

TO: Cong. Stokes
f. y. l.

abc file

ATTICA
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SEP 17 1971

September 15, 1971

Honorable John N. Mitchell
The Attorney General
Department of Justice
Washington, D. C. 20530

Dear Mr. Attorney General:

As you know, one of the great tragedies in the history of this country is taking place at the State Penitentiary in Attica, New York.

The Congressional Black Caucus is highly disturbed, as you must be, by the cloud that hovers over the development of events leading to the deaths of both prisoners and hostages.

We question the judgment used on the part of the governor in refusing to meet with prisoners, as well as that of all officials taking part in the final decision-making process which ultimately led to what we believe was an unnecessary and warrantless condemnation to death of those inside the prison walls.

While we recognize the prerogative of the governor to act in a manner which his conscience and oath of office demand, serious questions are raised in this instance as to the quality of faith in which the state presented itself as a negotiator.

But an even more immediate concern of ours is the physiological cause of death of each person. State authorities first insisted that hostages were slain at the hands of prisoners by having had their throats cut. However, the Monroe County Coroner's official report indicates at least 8 of the 10 hostages killed died of gunshot wounds rather than knifings.

We are encouraging immediate investigatory action in the Congress as to the circumstances that led to the entire situation. But because of the limited fact-finding role that a Congressional investigation would play, and the credibility of New York State officials that most certainly has been put into issue, we are requesting that you, as The Attorney General of the United States, immediately convene a special Federal Grand Jury to determine whether or not the rights of all persons involved were preserved at each and every stage of this occurrence.

The Attorney General

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September 15, 1971

Due to the gravity and urgency of the situation we would hope that our call for a Federal Grand Jury investigation and hearing would be granted without unnecessary delay. Only if such action is taken immediately will faith in this country's guarantee of equal protection and justice under law be restored in the minds of a substantial number of its citizens.

Sincerely,

Charles C. Diggs, Jr.
Chairman
CONGRESSIONAL BLACK CAUCUS

HTR/ebm

NATIONAL BAR ASSOCIATION, Inc.

OFFICE OF THE PRESIDENT
JAMES W. COBB
815 FIFTH STREET, N.W.
WASHINGTON, D. C. 20001
(202) 393-2737

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September 24, 1971

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Chairman, Congressional Black Caucus
2464 Rayburn House Office Building
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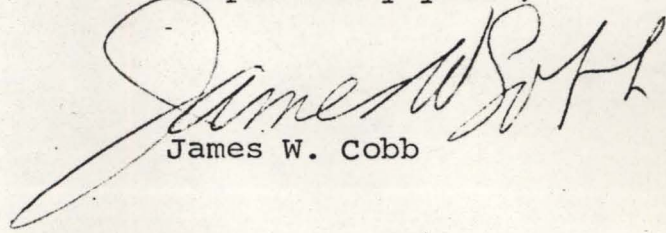
Dear Congressman Diggs:

The National Bar Association has expressed its serious concern to the President of the United States for the recent atrocities at the ATTICA STATE PRISON and similar incidents throughout the country.

It occurred to me that our mutual concerns and interests for the welfare of Black people should result in a coordination of our resources and efforts.

In this connection I would appreciate the opportunity to meet with you and discuss these matters at your earliest possible convenience.

Respectfully yours,



James W. Cobb

JWC:lpp

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OFFICE OF THE PRESIDENT
JAMES W. COBB
815 FIFTH STREET, N.W.
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(202) 393-2737

September 21, 1971

Richard M. Nixon, President
United States of America
The White House
Washington, D.C.

Dear Mr. President:

The National Bar Association shares the grief, the shame, and the concern of our entire nation over the results of the recent crisis at the ATTICA STATE PRISON.

Our membership consisting of approximately 4,000 Black Lawyers across the United States are particularly concerned that once again very serious social and racial unrest plagues our country.

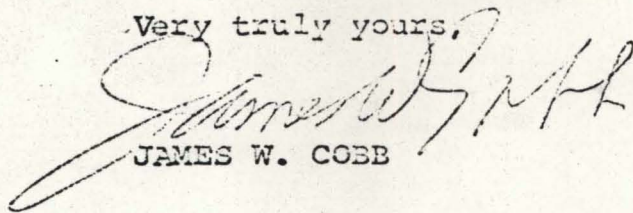
These recent actions are all the more serious when compounded with the inconsistent, yet supposedly factual statements that were reported by the authorities. Such cruelty, hypocrisy, falsity, lawlessness and decadence can not be tolerated. Indeed, credibility has become the issue.

The National Bar Association has pledged its services to investigate, examine and evaluate the circumstance and conditions relating to these incidents all over the country. We would urge our government to take the leadership and initiate such an investigation including the assurance that reprisals and other actions will not be suffered.

In view of the seriousness of these matters the National Bar Association offers its manpower and resources to immediate action, in the hope that such incidents will not occur again and to assist

in the search for truth, honesty and integrity.

Very truly yours,

A handwritten signature in cursive script, appearing to read "James W. Cobb". The signature is written in dark ink and is positioned above the printed name.

JAMES W. COBB

jda

IN ASSEMBLY

January, 1972

Introduced by Mr.

(at request of the Inmate Advisory Council
of Auburn Correctional Facility.)

AN ACT

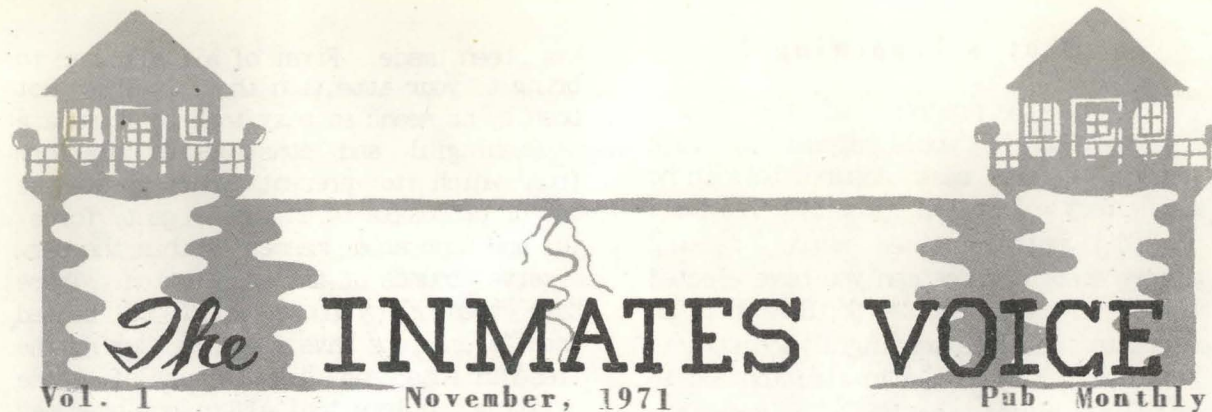
To Amend the Correction Law, in relation to the procedure to be used by the Board of Parole in fixing the minimum period of ten years of imprisonment under a life sentence.

Section 1. Subdivision Two of Section two hundred twelve of the Correction Law, as added by chapter six hundred eighty of the laws of nineteen hundred sixty seven, such section having been renumbered by chapter four hundred seventy-six of the laws of nineteen hundred seventy, is hereby amended to read as follows: 3. Every person, whether male or female, received at any time in a State Correctional Facility, upon a sentence for the term of his or her Natural Life or upon a sentence commuted to one of Natural Life, shall be released on parole after serving the minimum of ten years on such sentence. 4. In addition and with respect to all prisoners, before released on parole, the Board of Parole shall have before it a report from the Superintendent of each Correctional Facility in which such prisoner has been confined as to the prisoner's conduct in the institution, with a detailed statement as to all infractions of institution rules and discipline, all punishments meted out to such prisoner and the circumstances connected therewith, as well as a report from each such Superintendent as to the extent to which such prisoner has responded to the efforts made in the institution to improve

his mental and moral condition, with a statement as to the prisoner's then attitude toward Society. In addition, the Board shall have before it a report from the Superintendent of the institution's industries giving the prisoner's industrial record while in prison, the nature of his occupations while in prison and a recommendation as to the kind of work he is best fitted to perform and at which he is most likely to succeed when he leaves prison. Such Board shall also have before it the report of such physical, mental and psychiatric examinations as have been made of such prisoner which so far as practicable shall have been made within two months of the time of his eligibility for parole. The Board of Parole, before releasing any prisoner on parole, shall have the prisoner appear before such Board and shall personally examine him and check up so far as possible the reports made by the institution Superintendent and others mentioned in this section. Such determination shall have the same force and effect as a minimum period fixed by a Court. This act shall take effect on the first day of September next succeeding the date on which it shall have become a law.

IN APPRECIATION

John Miskell... Educational Supervisor
Clair Chamberlain... Academic Supervisor
Dave Griffin... Commercial Art Instructor
Stanley Young... General Shop Instructor
Skip Walker... Type Setter
Butch Hastings... Plate Typist
John Smith... Pressman



Superintendent

It gives me great satisfaction to be able to contribute to the first monthly newsletter of the Auburn Inmate Advisory Council. Your group has the opportunity to participate in constructive action to encourage, develop and support projects for the general welfare of the inmate population.

It is important that you understand that the Advisory Councils function always remain advisory and that no administrative powers are to be delegated to it. I, as the Superintendent, although always willing to listen to suggestions of both inmates and staff, have the sole responsibility for the management of this facility under the Correction Law and rules and regulations of the Department of Correctional Services.

As a newly formed organization, it is necessary that you proceed carefully in setting up your constitution so that proper safeguards are enacted to insure orderly procedure of operation and continuity.

Since the initial council was organized on an ad hoc basis, it is desirable to develop a permanent constitution as rapidly as possible so that the purposes, goals and limitations are understood.

As I stated in an earlier communication, I feel that this is a unique opportunity to promote better understanding between inmates, staff and administration. I

am sure you are aware that since we are the first facility to form such a council, the eyes of the entire State are on Auburn. It is up to us all to show that this principle can work.

Robert J. Henderson
Robert J. Henderson
Superintendent

Notice

We are happy to announce that a Law Library next to the Yard Library is open daily for all inmates. It is stocked by inmates and run by inmates. We believe that we have staffed the Law Library with inmates who are capable and willing to give effective help to every man who needs help. We ask everyone's cooperation so that we will be able to continue operating effectively. We all realize the importance of this library. We cannot afford to abuse this privilege.

There is a box outside the library where you can drop a slip in order to make full use of the Law Library for research and consultation with the inmate staff. The hours are from 1 p.m. until the yard closes and all day Sat. & Sun.

AUBURN CORRECTIONAL FACILITY

June 16, 1971

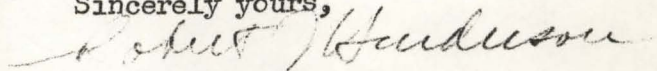
Departmental policy permits inmates to mail confidential and sealed letters to governmental executives, courts and attorneys in view of objectives of re-socialization of inmates and assistance in solution of personal and legal problems.

If the inmate writer raises a problem over which this Correctional Facility or the Department of Correctional Services has jurisdiction, you may wish to write to me or to the Commissioner of Correctional Services, Department of Correctional Services, Albany, New York 12225.

If the inmate writer encloses for forwarding purposes, correspondence addressed to another person, please return same to me or to the Commissioner.

In your reply to the inmate, we would appreciate it if you will limit the content to matters involving the inmate's own situation, and that there be nothing else sent in these confidential letters. The reason for our concern is that since initiating this more liberal policy we have noted that contraband has been sent in to some of the institutions via this route. We know that in almost all instances it has been unintentional, but it is nonetheless serious.

Sincerely yours,



Robert J. Henderson
Superintendent

RJH:r

CONGRESSIONAL BLACK CAUCUS
415 SECOND ST., N.E.
WASHINGTON, D.C. 20002 .

NOV 19 1971

The members of the Black Caucus has been contacted for their support
of all pending reform Bills:

Congressman:

Charles C. Diggs Jr.

Robert N.C. Nix.

Augustus F. Hawkins

John Conyers

Louis Stokes ✓

William L. Clay

Shirley Chisholm

George W. Collins

Ronald V. Dellums

Parren J. Mitchell

Ralph Metcalfe

Charles B. Rangel

Walter Fauntroy

STATE SENATORS

Robert Garcia

John H. Hughes

John D. Dunne

November 14, 1971

Bro. Stokes:

The Rules Committee of the New York State Assembly has Senate Bill No.#5047-B which should be reported out this coming session which starts in January 1972.

The above bill passed the Senate during the last legislative session and is designed to solve the inequities which now exist between those sentences imposed prior to September 1, 1967, and those under the new law which became effective on that date.

I respectfully request your support of the Bill attached herewith, and hope that you shall seek support from other members of the Congressional Black Caucus for the passage of this bill; a position which I hope you shall extend to other bills concerning prison reforms which shall help to solve some of the problems confronting the Department of Correctional Services and the residents thereof.

It is my hope that you shall excuse the formality of this letter and that I shall hear from you regarding the bill in question. Thank you for your time in this matter and for your service to the United States of America.

Respectfully yours,

GARY KELLY, Chairman
Legislative Committee of
Inmate Advisory Council on
behalf of all inmates of
the Auburn Correctional
Facility.

PROPOSAL I

Be it known, that all prisoners serving a sentence of natural life or forty (40) to life, for the conviction of murder in the first degree, prior and subsequent to the effective date of the new revised Penal Law, coming into effect September 1, 1967, the said sentences are amended to provide a maximum of natural life and a minimum of not less than fifteen (15) years. The following subdivision is in support of this proposal:

- A That upon successful completion of the minimum term a prisoner must be granted a right to parole based on his or her institutional record, subject to conditions of the Division of Parole. Parole shall not be granted if a prisoner is insane, or if his or her prison record does not substantiate this right.
- B That all prisoners granted parole having lived up to the conditions and restrictions set forth therein do so successfully for a period of three (3) years, the prisoner must be granted a certificate of release from disability, declaring the balance of his or her sentence "Null and Void".
- C That all prisoners, having been granted parole and not abiding by the provisions and restrictions of same, i.e., committing a "crime", said provisions in subdivisions (B) shall not apply and the maximum of natural life will remain in full force, and subdivision (B) will be activated upon re-parole.

PROPOSAL II

Be it known, that all prisoners serving a sentence, the maximum of which is life and the minimum is set statutory, which consist of a minimum of 20 years or more, prior or subsequent to the date of the New Revised Penal Law, which became effective September 1, 1967. The said sentences are amended to provide a maximum of life and a minimum of not less than ten (10) years. The following subdivisions is in support of this proposal:

- A That upon successful completion of the minimum term, a prisoner must be granted a right to parole based on his or her institutional record, subject to the conditions and restrictions of the Division of Parole. Parole shall not be granted if a prisoner is insane, or if his or her prison record does not substantiate this right.
- B That all prisoners granted parole having lived up to the conditions and restrictions set therein do so successfully for a period of three (3) years, the prisoner must be granted a certificate of release from disability, declaring the balance of his sentence "Null and Void".
- C That all prisoners having been granted parole and not abiding by the provisions and restrictions of same, i.e., committing a "crime", said provisions in subdivision (B) shall not apply and the maximum of natural life will remain in full force, and subdivision (B) will be activated when the parolee is re-paroled.

PROPOSAL III

That all prisoners serving sentences with a maximum that is other than life, and a minimum that is set by law, under the old and new penal law, to meet the parole board after serving eight (8) years and four (4) months, if the present sentence they are serving exceeded the eligibility of eight (8) years and four (4) months.

- A That upon successful completion of the minimum term in no event exceeding eight (8) years and four (4) months, a prisoner must be granted a right to parole based upon his or her institutional record, subject to conditions of the Division of Parole. Parole shall not be granted if a prisoner is insane, or if his or her prison record does not substantiate this right.
- B That all prisoners granted parole having lived up to the conditions and restrictions set forth therein do so successfully for a period of three (3) years, a prisoner must be granted a certificate of release from disability, declaring the balance of his or her sentence "Null and Void".
- C That all prisoners, having been granted parole and not abiding by the provisions and restrictions of same, i.e., committing a "crime", said provisions in subdivision (B) shall not apply. However, the parolee shall be given credit for the time that he or she reported to the Parole Officer.

PROPOSAL IV

Be it known, that all prisoners serving sentences with or without a minimum, but with a maximum expiration, under the old and new Revised Penal Law, which became effective September 1, 1967, (including first and second degree Manslaughter cases; all Elmira cases under the old and new Correction Law) is granted the inherent right to earn good time conduct not to exceed ten (10) days per month. That said good conduct time cannot be taken from a prisoner once it is earned. This proposal pertains exclusively to proposal number three (3). The following is the subdivision which pertains to this proposal:

- A Any infraction of rules or regulations by a prisoner, punishment can be applied by removing good conduct time only for the month in which the infraction was committed.
- B Incentive time for work performance can be granted for an additional period not to exceed three (3) days per month, totaling an aggregate of thirteen (13) days per month.
- C This proposal shall be applied retroactive from the day of arrest.

PROPOSAL V

Be it known, that all prisoners serving a life sentence, including non-capital cases, (proposals 1, 2, and 3) are granted a inherent right to meet the Parole Board in two (2) thirds (3rds) of the "minimum sentence". The subdivisions to this proposal is as follows:

- A This proposal is inextricable with the said minimum as proposed in the first proposal, which consists of a minimum of fifteen (15) years, thereby causing the prisoner to meet the Parole Board in ten (10) years.
- B This proposal is inextricable with the said minimum as proposed in the second proposal, which consist of

- C This proposal is inextricable with the said minimum as proposed in the third proposal, which consist of a prisoner having ten (10) years or more, shall be eligible to meet the Parole Board in six (6) years, thereby causing the prisoner to meet the Parole Board in four (4) years.
- D The prisoner is subjected to all rules enumerated in subdivision 1, 2 and 3 of which is retroactive.

PROPOSAL VI

Be it known, the Parole Board must give in written language, within two (2) weeks, the reason why a prisoner is deprived of the right to be paroled. This applies to the old and new Revised Penal Law. The subdivisions of this proposal is as follows:

- A This proposal eliminates guess work, and confines the reasons for depriving a prisoner of parole to his or her institutional work record exclusively.
- B This proposal eliminates a violation of the double jeopardy clause of the Fifth and Fourteenth Amendment to the United States Constitution, Malloy vs. Hogan, 378 U.S. 1. Thereby causing the Parole Board to specialize in the present, the future, and not the past for all which is in conjunction with the prisoner's immediate institutional record.
- C This proposal confines the Parole Board to issue no no more than eleven (11) months to a prisoner that has met the Parole Board. If a year or more is imposed then the prisoner is subjected to a bill of attainder under a bill of pains and penalties and constitutes a sentence that only a Court of competent jurisdiction can render and violates Article 1, Section 9, Clause 2 of the United States Constitution.

PROPOSAL VI

Be it known, that all proposals are deemed retroactive from the date of arrest.

Respectfully Submitted,

Committeemen:
 J. Eagan, Secretary
 L. Mangual, Editorial Consultant
 J. Ristau, Investigative Consutant
 Powell, J., Research Technician

GARY KELLY, Chairman
 Legislative Committee
 of Inmate Advisory
 Council on behalf of a
 inmates of Auburn
 Correctional Facility

PAROLE: A Brief Review

As it has been for several decades, the parole system in New York is a major source of acute irritation and frustration for its prisoners. This is primarily because the prisoner does not know how he can guarantee his parole at his earliest eligibility. Neither his good institutional conduct nor proficient discharge of assigned duties is sufficient; neither are the enrichment of his educational background nor a development of working skills. These are, to an extent, within his control as opportunities for learning expand in prison. However, his chance for earliest parole does not necessarily depend upon any one or more of these. Instead, by present law, a prisoner's release on parole is determined by the opinion of the Board of Parole that he will live within the law and not behave incompatibly with the welfare of society. How the prisoner should live in prison in order to secure a good opinion of how he will behave when released is not made known to him. From his experience and those of others, he concludes that it is not his present prison record which is a deciding factor; it is the history of his life before incarceration -- a matter over which he has no control.

For the purposes of sentencing, the probation branch of the court prepares a complete, written history of each person convicted. Among the items reported upon are family background, education, friends, work record, Present and previous encounters with the lad and penal institutions. Frequently, there are psychological and psychiatric reports.

With this information at its disposal, the court now usually imposes upon the prisoner an indeterminate sentence which has a minimum of zero and a maximum as prescribed by law. The minimum is set by the Board of Parole after ten months of the sentence have been served. Following service of this minimum, the inmate is a candidate for immediate parole.

The unsuccessful candidate who has a good or even exemplary prison record finds it difficult to understand why he must spend additional time in prison when his court-imposed sentence took his past into account. Rarely is he given a satisfactory official explanation. It is the inmate's view that the sentencing judge imposed a particular sentence because it took into account all the prisoner's background including his current charge, as well as such time as might be required for a satisfactory degree of available rehabilitation. It is this situation which is contributing to current prison unrest and has suggested the adjustments now proposed.

The primary suggestion is that parole at one-third of the maximum sentence be mandatory when the inmate has a good institutional record. This fraction is thought a realistic one as it is already used by the U. S. Government. It would allow two-thirds of the maximum sentence to be served on parole. The service of twice the time under parole supervision as spent in prison would be in keeping with the presently attempted enlarging shift to the rehabilitation concept.

The second suggestion is that where an inmate's institutional record is poor but where he has not lost "good time," and where because of this poor record the Board of Parole has deemed that he not be released before as much as two-thirds of his maximum sentence has been served, the sentence be considered as completely terminated at two-thirds of the maximum. Additionally, when the Board of Parole does not grant parole, it is strongly urged that the Board be required to give the inmate serving additional time a written explanation in order that he may be able to direct his efforts into corrective directions.

SUGGESTED STATEMENT BY THE CONGRESSIONAL BLACK CAUCUS REGARDING
THE TRAGEDY AT ATTICA, NEW YORK

The Congressional Black Caucus is distressed at ^{by} ~~the~~ tragedy that occurred at the state penitentiary in Attica, New York on Monday morning. All available evidence indicates that the loss of life on either side could have been avoided.

This incident alone points out the extremely low value that America places on human life in order to preserve its rather meaningless and shallow law and order ~~image~~ ^{ethic}.

This country has again chosen to rely on its muscle as an alternative to common sense and reason in dealing with a very delicate and highly explosive situation.

We continue to be disturbed by the manner in which this society consistently shirks its duty to rehabilitate prisoners in favor of a philosophy of penology that is matched by methods used in only the most uncivilized and treacherous nations in the history of the world. The cumulative studies and reports done in the area of penology in this country over the past 10 years indicate that the current system of rehabilitation is sorely in need of overhauling. It approaches the criminal to ignore such information and to wait for a major tragedy such as this to occur before even a thought is given to change.

It is even more ludicrous to begin taking repressive action against prisoners (as some correctional authorities have suggested) rather than dealing with underlying causes for conditions created by the keeper rather than the caged.

Attica

There is no question that even those who dwell in penal institutions realize that they must serve sentences for crimes committed. It must be argued, however, that the less-than-human treatment which prisoners are subjected to raises serious doubts as to whom the culprit really is.

The question must certainly be raised as to what state of affairs could possibly exist behind prison walls that would cause such obvious disregard for the preservation of even one's own life.

Unless prison officials create conditions that will prevent the devastation of human spirit as well as foster the rehabilitation of individual individuals, America has nothing more to look forward to than an instant replay of the massacre that took place in Attica.