that was the act taken by Don Fowler, who was then chair of the Democratic National Committee, in 1996, when he sent this letter to all members of the Democratic Central Committee, and said that if you seat anybody that supports Lyndon LaRouche, you can't be seated as a delegate.

Senator Neal: Let me ask another question if I may, Mr. Chairman. If it has been decided that the Democratic Party is a private party on the national level, does it then necessarily follow that the state parties become branches of that particular party?
Senator Mitchell: That's in essence what that decision said, yes.

Senator Neal: So! Well, I just wanted to get that clear.
Senator Mitchell: We're in trouble this year, in November.

State Rep. Erik Fleming: Are there any other questions for the gentlemen? . . . We thank you all for coming. We appreciate all that you do. And we're going to allow you to be excused at this point, and we're going to go on. . . .

Preventing Convictions of Innocent People

by Bryan A. Stevenson

Mr. Stevenson is the executive director of the Equal Justice Initiative of Alabama, and assistant professor at the New York University School of Law. His testimony was previously presented to the U.S. Senate Judiciary Committee on June 13, under the title "Post-Conviction DNA Testing and Preventing Wrongful Convictions of the Innocent." We publish excerpts here. Footnotes have been omitted.

I greatly appreciate the opportunity to address the important legislation pending before this Committee. The "Innocence Protection Act" or Senate Bill 2073, is an enormously important step forward in the effort to improve the administration of criminal justice in the United States. The advent of DNA testing technology has dramatically advanced forensic science as applied to law enforcement and criminal investigations. However, notwithstanding our ability to now identify some innocent people who have been wrongly convicted of a crime, there are several procedural and technical obstacles that prevent many imprisoned people from proving their innocence through DNA evidence. By creating an appropriate and efficient mechanism for post-conviction testing and by affording indigent people with the essential assistance of counsel, S. 2073 provides much-needed reform in a critical area where the demands of justice are most compelling.

DNA Testing

It is now clear that DNA testing is a highly accurate method of identification. It is significantly more accurate than blood, hair or semen tests, which were the primary methods of scientific identification used before DNA testing became widespread. As a result of improved DNA testing techniques and more reliable testing protocols, forensic scientists and lab investigators can now make definitive determinations about the identity of someone's blood, hair, semen, and other genetic evidence. This technological advance has revolutionized pre-trial and trial proceedings in criminal prosecutions in the last five years. Forensic scientists can offer dramatically greater assurances in some cases that the accused is guilty of the crime for which he or she has been charged. Similarly, in the last several years, DNA testing has prevented hundreds of wrongful prosecutions against people suspected of committing a violent crime who were in fact innocent. Law enforcement agencies across the country now routinely send DNA samples to the Federal Bureau of Investigation for testing in any case involving the arrest of someone for rape or rape-murder. As has been previously reported, of the first 18,000 results analyzed by the FBI labs, DNA testing excluded the suspect in 26% of the cases. This evidence of error regarding those whom the police wrongly suspected of committing a serious violent crime compels more effective use of DNA testing in the post-conviction context and makes the elimination of testing barriers absolutely crucial.

As an attorney who has primarily represented capital defendants and death row prisoners for 15 years, I am very impressed with the revealing influence of DNA testing in some capital cases. In new capital cases, it is rare that an aggravated rape-murder or sexual assault case is prosecuted without some effort to introduce DNA test result evidence. There have also been dozens of cases where people suspected of capital crimes have been cleared pre-trial as a result of DNA tests.

Post-Conviction DNA Testing

In the post-conviction context, DNA testing has proved somewhat more complicated. Because DNA testing was not readily utilized in many jurisdictions until after 1994-1995, there are many people who have been wrongly convicted of crimes in the 1970s and 1980s who are still in prison. Some of these wrongly convicted prisoners could be exonerated by DNA testing if a procedural mechanism were available to assist both in facilitating a test and in providing the necessary relief if the test result revealed that the imprisoned applicant was not guilty. While dozens of imprisoned people have already won their release after DNA testing established

their innocence, many others have been blocked from DNA testing because post-conviction remedies are no longer available to them.

Many states have statutes of limitation which bar new evidence claims in post-conviction proceedings. Many innocent people have been unable to obtain adequate legal representation to secure a test and have an attorney advocate on their behalf. Consequently, many innocent men and women remain imprisoned or under a sentence of death. Each month the effort to provide relief to these wrongly convicted prisoners is undermined by the destruction of biological material necessary to conduct DNA testing. The failure of some law enforcement agencies to preserve scientific evidence has eliminated any hope for some wrongly convicted prisoners to prove their innocence.

The Innocence Protection Act provides for important new procedures and requirements that would address many of the problems currently preventing the identification of wrongly convicted prisoners through post-conviction DNA testing. . . .

The Innocence Protection Act will do much to restore confidence in many criminal cases where biological evidence can resolve lingering questions about guilt or innocence. Our nation's status as the world's leading democracy and our activism on human rights in the international context requires us to take all steps possible to protect against wrongful convictions and execution of the innocent. Improved procedures for post-conviction DNA testing will tremendously aid the goal of a more reliable and fairer administration of criminal justice. However, it is worth keeping in mind that DNA testing will touch a relatively small subset of cases where innocent people have been wrongly convicted. Improved access to DNA testing for prisoners will be useful only in those cases where 1) biological evidence can determinatively establish guilt or innocence, most notably rape, rape-murder, and sexual assault cases, 2) the accused is still in prison or on death row and, most likely, had his case tried before 1994, and 3) the biological evidence has been preserved and is still available for testing. This is a relatively fixed and finite universe of cases. . . .

In my state of Alabama, it is estimated that only 23 of the 187 people who are currently on death row have been convicted of murders aggravated by rape or sexual assault where biological evidence may be determinative of guilt. In 10 of the 23 cases where death was imposed, the trials took place after 1994 when DNA evidence was presumably available and utilized. While DNA evidence may sometimes prove useful in cases where the condemned has not been convicted or charged with an accompanying rape or sexual assault, a reasonable presumption exists that post-conviction DNA testing will be meaningful in only about 6% of death penalty cases in Alabama. The availability of physical evidence and the credibility of an innocence claim based on other evidence will further reduce the viability and likelihood of post-conviction DNA testing in these cases. . . .

In Alabama, the death row population has doubled in the last ten years. There are dozens of death row prisoners who are without legal representation and who cannot present compelling claims that their convictions and death sentences are legally and factually invalid. While state law permits an Alabama circuit court judge to appoint a lawyer for post-conviction proceedings, the law does not authorize any appointment of counsel until after a petition has been filed. Petitions cannot typically be filed until the case has been investigated and a lawyer has expended hundreds of hours of work. Even with appointment, state law in Alabama limits compensation for appointed counsel to $1,000 per case. This rate is so extraordinarily low that no lawyer can reasonably take on one of these difficult cases unless he or she is willing to represent the client for what amounts to *pro bono* service. . . .

Mobilize to Stop the Death Penalty

by John Gilliam-Price

Mr. Price is from Baltimore, Maryland.

I am John Gilliam Price, national speaker for the Campaign to End the Death Penalty. I am an abolitionist, an advocate, and an educator. I've distributed copies of *The New Abolitionist* to each of you on the panel; I'd like to ask that at your leisure, you review them. Inside *The New Abolitionist,* I have five reasons to oppose the death penalty.

I was asked to speak specifically on the racial disparities of the death penalty, but as a national spokesperson, in seeking abolition or a moratorium on the death penalty, I cannot separate the racial disparity issue from the other four issues, which are that the death penalty is racist; the death penalty punishes the poor—it is not just a racial issue, but we also find that it is a class issue; the death penalty condemns the innocent to die; the death penalty is not a deterrent to violent crime; and finally, that it is cruel and unusual punishment.

Having heard the previous speakers, and having been in session all day, we find that these issues are supported through every argument—whether it's economics or health care—we see that there seems to be a master plan, for some reason. Why they leave the death penalty on the books—I could, jokingly, say that I am happy to be before the delegation of the South African [apartheid] government, because that is what this country is moving toward: a system of genocide, a system