



**SOUTHERN  
CENTER FOR  
HUMAN  
RIGHTS**



# → Human Rights Report

Making Access to Justice a Reality | 2014 ANNUAL NEWSLETTER

↓ IN THIS ISSUE

- 1 *The New Frontier of Indigent Defense Reform*
- 4 *SCHR Presents History of Violence, Abuse Omitted from Death Penalty Trial*
- 6 *Juries for Life, Judges for Death: SCHR Challenges Judicial Override*
- 7 *Violence in Georgia Prisons: SCHR and Families Call for Accountability and Reform*
- 8 *The Struggle is Real: Individual Advocacy at SCHR*
- 12 *SCHR Attracts Support from Coast to Coast*
- 14 *SCHR Puts a Wrench in Grady Co. Money-Making Scheme*
- 15 *The SCHR Index*
- 16 *SCHR Donor Spotlight*



Lysander Turner testifies about the death of his nephew at a hearing on prison violence in Georgia before state senators.

## The New Frontier of **INDIGENT DEFENSE REFORM**

BY ATTEEYAH HOLLIE

Last year, on the fiftieth anniversary of the U.S. Supreme Court’s decision recognizing the right to counsel in *Gideon v. Wainwright*, Attorney General Eric Holder declared, “It’s time to reclaim Gideon’s petition – and resolve to confront the obstacles facing indigent defense providers.” A lawsuit filed in Georgia by SCHR and Arnold & Porter in January 2014 attempts to do just that.

The suit, *N.P. v. State of Georgia*, challenges the inadequate representation provided to poor children and adults in South Georgia’s Cordele Circuit. Public defenders in Cordele are frequently absent from juvenile court and provide assembly-line justice in superior court. Those problems are caused by the systemic underfunding of the circuit’s public defender system, as well as a complete lack of oversight.

Though *N.P.* demands an end to nominal representation in the Cordele Circuit, it is also part of a national movement to end two-tiered systems of justice. A lawsuit pending in New York alleges that the state’s fractured, underfunded indigent defense system all but guarantees that the poor will receive subpar legal representation. In a groundbreaking ruling issued in a second case in December 2013, a federal court in Washington State declared that people charged with misdemeanors in two city courts were “not represented in any meaningful way.” The Department of Justice took the unprecedented step of submitting a Statement of Interest calling for independent monitoring and caseload standards to address the systemic undermining of *Gideon* in these cities. The DOJ’s call for standards is encouraging and logical; just as doctors and educators must meet minimum performance standards, defense lawyers representing poor people accused of crimes should be guided by core performance principles to make real the constitutional guarantee of counsel.

Ironically, the Georgia Public Defender Standards Council, the statewide agency tasked with administering and overseeing the provision of counsel to Georgia’s poor, has no standards for public defenders. There are no minimum caseload standards, no standards for investigators, and no performance standards for criminal, juvenile, or appellate representation. Moreover, the State of Georgia has never adequately funded public defenders, forcing cash-strapped counties to come up with the lion’s share of the public defenders’ budgets. But county funding is by no means uniform; one

continued on page 3



## Executive Director's Message



Last month, I had the privilege of speaking at a progressive Atlanta high school during its career week. I was prepared to give general comments about the Southern Center, about human rights, and about the problems with the criminal justice system in the Deep South.

Instead, the group of teenagers posed a question to me, “WDYDWYD?” Those of you who spend time on social media know that this stands for “Why do you do what you do?” It is a popular meme that pushes individuals to pronounce what is at the heart of their daily motivation.

What a wonderful, thoughtful question to be asked! Immediately, a slideshow of the faces of our clients flashed through my mind.

I thought of 16 year-old W.M. who was charged with taking Halloween fangs worth \$2.97 from a Wal-Mart; he never saw a public defender in the entirety of his time in juvenile court. I thought of Marietta Connor, a senior citizen who baked pies to raise money to pay off a private probation company that was threatening her with incarceration if she couldn't pay. I thought of RaHonda MacClain, to whom this Human Rights Report is dedicated (see pg. 5), a mother whose only son Damion was murdered in prison despite her pleas to the Georgia Department of Corrections to protect him.

Certainly, the goal of the Southern Center's work is to transform the criminal justice system. Specifically, we fight the death penalty, we work daily to reduce mass incarceration and the financial incentives that fuel prison growth, and we litigate to ensure that the promise of the right to counsel is fulfilled. We carry out these efforts by advocating for our clients; we tell their stories, shine a light on injustices that have devastated their lives, and lift their voices into previously impenetrable forums like the courts, the legislature, and the media.

The core values of the Southern Center for Human Rights, which drive our involvement in our clients' lives, reflect why we do what we do:

We believe in love. We believe in fairness.

We embrace compassion over vengeance. We believe a person's life is worth more than the worst decision they ever made.

We value the dignity, equality, diversity, and freedom of all people: freedom from oppression, freedom from barriers between people, freedom to live a full and joyous life.

We believe that all people accused of crimes should have access to zealous lawyers who will leave no stone unturned



on their behalf, who will respect their wishes and goals, and who will work with them to ensure that their dignity is honored.

Throughout this year's *Human Rights Report*, you will find stories that show how these values are put to work. You will read about the civil rights lawsuit we filed in January challenging the frequent absence of public defenders in juvenile court (as in the case of W.M., mentioned above) and the assembly-line processing of adults in the superior courts in South Georgia (see cover story). Learn about the ways that SCHR is challenging applications of the death penalty, such as Alabama's use of judicial override—the practice by which a judge imposes the death penalty even though the jury in the case voted for a life sentence (see pg. 6). We are particularly excited to share the inaugural SCHR Index, modeled after the *Harper's Index*, which provides some of the texture and flavor of the environment in which we work (pg. 7).

It is the generous and long-term financial support of our donors that allows SCHR to put our values and aspirations to work every day in service of a better world. From the bottom of my heart, thank you for your contributions that make our work possible and position us to keep doing what we do for the people who mean so much to us.

With hope,

A handwritten signature in blue ink that reads "Sara".

Sara Totonchi

county might fund 90% of its public defender office, while its neighbor funds only 30% of the public defender's budget. These disparities mean that the quality of the representation provided in Georgia still depends on where the case originates. Add to these disparities the complete absence of any meaningful oversight, and it should come as no surprise that *N.P.* is the second lawsuit SCHR has filed in the Cordele Circuit to challenge inadequate representation.

The first lawsuit, *Hampton v. Forrester*, was filed in 2003. That was prior to the creation of the statewide system, when two contract attorneys represented poor people accused of crimes in four counties, in addition to maintaining their private practices. Soon after Hampton was filed, the Georgia Assembly passed the Indigent Defense Act of 2003, a piece of groundbreaking legislation that brought full-time public defender offices to the Cordele Circuit and most Georgia counties. The Act further required that each circuit public defender office establish a dedicated juvenile division that specializes in defending children accused of delinquent acts.

Until mid-2009, the Cordele Circuit Public Defender received both state and county funding for assistant public defenders, as did the vast majority of Georgia's public defender offices. Without county funding, the Circuit's chief public defender warned that his office "would not be able to handle indigent defense any better than the contract attorneys were able to do prior to the opening of the state offices in 2005 [and] would be subject to the same constitutional infirmities as were alleged in regard to the old contract system."

Notwithstanding these warnings, the Circuit's county governments stripped the public defender's office of funding for attorneys in 2009. This left the office with only three full-time public defenders to appear in the Circuit's four superior courts and four juvenile courts. By comparison, the District Attorney's office has seven attorneys. With too few lawyers handling too many cases, the Cordele Circuit Public Defender Office has been rendered incapable of providing constitutional representation to Cordele's poor, just as the chief public defender predicted.

Children often appear in juvenile court without counsel because the public defenders are attending proceedings in superior court. This results in some children being abandoned by counsel. The public defender assigned to A.P., a fifteen-year-old girl appearing in Dooly County Juvenile Court, missed two of A.P.'s three hearings. At one of those

two hearings, the juvenile court held A.P.'s trial, adjudicated her delinquent, and imposed probation and hundreds of dollars in court fees, public defender application fees, and restitution.

Other children experience substantial delays in their cases when the public defender misses court. Thirteen-year-old A.J. appeared at one hearing and met a public defender, so she thought the public defender would be her attorney at her upcoming trial. She was wrong. No public defender showed up for her trial, so her case was continued. A.J. returned to court at a later date, where a public defender happened to be present. A.J. was then adjudicated delinquent and sentenced to spend the Christmas holiday in detention.

W.M., a sixteen-year-old accused of stealing \$2.97 Halloween fangs, was given the choice of either waiving his right to counsel because the public defender was absent or coming back to court at an unspecified later date if he wanted to contact the public defender's office. Like many other children, W.M. agreed to proceed without a lawyer because of the time and cost of having to come back to court, as well as the uncertainty of whether a lawyer would show up in the future. He was sentenced to probation and to pay restitution and court costs.

Poor adults appearing as criminal defendants in superior court don't fare much better. Many meet a public defender for the first time in court, and the public defender knows nothing about them. Like the contract attorneys who preceded them, the public defenders play a nominal role during plea negotiations in superior court, spending no more than a few minutes per case. After a hurried conversation, many defendants enter guilty pleas and are sentenced.

*N.P.*, like its counterparts in New York and Washington, is less about the outright denial of lawyers and more about the impact of underfunded, understaffed, and unmonitored indigent defense systems. The eight child and adult plaintiffs in *N.P.* want an end to the Cordele Circuit's "assembly-line" system of representation. They want sufficient funds and meaningful oversight to ensure poor children and adults facing prosecution in the Cordele Circuit have engaged attorneys who will advocate for their best interests. They want equal justice.

*Atteyah Hollie is a Staff Attorney in SCHR's Impact Litigation Unit.*

# SCHR Presents History of Violence, Abuse Omitted from Death Penalty Trial



From left, Nicholas Acklin, Attorney Patrick Mulvaney, and Attorney William R. Montross, Jr.

When Judge Jim Smith of the Circuit Court of Madison County, Alabama, sentenced Nicholas Acklin to death for capital murder in 1998, he wrote the following: “Most killers are typically the products of poverty, a dysfunctional family, physical or sexual abuse and/or social deprivation. Acklin was the product of a loving middle-class family. Acklin was exposed to all of the values that are central to an ordered society; however, he chose to reject them.”

Judge Smith’s view of Acklin’s childhood resulted directly from the evidence presented at trial. Defense counsel, who were retained and being paid largely by Acklin’s father, presented a limited mitigation case that focused on the “good character” of Acklin’s family, including his father’s role as a local pastor. Counsel never suggested that Acklin had suffered an abusive and traumatic childhood.

At a postconviction hearing in December 2013, SCHR, which began representing Acklin following his initial appeal in 2002, presented the mitigating evidence that was available but not presented at trial. That evidence revealed that Acklin’s childhood home was defined by gun violence and beatings—a stark contrast to the picture presented at trial.

Steve Acklin, Nick’s brother, described how their father abused them. “It went on from whippings to

being choked,” Steve said. And then it was guns. “He would come into the room . . . and have the gun in hand and tell us he will kill all of us and kill himself.”

As Steve explained, their father kept a gun in his bedroom closet. “Growing up, we always heard the closet open in that room, and once that closet opened in that room, we could hear it,” Steve said. “We knew that it was going to be a gun being pulled.”

Government records corroborated Steve’s account. The Alabama Department of Human Resources investigated the gun violence when the Acklin boys were teenagers; DHR’s report states that the Acklins’ father admitted to using a gun to discipline them. A separate record, this one from the juvenile court file of Nick’s brother Fred, states that the Acklins’ father disciplined his sons with “the whip.”

Even before those incidents, the Acklin home was filled with violence. Velma Evans, Nick’s mother, testified at the December hearing that when Nick and his brothers were young, the boys’ father—her husband—frequently beat her and pointed guns at her.

“He would have a gun in his hand, and he would be shaking it, and he would just shove it down my mouth,” Velma said. Nick and his brothers were there, but there was little they could do. “They would be screaming,” Velma said, “telling their dad not to hurt their mom.”

continued on page 5

# In Memorium

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**SUSAN TEN KWAN**

Susan Ten Kwan, a first-rate post-conviction lawyer and an extraordinarily dedicated and generous longtime member of SCHR's Board of Directors, died on January 3, 2014, following a long illness. She was 57. Susan represented California capital clients with great skill and dedication at the Office of the State Public Defender (OSPD) until her retirement last year. She was part of a team that expanded the focus of OSPD, primarily an appellate agency, to include high-quality habeas litigation. Earlier in her career, she practiced at the California Appellate Project and the Contra Costa County Public Defender's office. In December, 2014, SCHR presented Susan with our *Inspiration Award*, which was inscribed: *For her zealous advocacy of people facing the death penalty, her many contributions to the efforts to end the death penalty in California, her years of service on the board of the Southern Center for Human Rights, her exceptional work over many years in building SCHR's capacity to carry on its work, and her selfless dedication to the weak, vulnerable, and oppressed and to building a better, more compassionate, and caring world.* SCHR has been honored to know Susan and her family, and we continue to send them our love.

Early this year, SCHR lost its client RaHonda MacClain, whom we represented in a civil rights case against the Georgia Department of Corrections official over the murder of her son, Damion MacClain, 27, at Hays State Prison in December 2012. She was 50. Ms. MacClain's brother will take over RaHonda's role as plaintiff and carry on the fight for justice on behalf of his sister and nephew. We will not forget what RaHonda was fighting for: "I want those responsible for the death of my only son, Damion, to be held accountable. No parent should have to bury her child under circumstances like this." We will remember RaHonda for her courage, her beautiful smile, and her good advice to us as she always reminded us, "Enjoy your blessings." RaHonda MacClain was a blessing to us and we are privileged to have worked on her behalf.



**RAHONDA MACCLAIN**

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## *Death Penalty Trial* continued from page 4

Velma recalled several specific incidents. One time, she and her husband were wrestling with a gun in front of the boys and she went flying out a second-floor window. She was taken away on a stretcher. Another time, the beating got so bad that she ran into the woods and hid in the leaves. She eventually got up and walked a half mile to a friend's house in her nightgown.

As with Steve's testimony, independent records corroborated Velma's account. For example, hospital records describe the concussion Velma suffered when falling from a second-floor window.

The U.S. Supreme Court has held repeatedly that evidence of childhood abuse and trauma can serve as critical mitigation in a capital case. The trial judge in Acklin's case

recognized that. However, he had a misinformed view of Acklin's childhood.

In the postconviction case, SCHR has argued that Acklin's trial counsel were ineffective for failing to present the available mitigating evidence, and also that counsel had an impermissible conflict of interest because they were being paid by Acklin's father, who did not want the abuse revealed. The court is expected to address several issues in its post-hearing ruling, including whether Acklin is entitled to a new sentencing trial.

*SCHR's team for Acklin's case includes attorneys William Montross, Patrick Mulvaney, and Katie Chamblee; and investigators Sarah Forte and Jeric Murphy.*

# Juries for Life, Judges for Death:

## SCHR CHALLENGES JUDICIAL OVERRIDE

SCHR has continued to challenge judicial override—the practice by which a judge imposes the death penalty even though the jury in the case voted for a life sentence. In July 2013, SCHR filed a petition addressing the issue in the U.S. Supreme Court on behalf of Mario Woodward, whose jury voted 8-4 for life before an Alabama judge imposed death. The petition was denied, but Justice Sotomayor, joined in part by Justice Breyer, wrote a strong dissent stating that the override issue is ripe for review.

The Supreme Court last considered judicial override in 1995 in *Harris v. Alabama*, upholding it by an 8-1 vote. But as SCHR argued in *Woodward*, override has been in sharp decline ever since. Only three states still permit the practice, and death sentences by override are now confined largely to Alabama.

Nationally, there were 125 life-to-death overrides in the 1980s and 74 in the 1990s. There have been just 28 since 2000; 27 of those were in Alabama, and the one outside Alabama was reversed on appeal.

Within Alabama, nearly half of all life-to-death overrides occur in three counties—Jefferson (Birmingham), Mobile, and Montgomery—all of which have large black populations.

Although Alabama law permits judicial override in both directions, more than ninety percent of the state’s overrides involve a jury vote for life and a judge-imposed death sentence; less than ten percent involve the reverse.

In recent years, the Supreme Court has enforced the Eighth Amendment’s ban on cruel and unusual punishment when confronted with sentencing practices that are rare and geographically isolated. For example, the Court prohibited death sentences for people with intellectual disabilities and juvenile offenders in the early 2000s despite having approved of such sentences in the 1980s. The key difference in the 2000s was that the sentences at issue had become uncommon and limited to a few isolated jurisdictions.

Judicial override is now on similar ground. As Sotomayor wrote in her dissent in *Woodward*: “[A] dramatic shift has taken place over the past decade: Judges now override jury verdicts of life in just a single State, and they do so roughly twice a year.”

In light of the movement away from override nationally, Sotomayor questioned how the practice had survived in

Alabama. “What could explain Alabama judges’ distinctive proclivity for imposing death sentences in cases where a jury has already rejected that penalty?” she wrote. “There is no evidence that criminal activity is more heinous in Alabama than in other States, or that Alabama juries are particularly lenient in weighing aggravating and mitigating circumstances. The only answer that is supported by empirical evidence is [that] Alabama judges, who are elected in partisan proceedings, appear to have succumbed to electoral pressures.”

Sotomayor also observed that Alabama’s override scheme has led to some strange results. In one case, the defendant had an IQ of 65, and the jury voted for life. The judge overrode the jury, stating that “[t]he sociological literature suggests Gypsies intentionally test low on standard IQ tests.”

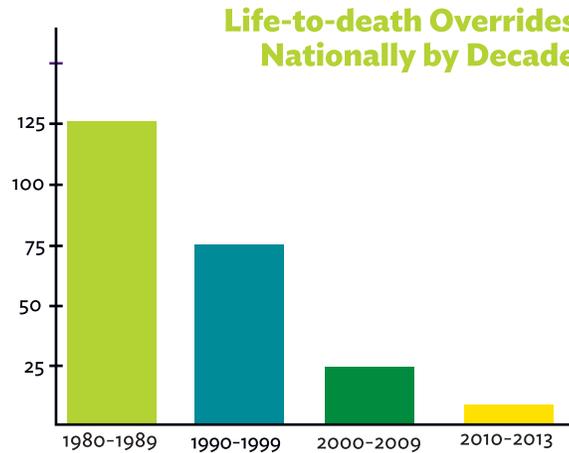
After addressing the Eighth Amendment issue, Sotomayor wrote that override in Alabama also may violate the Sixth Amendment.

The Supreme Court has held that a capital defendant has a Sixth Amendment right to a jury finding for any fact necessary for the imposition of a death sentence. Under Alabama law, a finding that the aggravating circumstances outweigh the mitigating circumstances is required for a death sentence; yet in override cases, the judge makes that finding even though the jury declined to do so. Sotomayor wrote, “a sentencing scheme that permits such a result is constitutionally suspect.”

Although the full Court declined to consider *Woodward*, Sotomayor’s dissent could pave the way for future review of the override issue.

In addition, the dissent sparked a wave of much-needed scrutiny of override. The *New York Times* and the *Washington Post* reported on override following the dissent. Also, various commentators and editorial boards called for an end to the practice, including the editorial board of Alabama’s *Decatur Daily*, which wrote, “A defendant’s life or death . . . should not be decided by politics.”

*SCHR began representing Mario Woodward in 2008. The petition in the U.S. Supreme Court was filed by Stephen Bright, SCHR’s president and senior counsel, and Patrick Mulvaney, SCHR’s managing attorney for capital litigation.*



# Violence in Georgia Prisons: SCHR and Families Call for Accountability and Reform

BY SARAH GERAGHTY

The last several years have seen a significant escalation in the number of homicides, stabbings, and assaults in the Georgia prison system. With alarming frequency, SCHR receives requests for help from people in Georgia's prisons who fear assault and even death. One young man, Damion MacClain, told his family that he did not think he would make it out of prison alive. He was later murdered by others incarcerated at Hays State Prison.

From 2010 to 2014, 32 Georgia prisoners and one officer were killed at the hands of other prisoners. In 2012 alone, Georgia had more homicides in its state prisons than many states' prisons—including Pennsylvania, Kentucky, and Mississippi —had in the last ten years combined, from 2001-2011, according to the U.S. Bureau of Justice Statistics.

Certain prisons have seen particularly high rates of trauma and assault. Twenty-one percent of all the homicides in the Georgia prison system since 2010 have occurred at just one facility – Smith State Prison. Seven men have died at this prison since 2010.

Three people at Hays State Prison were murdered in five weeks from December 2012-January 2013, following months of stabbings and beatings at the prison. Many of the cell doors at this maximum security prison have not worked for years. Prison audits from 2008 to 2012 reported that the

facility's cell door locks could be easily opened, leaving prisoners to roam in and out of their cells at will. A September 2011 audit found that the "locks in the inmate housing area could be easily defeated." The locks were not repaired. A September 2012 audit found that of 442 locks checked, 184—41% of the locks tested—were able to be "defeated." The locks were still not repaired. Three men died before the Georgia Department of Corrections took steps to fix the broken cell door locks. Damion MacClain was among those killed.

**Three men died before the Georgia Department of Corrections took steps to fix the broken cell door locks.**

In response to the GDC's failure to address dangerous conditions, SCHR worked with Georgia State Senator Vincent Fort to convene a legislative hearing at the Georgia Capitol on the crisis of violence in Georgia prisons. With Senator Fort chairing the meeting, Senator Nan Orrock participating, and over 70 people present, mothers, fathers, uncles, and siblings of men who were killed in Georgia prisons testified about the deaths of their loved ones. Representatives from five families spoke at the legislative hearing and made their plea for the GDC to make prisons safer and more secure for both people in prison and prison staff.

*Sarah Geraghty is a senior attorney in SCHR's Impact Litigation Unit.*



Yolanda Jackson (center) testified at the hearing about her 19-year-old son, Pippa Hall-Jackson, who was stabbed to death at Georgia Diagnostic and Classification Prison in February 2013. Mr. Hall-Jackson was the fourth Georgia prisoner to be killed in a seven-week period from December 2012 to February 2013.



Senator Vincent Fort (left) reads from the funeral program of Detravvia Bryant, who was found dead in a prison cell at Ware State Prison on April 29, 2013.

# The Strugggle is Real:

## INDIVIDUAL ADVOCACY AT SCHR

Each day, dedicated SCHR staff members answer phone calls and letters that tell the stories of men and women who are suffering from unmet medical needs, filthy conditions, overcrowding or violence, while incarcerated at jails and prisons. Family members call seeking assistance for their loved ones who have not heard from their attorneys and do not know the status of their criminal cases. Maya Chaudhuri, a Jesuit Volunteer Corps member and SCHR's Criminal Justice Reform Intake Specialist, takes the time to listen to the callers and to respond to each letter because she knows that SCHR cannot represent every person who writes a letter, but a little bit of intervention can make a huge difference in an individual's life.

SCHR student interns also respond to inquiries. Gabriella Rich, a MSW student intern from Georgia State University, received a letter from an individual in a Georgia prison. The Department of Corrections had denied his repeated requests for assignment to work release because Alabama had a detainer on him for open charges. The detainer also meant he was ineligible for parole and would have to serve his full sentence until 2021. Gabriella met with him and learned every location that he had ever been to in Alabama. She then called every law enforcement agency and learned that none had a detainer on the client. Gabriella provided her findings to attorneys who presented this information to



the deputy warden. The client received a work release assignment soon after, and from there, he can seek parole. The client sent a letter to SCHR stating, "When people know you have someone on your side, it changes the situation."

Ryan Primerano, an SCHR staff attorney, zealously advocates for individuals before various state agencies and courts in Georgia and Alabama, including the Alabama Board of Pardons and Paroles where he has successfully sought parole for SCHR clients. He secured parole for a man serving twenty years for attempted possession of prescription medications, his fifth drug-related offense, by highlighting the client's determination to achieve and maintain sobriety and his success as a member of a community-based work detail. In Fulton County Superior Court, Ryan researched and prepared a motion for reconsideration to a judge who had ordered, in error, that a man on the sex offender registry leave his home because it was within 1,000 feet of a pool and a park. The client was clearly permitted to stay in his home because he has owned it for nearly twenty years. The judge issued an order acknowledging his mistake and vacating his judgment, thereby allowing our client to return to his home.

Through this program, SCHR provides much needed assistance and referral information to those who would otherwise have nowhere to turn.

Mark Your Calendar and plan to join SCHR

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**The Southern Center for Human Rights** is one of the nation's most respected and effective legal advocates for the poor, the marginalized, and those facing the death penalty in the South. We have received the top four-star rating by Charity Navigator for our transparency, accountability, and efficiency, ensuring that every dollar contributed is used in way that achieves maximum results. While exposing the injustices and inhumane practices found in the criminal justice systems in the South, SCHR has also been at the forefront in advocating for criminal justice reforms.

## How you can

**Today**, an estimated 1,000 donors including foundations, individuals, and businesses provide the funds needed for operations, litigation, and campaigns. However, the need for our work and demand for our services far exceeds our capacity and resources. There are many opportunities to invest in and support the Southern Center for Human Rights.

## support our work



SCHR Senior Attorney Sarah Geraghty makes an oral argument to the Georgia Supreme Court in *Miller v. Deal*, a civil rights lawsuit that challenges the State's practice of jailing indigent parents, without counsel, in perfunctory civil child support hearings. SCHR now represents a class of thousands of men and women who occupy thousands of jail beds for no other reason than that they are too poor to pay their child support debt.

**BECOME A MONTHLY OR QUARTERLY SUSTAINER** By making monthly or quarterly contributions, which you can set up online or by calling us, you will provide a stable and steady source of income for SCHR. This is a simple and important way to really make a difference – and perhaps make an even larger gift. Each month your contribution is automatically transferred to SCHR.

**MAKE A GIFT OF STOCK OR OTHER SECURITIES** With the market at record highs, this is a great time to give appreciated securities to SCHR. You may be eligible for double tax savings if you have held the stock, securities, or mutual fund more than one year. As with all such gifts, check with your adviser then contact SCHR for transfer information.

**GET YOUR COMPANY TO MATCH YOUR GIFT!** Many companies encourage their employees (and family members) to support organizations by offering to double or triple their gifts. Check with your Human Resources Department to get the necessary forms and information to have your gift matched. Among those which have matched gifts to SCHR are Boeing, General Electric, Bank of America, Pew Charitable Trust, Fidelity Investments, JPMorganChase, and Google.

**MAKE SCHR A CHARITABLE BENEFICIARY AND SUSTAIN SCHR** An extremely valuable and easy way to support the future of the Southern Center for Human Rights is by naming SCHR a charitable beneficiary of your will, life insurance policy, or retirement plan. With this simple act, you are showing your commitment to the work of SCHR. If you have included SCHR in your plans or want to know how to do so, please contact us, so we can thank you and make sure you have the correct legal information.

**DO YOU SHOP ON AMAZON? EVERY PURCHASE CAN BENEFIT SCHR** Register with AMAZONSMILE and for every purchase you make AMAZON will donate 0.5% of the price to the Southern Center for Human Rights. Visit <http://smile.amazon.com/ch/62-1025326>.

**TRIBUTE & MEMORIAL CONTRIBUTIONS** Making a donation to SCHR in someone's memory or to commemorate a special occasion is a wonderful way to pay tribute. A card will be sent to the person you designate and an acknowledgement letter will be sent to you.

**START YOUR OWN FUNDRAISING CAMPAIGN** There are many ways you can hold a fundraising campaign to support SCHR through Facebook, GiveForward.com, Indiegogo.com and others. Perhaps you are planning to run a marathon, bike cross country, or participate in any other event. Consider doing it for SCHR!

**SERVE AS AN SCHR AMBASSADOR and HELP US DO MORE** Follow SCHR on Facebook and Twitter, and repost what you learn. Tell your friends and colleagues about SCHR. Share your thoughts about SCHR on [www.GreatNonprofits.org](http://www.GreatNonprofits.org). Attend SCHR events, and better yet, hold your own fundraiser!

The Southern Center for Human Rights is a 501(c)(3) charitable organization, tax ID: 62-102532. Contributions are tax deductible to the extent provided by law. Visit [www.schr.org/action/donate](http://www.schr.org/action/donate) to contribute securely online. For information on how to make these gifts, attend our events and more, contact SCHR at (404) 688-1202.

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Photo by Michael A. Schwarz

At the *National Symposium on the Modern Death Penalty in America*, former President Jimmy Carter, center, called for the United States to abolish the death penalty while speaking on panel with ABA president James Silkenat, left, SCHR President Stephen Bright, and Virginia Sloan, President of the Constitution Project and SCHR Board member.

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**Katie Chamblee**



**Maya Chaudhuri**



**Crystal Redd**



**Ben Smith**

**Katie Chamblee** joined SCHR in 2013 as an *Arthur Liman Public Interest Fellow*. She focuses on death penalty cases in Georgia and Alabama.

Katie graduated from Yale Law School in 2012, where she received the Chubb Prize for Excellence in Legal Draftsmanship. She received a B.A. in History and English with highest honors from Swarthmore College and, in 2006, received the Harry S. Truman Scholarship for leadership and commitment to public service. Prior to joining the Southern Center, Katie served as a law clerk for Hon. Myron H. Thompson in the Middle District of Alabama. She is a member of the New York bar.

**Maya Chaudhuri** is SCHR's 2013-2014 Jesuit Volunteer. She graduated in 2013 from the Walsh School of Foreign Service at Georgetown University with a B.S. in Culture and Politics. At SCHR, she serves as the Criminal Justice Reform Intake Specialist and works with both the impact litigation and capital units. She joins SCHR as a full-time investigator in August 2014.

**Crystal Redd** returned to SCHR in 2013 as the *Noah Parden & Styles Hutchins Fellow* upon graduation from Harvard Law School. Prior to law school, Crystal worked as an SCHR investigator on capital cases for four years. She then served as an educator in the Atlanta Public Schools for seven years. She earned an A.B. in History from Harvard University and an M.Ed. in Educational Leadership from Georgia State University.

While a law student, Crystal served as a student attorney with the Criminal Justice Institute criminal defense clinic. She was awarded the Harvard Presidential Public Service Fellowship in 2012, the Justice John Paul Stevens Public Interest Fellowship in 2012, and the James Vorenberg Equal Justice Fellowship in 2011.

**Ben Smith** joined SCHR as an investigator for the Impact Litigation Unit in April 2014. Prior to joining the SCHR, he worked as a freelance journalist contributing articles to *The Toronto Star*, CNN, AOL.com, and the Daily Report, among other news outlets. Ben spent most of his career as a staff reporter for the Atlanta Journal-Constitution, where he primarily covered state and local government, multiple sessions of the Georgia Legislature, numerous political campaigns, as well as courts. Ben graduated from the University of the South, Sewanee, and is from the Shenandoah Valley of Virginia. He lives with his wife and two daughters in Decatur.

# SCHR's Work Attracts Support from From Coast to Coast

## New York



(L-R) Dr. Kitty Steel, Steve Bright, Janet Bell, Lewis Steel.

A New York Reception for the Southern Center for Human Rights was held at Janet Bell's lovely home on February 13, 2014. The event was hosted by Charles J. Ogletree, Janet Dewart Bell, Tanya Coke and George Kendall, Harriette Mandeville, Rev. Stephen H. Phelps, Miles Rapoport, Dorothy Ehrlich and Gary Sowards, Dr. Kitty M. Steel and Lewis M. Steel, and Gloria Steinem.



(L-R) Joyce Johnson and Harriette Mandeville.

## Atlanta



Natasha Perdue Silas accepts the 2014 Gideon's Promise Award at the Carter Center.

Justice Taking Root, SCHR's annual Atlanta reception, was held May 13, 2014, at the Carter Center. At the reception, SCHR recognized E. Wycliffe Orr, Sr. with the *Lifetime Achievement Award* for a lifetime of service in the public interest, his leadership in building and fortifying Georgia's public defender system, and his courage in speaking up on behalf of those who cannot. In honor of twenty years of service as a federal public defender, her dedication to upholding the promise of *Gideon v. Wainright*, and her tireless commitment to the community as a mentor, SCHR honored Natasha Perdue Silas with the *Gideon's Promise Award*.



Steve Bright presents Wyc Orr with the 2014 Lifetime Achievement Award.

## San Francisco



(L-R) Sara Totonchi, Susan Kwan, Steve Bright.

A benefit reception for the Southern Center for Human Rights hosted by Susan Ten Kwan was held on December 14, 2013, at the ACLU of Northern California. At this event, SCHR presented Susan Kwan with our *Inspiration Award* (see pg. 5 for details).

# Washington, DC



Steve Bright and SCHR client Shanna Shackelford told her horror story of being accused of a crime she didn't commit and being unable to afford an attorney.

On October 24, 2013, SCHR hosted its 17th annual Frederick Douglass Awards Dinner in Washington, DC. At the dinner, the *Frederick Douglass Human Rights Award* was presented to Charles J. Ogletree, Jr., in recognition of his lifelong commitment to equal justice and for providing three decades of inspiration and leadership as Chairman of the SCHR Board of Directors. The *Frederick Douglass Equal Justice Award* was presented to David W. DeBruin in honor of his heroic leadership and unshakable commitment to pro bono capital defense work on behalf of many who have faced and are facing the death penalty.



Valerie B. Jarrett, Senior Advisor to President Barack Obama, offered her congratulations to SCHR and to the awardees, and paid homage to her longtime friend, Charles Ogletree.



(L-R) Michele Roberts and Dennis Sweet, III presented Charles Ogletree with SCHR's *Lifetime Achievement Award*.

United States Solicitor General Donald Verrilli Jr. presented David DeBruin with his Award. In his remarks, General Verrilli discussed a case DeBruin took on for SCHR, "A lawyer doesn't win any popularity contests by taking on a case like this. But it is exactly the kind of case in which it is most important that the proceedings be fair, and exactly the kind of case in which the risk that passion and prejudice will trample fairness runs most high. So it is exactly the kind of case that most needs a lawyer like Dave. And Dave answered the call."



# SCHR Puts a Wrench in Grady County Money-Making Scheme

BY RYAN PRIMERANO

On September 24, 2013, the Southern Center for Human Rights filed suit against Grady County, Georgia, demanding the return of illegal “administrative costs” charged to criminal defendants convicted in the Grady County State Court. SCHR represents Roberta Jones, a woman who works nights at a poultry plant, and who was required to pay \$700 in illegal costs to this Court in connection with her misdemeanor offense.

In Georgia, “state courts” are courts of limited jurisdiction that handle, among other things, the trial of criminal cases below the grade of felony, including traffic offenses. Georgia’s 70 state courts reportedly generated over \$123 million in revenue during fiscal year 2012, \$23 million more than all of the state’s superior courts and double that generated by probate courts or magistrate courts.<sup>1</sup> The Georgia Council of State Court Judges has called the state courts collectively “the little giant of the state trial court system,” in part because “State Courts represent only 10% of the State Trial Courts and Judges, but bring in 35% of Total Revenues!” A large part of those revenues come from the fines, costs, and surcharges imposed on criminal defendants processed through the courts, who are frequently placed under the supervision of private probation companies (paying the companies for the privilege) until the fines and other costs attached to their sentences are paid.

Fines and surcharges in Georgia are ordinarily regulated by statute. But after taking his seat on the Grady County State Court in 2002, Judge William Bass invented a fine with no authorization, statutory or otherwise. Judge Bass dubbed the fine an “administrative cost” and added it to defendants’ sentences on top of the state-authorized fines that he imposed. The “administrative costs” ranged from \$300 to \$700 per case, and amounted to approximately \$296,711 in added costs between June 2011 and July 2012 alone, imposed on approximately 540 defendants, many of them indigent. Once the “costs” were added to defendants’ sentences, the defendants had the same obligation to repay the illegal “administrative costs” as they had to pay legitimate fines and endured the same risk of having their probation revoked if they failed to pay.

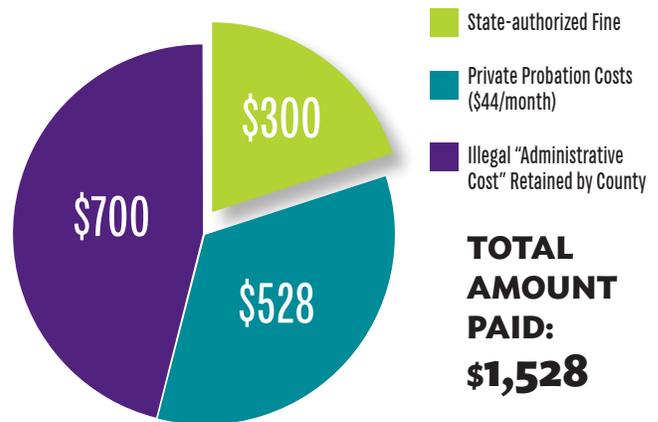
The costs were illegitimate not only because they had no lawful basis, but also because the judge attempted to

leverage the additional funds for the county into a raise for himself, violating the principle of judicial impartiality. In a 2012 letter that began, “I need my salary raised to \$60,000 per year,” Judge Bass boasted about the “extra time and energy” that he purported to spend to “contribut[e] more than \$350,00 per year to the county” and warned that “the next judge” might not be “willing” to “do that.” Later that year, the Georgia Judicial Qualifications Commission initiated proceedings against Judge Bass concerning a host of ethics violations, including “g[iving] the appearance that [a] salary increase was warranted by the amount of funds [that he] caused to be improperly collected by the State Court.”

The ethics proceedings resulted in a public reprimand, 60-day suspension, probation, and an agreement not to seek re-election. Judge Bass was, however, allowed to remain on the bench for the remainder of his present term, which expires on December 31, 2014.

The civil suit, *Roberta Jones v. Grady County*, is seeking the return of ill-gotten funds to all who paid them. There is a fully briefed motion to dismiss pending before the federal court.

**Fines and Costs Paid by SCHR Client Roberta Jones**



Ryan Primerano is an SCHR staff attorney.

<sup>1</sup> Ga. Council of State Court Judges, 2013 *Hot Sheet 1*, available at <http://www.statecourt.georgiacourts.gov/files/Final%20Hot%20Sheet%202013.doc> (last visited Sept. 8, 2013).

# The SCHR Index

Number of times throughout 2013 and 2014 people incarcerated in the Fulton County Jail in Atlanta had to sleep on the floor instead of in a bed: **46,515**

How Georgia State Representative Chuck Sims described House Bill 837, which expands the reach of private probation during the House floor debate: **“It’s about money, folks. It’s about M-O-N-E-Y. Dollar sign. Dollar sign.”**

Amount the private probation industry collects in fees every year from people on misdemeanor probation in Georgia: **\$40 million**

Average length of probation sentence in Georgia: **13 years**

Total number of bills introduced during the 2013-2014 legislative session: **1,591**

Number of those bills that strengthen indigent defense: **2**

Ratio of Georgia’s funding for prisons and jails to funding for lawyers for the poor: **25 to 1**

Percentage of Georgians accused of crimes who cannot afford an attorney: **80**

The number of years of criminal defense experience the last two directors of Georgia’s statewide public defender agency have had: **0**

Number of hours that pro bono law firms donated to SCHR’s clients in 2013: **9,700.65**

Monetary value of those hours: **\$3,877,867.94**

Miles put on SCHR office cars observing superior and juvenile courts in the Cordele Circuit of Georgia in 2013: **12,872**  
(See “The Next Frontier of Indigent Defense Reform” on pg. 1)

Total number of youth referred to the Ben Hill County Juvenile Court in 2011: **328**

Of that total, the number who were African American: **228**

Number of prisoners who died by homicide in Georgia between 2010 and 2014: **32**

Number of prisoners who died by homicide in New York (similarly sized to Georgia) between 2001 and 2011: **16**

Number of prisoners who died by homicide in Pennsylvania (similarly sized to Georgia) between 2001 and 2011: **8**

(See “Crisis in Georgia Prisons” on pg. 8)

The daily average number of hours the Georgia General Assembly spent on “points of personal privilege”, invocations, salutes to the doctor of the day, and recognition of local beauty queens: **2.5**

Number of minutes it took to discuss making information regarding Georgia’s death penalty a state secret: **< 5**

Number of death sentences imposed since 2000 where the jury voted for life in Alabama: **28**

In the other forty-nine states combined: **1** (See “Juries for Life, Judges for Death: SCHR Challenges Judicial Override” on pg.2)

Places you can now bring a gun in Georgia: **schools, places of worship, bars, and the airport**

Total number of frozen burritos a person must purchase to be “reasonably suspected” of needing to be drug tested before receiving food stamps, according to Georgia State Representative Greg Morris: **3**



## Donor Spotlight



Retired SCHR Investigator Mary Sinclair (left) with dear friend Llewellyn Bell, a dedicated SCHR Donor since 1997, at the Carter Presidential Center in Atlanta.

## Llewellyn Bell – Atlanta, GA

### **How did you first become interested in supporting the work of the Southern Center for Human Rights?**

Mary Sinclair and I have been friends for a long time. I have always known that if she's working for something, then it is something that needs to be done. Mary worked with and for SCHR for over twenty years at a death penalty investigator and her dedication says a lot to me about the importance of the mission of SCHR.

### **What part(s) of SCHR's work is most compelling to you?**

All of it is so important! In particular, I appreciate SCHR's work to rescue people who have been trapped in our very unfair system of "justice," their advocacy to change bad laws, and their education of young people about the legal system that is so flawed. Steve Bright is such a gifted teacher and has done a great job of bringing in talented young lawyers that keep the work going strong.

### **Why have you chosen to support SCHR so consistently?**

Because SCHR's work isn't finished yet, and I want to help the organization keep going for as long as I can. If you can't be a leader, you have to find the right folks to follow! I know that it takes a lot of people working together to make meaningful change that lasts.

### **Would you encourage others to support SCHR? If so, what would you tell them?**

Yes, I would, and I do, whenever the occasion permits. I think the old familiar advice is true, "If it ain't broke, don't fix it." Well, I also think another part needs to be added: If something IS broken, then you must do what you can to fix it. That's what SCHR does every day!