same information later sworn to in the affidavit.

Byrd said the case against him has been corrupted “from Governor [Bob] Taft on down, because they want me to die. Taft’s office was in almost constant contact with the assistant attorney generals handling the hearing.”

## **WAR CORRESPONDENCE**

11/20/2001

### **“Owning the weather”**

### **More documents prove the Pentagon’s interest in manipulating Mother Nature**

by Bob Fittrakis

Humans have long sought to control the weather. Early people learned how to make fire and modify their micro-environments; rain dances and other rituals to alleviate droughts are part of our folklore. So Columbus Alive’s December 6 cover story reporting that the government is engaged in secret experiments to control the weather should come as no surprise after a long history of “cloud seeding,” “atom splitting” and cloning revelations.

Many readers asked me for more information on chemtrails and weather modification. The first thing to realize is that this technology is an orphan of the Cold War. As the U.S. and former Soviet Union spent trillions of dollars on their militaries, their commitment to mutually assured destruction led to extensive experimentation with the use of weather as a weapon. In 1977, the Saturday Review cited a CIA report hinting that the U.S. government already had the power to massively manipulate the weather for war purposes.

As the Soviet Union disintegrated, a 1993 Isvestia article suggested the U.S. might want to partner with the Russians in peddling their top-secret technology to the world. Oleg Klugin, a high-ranking KGB officer, bragged of his involvement in geophysical weapons research to a London newspaper. The grid patterns of jet chemtrails now spotted throughout the Western world are likely the application of these technologies to new military and civilian uses.

The military is not attempting to hide its long-term goals. “Weather is a Force Multiplier: Owning the Weather in 2025” is a white paper that can be found on a Pentagon-sponsored website. The paper’s abstract reads: “In 2025, U.S. aerospace forces can ‘own the weather’ by capitalizing on emerging technologies and focusing development of those technologies towards fighting applications. Such a capability offers the war fighters tools to shape the battle space in ways never before possible... In the U.S., weather modification will likely become a part of national security policy with both domestic and international applications.”

Wired magazine wrote about the paper and extensively quoted physicist Bernard Eastlund in its January 2000 article “Activate Cloud Shield! Zap a Twister!” The article detailed the military’s plan for “made-to-order thunderstorms” and “lightning strikes on demand.”

Eastlund managed programs for Controlled Thermal Nuclear Research for the U.S. Atomic Energy Commission from 1966 to 1974, and he was a key

researcher in the 1980s' Strategic Space Initiative (aka Star Wars). Since 1996, Eastlund served as CEO and president of Eastlund Scientific Enterprises Corporation. The company boasts on its website, [www.eastlundscience.com](http://www.eastlundscience.com), that it specializes in "weather modification" and "tornado modification" among other high-tech services.

Eastlund considers the High Frequency Active Auroral Research Program (HAARP) in Alaska a smaller version of what he envisions for weather modification. In response to Michael Theroux of Borderland Sciences—who asked Eastlund whether the HAARP station could affect the weather—Eastlund replied: "Significant experiments could be performed... The HAARP antenna as it is now configured modulates the auroral electrojet to induce ELF waves and thus could have an effect on the zonal winds."

At the Space 2000 Conference and Exposition on Engineering, Construction, Operations and Business in Space, sponsored by the American Society of Civil Engineers, Eastlund outlined his plan for zapping tornados with an electromagnetic radiation beam from the proposed Thunderstorm Solar Powered Satellite he's developing with the help of the European Space Agency and Jenkins Enterprises.

U.S. patent number 6315213, filed on November 13, is described as a method of modifying weather and should concern the public. The scientist from Wright Patterson Air Force Base who's been talking to Columbus Alive acknowledges that planes are spraying barium salt, polymer fibers, aluminum oxide and other chemicals in the atmosphere to both modify the weather and for military communications purposes. The patent abstract specifically states: "The polymer is dispersed into the cloud and the wind of the storm agitates the mixture causing the polymer to absorb the rain. This reaction forms a gelatinous substance which precipitate to the surface below. Thus, diminishing the cloud's ability to rain."

Answering the age-old question, Who'll stop the rain?: Apparently our government and a few of their closest friends in the military industrial-complex. The emergence of Edward Teller promoting this startling technology is more than scary. (Teller was the father of the H-Bomb and grand promoter of Readi Kilowatt, our perky little radiation friend from the '50s; one of his bright ideas from the '50s was to create harbors by nuking our own coastline.) The April 24 New York Times reported that Teller "has promoted the idea of manipulating the Earth's atmosphere to counteract global warming." The computer simulations on the use of aluminum oxide to counter global warming come from the Lawrence Livermore Weapons Laboratory, where Teller serves as director emeritus.

There should be little doubt that this would be a priority for the government—or for for-profit military contractors. The Columbus Dispatch reported this week that 2001 might be the second-hottest year on record (1998 holds the record as the

hottest year); the eight hottest years on record have occurred since 1990. But why would the government conduct anti-global warming experiments in secret?

Investigative reporter William Thomas holds that there's a link between the recent increase in asthma, allergies and upper respiratory ailments and the chemtrail spraying. Sound crazy? Remember, it sounded absurd when reports first came out that the government had conducted radioactivity experiments on U.S. citizens and released radiation from nuclear plants to test the effect on civilian populations. It sounded bizarre when news first filtered out that the government was engaged in the MK-Ultra mind-control experiments using LSD. The CIA and Defense Intelligence Agency admit they were responsible for many of the UFO sightings in the 1950s in order to explain away experimental military technology.

From public documents to mainstream news accounts, the record is filled with reports of weather-modifying technology left over from the Cold War. Now we have a right to know what, if anything, the government plans to do with it.



## **NEWS BRIEF**

12/27/2001

### **Execution showdown**

### **One well-known convict escapes Death Row while another awaits the electric chair**

by Bob Fittrakis and Martin Yant

A week before Christmas, the anti-death penalty movement received a huge present when a federal judge threw out the death penalty in a controversial case from the early 1980s; an affidavit signed by another man claimed he did the killing. The sentence of the Death Row inmate was commuted to life in prison.

No, we're not talking about Ohio's John W. Byrd Jr., but the internationally known Mumia Abu-Jamal.

The startling contrast between U.S. District Judge William Yohn's decision to remove Abu-Jamal from Death Row and federal Magistrate Michael R. Merz's bizarre opinion that Byrd's execution should proceed embodies everything that's wrong with the death penalty in the United States.

Abu-Jamal admitted being at the scene of the Philadelphia murder with a pistol; Hamilton County prosecutors admitted they had no murder weapon and no physical evidence tying Byrd to the Cincinnati convenience store murder scene.

In Abu-Jamal's case, his then-lawyers did not believe the confession of the other man; while in Byrd's case, his lawyers believed adamantly that John Brewer, not Byrd, was the killer. After all, the prosecutors and public defenders agreed that Brewer's footprint was on the store counter and the contents of the cash register were in his pocket. And Brewer confessed to the killing in no fewer than five affidavits dating back to the mid-'80s. Still, the vagaries of justice hold Abu-Jamal as a winner in the Death Row lottery, and Byrd's still praying for the justice jackpot.

In reality there were no winners and a lot of losers at Merz's hearing on Byrd's claim of actual innocence, a dispassionate review of Merz's report shows. It's just the kind of report you'd expect from a Merz—Fred and Ethel Merz, that is.

The biggest loser of all in the case, the report makes clear, was Merz himself. The magistrate showed a clear bias against Byrd and the anti-death penalty contingent that opposes Byrd's execution. On page 58 of the report, Merz wrote: "Yesterday it was brought to my attention that a person claiming to be a press representative was in the courtroom, purporting to represent the Columbus Free Press. The only thing I could find about the Columbus Free Press on the web was something on a Romanian website this morning. When challenged by the marshal for press credentials, she could not produce press credentials."

Merz mentions in a footnote that the person in question, Ida Strong, later “faxed the marshal what purported to be Columbus Free Press credentials signed on behalf of that paper by Bob Fitrakis, a person heavily involved in covering this case for Columbus Alive,” as if this was some kind of sin.

Of course, Strong was covering the trial for the Free Press, a newspaper published since 1970 and one of the first alternative papers to establish a website in 1996. A Google search for “Columbus Free Press” turned up 1,190 hits. The very first hit stated, “The Columbus Free Press is a progressive newspaper and website devoted to reporting on social justice issues.” The level of Merz’s Internet research skills are on par with his legal analysis. Romania, indeed.

Based on these foolish, off-the-record allegations and erroneous-to-the-point-of-absurdity web searches, Merz stated that Strong might be cited for contempt of court for unspecified reasons. Merz went on to state, “Several courtroom personnel observed her visibly signaling to Mr. Hall [a witness] when he was on the stand before she was removed from the jury box.” Merz also stated that Dan Cahill, a listed Byrd witness, probably would not be permitted to testify because he was seen having lunch with Strong.

Strong sent the Free Press reports from the first two days of the trial before she was threatened with contempt of court. She wrote: “During the hearing, Roger Hall was called as a witness. He was one of the prisoners who I campaigned for his release from the supermax [prison] months before. Roger must have recognized me from one of my pictures, which had appeared either in a newsletter or on the news. After testifying...he looked over at me and held his hand up... I in return held my hand up in a show of acknowledgement to him. That’s all I did was acknowledge Roger Hall.”

Cahill claims that Alan Johnson of the Columbus Dispatch talked to him for over a half hour and the judge didn’t threaten Johnson with contempt. Merz’s approach to the First Amendment appears as misguided as his handling of death penalty cases.

The Ohio Public Defender’s office also came off poorly—and not just because of the last-minute surfacing of three additional affidavits signed by Brewer, who claims he committed the 1983 murder for which Byrd was sentenced to die.

Merz noted that the public defenders made a major argument out of Assistant Hamilton County Prosecutor William Breyer’s statement that jailhouse snitch Ronald Armstead had testified before the grand jury even though a transcript of his testimony could not be located. “Despite the inflated rhetoric” about compelling Breyer to testify, Merz noted, Byrd’s attorney never called him to the stand.

That seemed typical of the public defenders' mishandling of Byrd's case over the years, as Merz demonstrated with other examples. The public defenders also seemed to have done a bad job preparing their witnesses. Brewer, by far the most crucial, clearly irritated Merz with his arrogant demeanor as a result. Although what actual influence the public defenders had over Brewer, linked in government documents to the leadership of the racist Aryan Brotherhood, is another issue.

The assistant state attorney generals performed no better, as they diverted attention from the lack of evidence of Byrd's guilt by creating a sideshow over the public defenders' gaffes.

Still, as we celebrate the holidays, there are some small wins for anti-death penalty advocates in Ohio. On December 12, 50 central Ohio ministers and religious leaders called for a moratorium on capital punishment at an Interfaith Coalition to Stop Executions press conference. Seven days later, Cincinnati City Council, by a 7-2 vote, passed a resolution calling for a death penalty moratorium. While the resolution isn't legally binding, it at least sends a strong pro-justice signal from Ohio's most death penalty-happy county.

A rally opposing Byrd's execution is slated for high noon on January 7 at Cincinnati's Fountain Square. The best way to start off the new year is with a showdown on the death penalty in Ohio.