

BUFFALO CHIP

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ANGELA DAVIS FOR ED AND MONDO

by Anne Else

Angela Davis and Charlene Mitchell, of the National Alliance Against Racist and Political Repression, came to Nebraska in late August, 2000 to speak at a gathering commemorating the 30 years that Mondo we Langa and Ed Poindexter have spent in prison. Both women urged those present to build a broader movement to free we Langa and Poindexter.

The life sentences being served by these men were the result of suppression of evidence at their 1971 trial for the bombing death of an Omaha policeman. If the evidence had not been suppressed by the Omaha police, at the suggestion of the FBI, it would have been difficult for the prosecution to convince the jury to convict Poindexter and we Langa. Neither man learned about the suppression of evidence until copies of FBI memos were obtained in 1978, under the Freedom of Information Act.

In 1974-75, an appeal of the guilty verdict caused judges at both the Federal District Court and at the Eighth Circuit Court of Appeals to rule unanimously that the conviction had been obtained by an illegal search of we Langa's home. Unfortunately the U.S. Supreme Court *without prior warning* overturned years of precedent by refusing to rule on the illegal search. Instead, the Court directed that, beginning with this case and henceforth, all convictions must first be appealed through state courts before an appeal could be made to the federal courts. This was a Catch-22 trap: by the time the

(cont. on p. 5)

by Scott Brewer

"Every time I come [to Nebraska] I realize that I really should come more often because there's so much energy here," Dr. Angela Davis said to a cheering crowd of 300, when she spoke from the steps of the State Capital last summer.

Davis rose to national prominence for her alleged role in a 1970 attempt to free three inmates during a murder trial. Though the guns used in the fatal shootout were registered to Davis, who landed on the FBI's "Ten Most Wanted" list, she was later acquitted of all charges, in a case her supporters say was politically motivated.

Now an author and a tenured professor in the history of consciousness department at the University of California at Santa Cruz, Davis spends much of her time advocating prison reform and an end to what she calls the "prison-industrial complex."

As part of her work, Davis came to Nebraska to support the freeing of Mondo we Langa (formerly David Rice) and Ed Poindexter, who were convicted in 1970 for the murder of Omaha police officer Larry Minard. Both men have maintained that they are innocent victims of the FBI's infamous counterintelligence program, COINTELPRO. That program led to the imprisonment of various leaders of the Black Panther Party as well as other groups, such as the American Indian Movement, that the FBI Director considered to be "subversive."

(cont. on p. 4)

HEALTH CARE IN NEBRASKA PRISONS

by Gloria Bartek

Last year the Nebraska Ombudsman called prison care in Nebraska's Correctional System "woefully inadequate." A governor-appointed task force echoed the Ombudsman's conclusions, finding health care for inmates was often both inaccessible and inadequate.

The State Legislature is responding with a number of bills designed to improve health care in Nebraska Corrections. Several reform bills would: establish clinics for HIV-infected inmates; increase oversight of health care in prisons; develop protocols for inmate treatment; force the Department of Correctional Services to share oversight of prison health systems with the Health and Human Services System; and require that prisons seek outside accreditation.

In addition, several other bills would require medical training for prison health-care workers who dispense drugs to inmates; allow inmates and the ombudsman access to prison medical records; and transfer control of the Department of Corrections from the Governor

to the Legislature.

Meanwhile, a national study on mental health care placed Nebraska near the bottom in providing adequate care and services to the general public. Last summer, Omaha mental health leaders presented a report to state officials, requesting \$26 million for mental health care in the region serving Omaha. Mental health providers reported that police officers are often called to transport people with mental illnesses, or people who abuse substances, to an emergency room or a treatment facility. Once police hold someone in custody, they are required to find a place for treatment, even when all the facilities in town are full.

Since at least some of the mentally ill end up in prison (as do substance abusers), let's hope that the Legislature will investigate the status of mental health care and treatment for substance abuse in the Department of Corrections, before it, too, becomes an issue for the Nebraska Ombudsman.

THE BANKRUPT U.S. JUSTICE SYSTEM

Last year the State Legislature voted to impose a three-year moratorium on executions in Nebraska. Yet this year a bill is in committee which would abolish the electric chair, and instead kill inmates by lethal injection. Though the Legislature last year couldn't come up with the votes to override Governor Johanns' veto of their moratorium bill, their concern that the death penalty may be imposed unfairly led them to override the Governor's veto of funding to do a study on the issue. The Senators were reflecting nationwide concerns about incompetent lawyers, prosecutors who withhold evidence, inconsistent sentencing from court to court, racial discrimination, and a host of other problems which call into question the status of every person sitting on death row.

This year Nebraska's death penalty proponents are concerned that the electric chair might be ruled unconstitutional, leaving the state with no way to execute the 11 prisoners currently on death row. So there is a move afoot to hedge our bets and replace the chair with lethal injection, as a more humane method of killing.

Even before the results are in on the Nebraska study, two reports issued last year found that the U.S. system of justice is "fraught with errors." According to the Columbia Law School study of the states, 82% of those whose death sentences were overturned were found on retrial not to deserve execution, including 7% who were acquitted. Out of 4,578 cases examined nationwide, 2,370 death sentences were reversed. In Nebraska, 65% of death sentences are reversed on appeal. The

study found that the primary reasons for the errors leading to death sentence reversals include "egregiously incompetent defense lawyers who didn't even look for -- and demonstrably missed -- important evidence that the defendant was innocent or did not deserve to die; and police or prosecutors who did discover that kind of evidence but suppressed it, again keeping it from the jury."

Stephen A. Saltzburg, a former Justice Department official in the Reagan administration and now a law professor at George Washington University, notes, "When you think that less than one-third of the capital cases" over a 23-year period were found free of serious error, "it must make any fair-minded person wonder what is wrong with the death penalty system around the country."

U.S. Sen. Patrick Leahy (D-Vermont), who is both a former prosecutor and a critic of the death penalty, said, "There should be zero tolerance for mistakes, not a sixty to seventy percent tolerance. You certainly could not run a public utility or an airline or a hospital that way."

With reversal rates in most death sentencing states at more than 50% (Florida's is 72% and California's is 87%), the Columbia Law School study concludes that these "high error rates put many individuals at risk of wrongful executions." The American Association of Public Health Physicians proposed that all executions should be stopped until questions are resolved, including the availability of DNA evidence.

So why the rush to put lethal injection in place in Nebraska?

THE ELEPHANT IN THE LIVING ROOM: THE CRUELTY OF LETHAL INJECTION

A U.S. Justice Department review of the federal death penalty indicates that the system is racist: in 74% of the cases in which a federal prosecutor sought the death penalty during the last five years, the defendant has been nonwhite. In 44% of those cases, the defendant has been black. The Justice Department study further shows that a death sentence is a game of geographical Russian roulette -- only a handful of the nation's 91 U.S. attorneys accounted for nearly half of death penalty cases, while about 20 of the U.S. attorneys filed not a single death penalty case since 1995.

We won't even go into the U.S. flouting of international law and executing the mentally retarded and those who killed while children. Of course, none of these human rights abuses is reported in the State Department's Human Rights report, which annually accuses other countries of human rights violations..

On the death penalty, U.S. proponents part company with the European Union, Australia, Canada, etc., which find the practice barbarous. Instead, the U.S. aligns itself with Iran, Iraq, Pakistan and China on the issues of the death penalty, as well as executing those who committed crimes when they were children, and the mentally retarded.

In the face of massive evidence that the death penalty cannot be fairly imposed, proponents in Nebraska would now enact legislation providing for lethal injection to replace the chair, on the grounds that it is more "humane." Reporters who have viewed such executions throughout the country have filed eyewitness accounts that demand a response from anyone claiming that lethal injection is "humane." Here are a few of the many examples extant:

Texas, 1986: Randy Woolls, a drug addict,

helped the "execution technicians" to find a useable vein.

Texas, 1987: Elliott Rod Johnson's execution took nearly an hour -- collapsed veins.

Texas, 1988: Raymond Landry's execution time was 40 minutes, due to a "blowout." The syringe came out of Landry's vein and sprayed deadly chemicals toward witnesses, who reported "at least one groan [from Landry]."

Texas, 1989: Stephen McCoy's reaction to the drugs (gasping, choking, back arching off the gurney, etc.) was so violent that one of the (male) witnesses fainted, crashing into and knocking over another witness.

Illinois, 1990: Charles Walker -- equipment failure and human error caused excruciating pain. Gary Sutterfield, the engineer from Missouri State Prison retained to assist with Walker's execution, reported a kink in the plastic tubing, and the insertion of the intravenous needle mistakenly pointing at Walker's fingers instead of his heart, prolonging the execution.

Arkansas, 1992: Rickey Ray Rector lay for 50 minutes while the "medical" staff sought for a suitable vein in his arm. Witnesses kept behind a drawn curtain reported hearing eight loud moans. The team of two medical people grew to five, working on both sides of his body. The administrator said, "That may have contributed to his occasional outbursts."

Oklahoma, 1992: Robyn Lee Parks had a violent reaction to the drugs used. He spasmed, gasped and violently gagged until death came after about 22 minutes. *Tulsa World* reporter Wayne Greene wrote that the execution looked "painful and ugly ... Reporters ... had trouble looking each other in the eyes after it was over."



THE SALVATION OF THE STATE IS WATCHFULNESS IN THE CITIZEN
(Motto on Nebraska State Capitol Building)

Roget's International Thesaurus lists injustice under "Wrong," as follows:

"wrong, wrongfulness ... impropriety, what ought not to be, what should not be; abomination, grievance, shame, scandal, disgrace, tort ... undueness ... unfitness, unsuitability ... bad, improbity ... injustice ... vice ... illegality ... wrong (harm) ... cry to heaven for vengeance ... improper, not the thing ... dishonorable ... unjustifiable ... (blameworthy) ... illegal ... it will not do!"

DAVIS, BY BREWER (cont. from p. 1)

"We're here to say that these two black men who were targets of COINTELPRO efforts to destroy the Black Panther Party have not been forgotten," Davis said. "They have been in prison three decades on the basis of evidence so flimsy that it is clear to people around the country that they were targets of a frameup. As we look around the country we see that many people who were the targets of repressive efforts during that time, and specifically COINTELPRO, are now free," Davis added.

Davis reminded the crowd of not just the tragedy of the murder, but the tragedy of justice that occurred. The case was based largely on the testimony of Duane Peak, a 15-year-old, who Davis believes was coerced to lie in court by the police.

"Mondo and Ed were scapegoats in a far-reaching strategy to eradicate the Black Panther Party," Davis said. "At that time, the Black Panther Party boldly challenged racism and used a rhetoric that has perhaps become somewhat obsolete but was effective at the time," she said.

Though the Black Panthers might have caused controversy 30 years ago, she believes that much of their program has become part of the mainstream. "Times have changed. What was considered absolutely radical in the 1960s and 1970s is now common sense," Davis said. "The Black Panther Party challenged what we now call racial profiling and it was considered unheard of that black people would stand up and challenge the police. Now of course," she added, "President Clinton comes out against racial profiling by the police. In the late 1960s, the Black Panther Party established what they called free breakfast programs for children," Davis said. "Now, all over the country, schools provide free breakfasts for children, following the model of the Black Panther Party.

THE PRISON-INDUSTRIAL COMPLEX.

However, the last 30 years have been far from a complete success, according to Davis. "There are now ten times as many people in prison. There are two million people behind bars these days. Things have become far more oppressive," she said.

Davis said that the case of Mondo and Poindexter illuminates how prisons have been used to hide the problems of the ever-widening gap between the rich and poor. "It is largely thanks to the work of people like Rice and Poindexter that we began to realize how important it was to challenge what we now call a growing prison-industrial complex."

That prison-industrial complex isn't about justice, Davis said. "The prison system, the punishment industry, is used to get rid of the people who have the problems, who experience the problems, who suffer the problems.

"If people don't have jobs, where do they go?"

They go to prison. The punishment industry has become a stopgap measure designed to force us to forget the deep and serious social problems associated with racism and associated with class bias," she said.

Though Davis decried what she believes is the increasing oppressiveness of the American justice system, she does see signs of hope. "We recognize that grassroots movements have always created the basis for change and grassroots movements will bring about change today," Davis said.

"Here in Nebraska and throughout the country we need to strengthen our multiracial movement. Here in Nebraska you have to challenge the rising attacks on native people. We need movements with a strong consciousness of gender, with a consciousness of the need to challenge sexism and homophobia. A movement with a conscience, to stand up for the rights of workers and support the labor movement. A movement that will be able to help and eventually dismantle the prison-industrial complex. A movement that will free Mondo we Langa. A movement that will free Ed Poindexter."

MEETING WITH MONDO

From her speech at the State Capitol, Davis and Charlene Mitchell, the New York activist who organized the Free Angela Davis movement, went to the state penitentiary to meet with Mondo. Afterwards, she and Mitchell talked with reporters about an experience they called inspiring. "We often think that we go see people who are political prisoners with the idea that we can provide support and inspiration -- and oftentimes we walk away having been inspired ourselves," Mitchell said. "This was certainly one of those times."

Davis said she was amazed at how, within prison, Mondo had still managed to remain a leader within the community, keep a sense of humor and use his artistic talents through painting and poetry to create freedom within confinement. During their conversation, Davis said, they discussed some strategies for his release and the lack of worldwide attention that Mondo and Poindexter's case has gotten, compared to prisoners like Mumia Abu-Jamal.

Davis believes that the case of Mondo and Poindexter is one many Nebraskans can champion for a myriad of reasons. "Not everyone has to go as far as some would like to go in absolutely claiming their innocence. The building of an effective campaign ought to be done in such a way that it allows people to come in who say, "I don't know, but what I have been persuaded of is that they didn't receive a fair trial. I have been persuaded that there was evidence that was never taken into consideration. I do know from documents that there was a program called COINTELPRO."

Mitchell said that though Amnesty International in America has championed the case, until the interna-

tional organization takes it on, there are limitations on how much can be done. Davis pointed out that it wasn't until relatively recently that Amnesty International championed the causes of those convicted of violent crimes -- a regulation which kept the organization from advocating Nelson Mandela's cause for years.

Both recognized the comparative lack of attention given to the case, but Davis said she did not see it as a defeat. "In cases involving political prisoners that are protracted, there are moments in which there is a great deal of interest and focus and then there are periods of ebb," she said. "In the case of Mumia Abu-Jamal it really wasn't until 1995, many years after his conviction, that this international campaign was organized."

As for Mondo and Poindexter's case, Davis said, "I don't think we need to look at it as a failure, but rather as something that has not yet happened and can indeed happen."



DAVIS, BY ELSE (cont. from p. 1)

Supreme Court ruled, the date for filing an appeal in the Nebraska state courts had passed. So, thirty years later, Nebraska still holds a prisoner, when no court has overturned the Eighth Circuit Court of Appeals ruling that he should either be set free or given a new trial.

Suppression of evidence usually overturns a conviction; so does an illegal search. But not when the government wants to keep people in prison because they will speak out against an unjust law enforcement system. Needless to say, a later appeal to overturn their conviction by showing the court the FBI's own memo documenting the suppression of evidence did not succeed -- nor have any other appeals to date.

Furthermore, the Nebraska Board of Pardons refused to accept the recommendation made for five consecutive years by the Nebraska Parole Board, that we Langa and Poindexter should have their life sentences commuted to a specific number of years and thus be made eligible to be released.

"It is this failure of the court system and the Nebraska Board of Pardons to act justly," said Angela Davis and Charlene Mitchell, "that makes it necessary to create a mass movement to obtain the freedom of Poindexter and we Langa. The movement, which already exists locally, as demonstrated by the well-attended rallies in both Lincoln and Omaha, must be expanded at the national and international level. The National Alliance Against Racist and Political Repression adopted this case in 1975. Amnesty International has investigated the case, but the base must be broadened further. Thirty years is too long to right a wrong. We must continue to fight for Mondo's and Ed's release."

At the rally in Omaha, Nebraska State Senator

Ernest Chambers, a long-time supporter of freedom for we Langa and Poindexter, talked about the audiocassette tape of the call made to the 911 operator to summon police to the scene of the bombing. It was this tape which an FBI memo shows had been suppressed. Sen. Chambers pointed out that the voice on the tape is too deep to be that of 15-year-old Duane Peak, who had testified at the trial that he had made the call. Peak had further testified that, when making the call, he "raised his voice." The low pitch of the voice on tape is inconsistent with this testimony.

Wilda Stephenson, on behalf of Nebraskans for Justice, presented bronze bells, created by the late Nebraska artist Bill Farmer, to Vera Rice and Virginia Rivers, the mothers of we Langa and Poindexter, respectively. She praised them for setting a good example for all mothers, because they had taught their sons to speak out against wrong, even if it meant a personal sacrifice. They, along with their sons, have endured the injustice of this case, seeing their sons incarcerated for 30 years, in spite of the illegality of their conviction.

She said that the bells symbolized that their sons had "rung out danger and rung out a warning," -- had spoken out against police abuse in Omaha's African-American community. Yet at the same time, we Langa and Poindexter had "rung out a love between my brothers and sisters" as they worked to instill pride in African-American heritage, and reached out through the Black Panther free breakfast programs to children in need. Their bell-ringing continues to this day.



THEY FINALLY FOUND AN ANSWER TO OVERCROWDED PRISONS. SMALLER PRISONERS.

How small? In Massachusetts it's 14 years old. In Oregon, 12. Wisconsin, 10. And in some states there is no age minimum. This is the result of the new "tough on crime" attitude towards juvenile crime. An attitude that encourages individual states to prosecute young children as adults and incarcerate them in adult prisons, destroying a century-old system that protects children from contact with adult prisoners.

It is also unfair that it is minorities that are being targeted; three out of four youths admitted to adult courts are children of color, despite the fact that most juvenile crimes are committed by whites.

It's wrong to imprison children with adult criminals. Why? Because they're children.

The American Civil Liberties Union

WHAT YOU CAN DO TO HELP

Make a contribution to Nebraskans for Justice, to help pay the costs of the Legal Defense Team. All the lawyers have worked many hours, days and years for Ed and Mondo -- all *pro bono* -- but there are huge expenses for ongoing investigations, copying costs for Freedom of Information Act materials, court costs, travel costs when the Legal Team assembles, etc. Consider a donation to bear witness to Ed's and Mondo's thirty years in prison -- perhaps \$1, or \$2, or \$5, for each year.

Become informed about the issues, and speak out to stop the erosion of the rights we are guaranteed in the Constitution and Bill of Rights.

Take action about poor prison conditions.

Join the American Bar Association in asking for an immediate national moratorium on the death penalty.

In Nebraska: call the Legislative Hot Line for the status of bills or resolutions: (Lincoln: 402/471-2709; outside Lincoln: 800/742-7456. On the web, go to www.unicam.state.ne.us/documents/bills.htm).

Contact the Nebraska Board of Pardons, PO Box 80547, Lincoln, NE 68501, and ask them to commute Ed's and Mondo's sentences to time served.



MANY, MANY THANKS TO THOSE WHO HAVE SENT GIFTS TO NEBRASKANS FOR JUSTICE. YOU HAVE MADE IT POSSIBLE TO CONTINUE OUR ONGOING WORK. SORRY - WE MISSED THE FALL ISSUE OF *BUFFALO CHIP*, DUE TO ILLNESS OF THE EDITOR.


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ADDRESS CORRECTION REQUESTED

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