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July 30, 2007

The Honorable Arlen Specter
United States Senate
Committee on the Judiciary
Washington DC 20510

via e-mail

Dear Senator Specter;

Thank you for submitting follow-up questions to my testimony before the Senate Judiciary Subcommittee on the Constitution on June 27, 2007. I appreciate your interest in the thoughts and views of the NAACP. I shall try here to answer your questions in the order in which they were posed to me:

(1) You ask about the 120 people who had been released from death row since the 1970's. What I said, specifically, was "Since 1973, over 120 people have been released from death row with evidence of their innocence" and I cited a fact sheet by the Death Penalty Information Center entitled, "Facts About the Death Penalty" dated June 19, 2007. You asked if these people were proven innocent, or if they had just been exonerated.

As you know, there is no judicial process by which a finding of "innocence" can occur. However, there have been 124 instances since 1973 in which all charges were dropped and the presumption of innocence was restored.

You also ask how many innocent people have actually been executed. Unfortunately, this number is not readily available since the court process, as well as the investigative and legal resources available, usually stops once a person has been put to death. Thus, while there are several cases in which people whose guilt was clearly in question when they were executed, once they were put to death most, if not all of the exoneration process ended.

(2) In this question, you ask about my assertion that it is likely that more African Americans are falsely executed. To again reiterate my statement, what I specifically said was "...considering the disparities in the number of African Americans on death row, it is likely that more African Americans are falsely executed, a fact that once again contributes to the mistrust that is endemic among the African American community of the American criminal justice system."

While as I indicated in my response to the first question, it is very difficult to determine the exact number of innocent people who are put to death. One number that I would point to to support this assertion, however, is the disparate

number of African Americans who have been cleared of all charges. Of the 124 who have been freed from death row since the 1970s, exactly half, or 62, have been African American. This is a clear "rush to judgment" with deadly consequences.

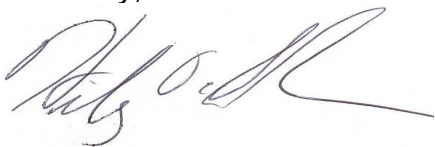
Perhaps more important, however, than statistical data is the context in which I made the statement and, indeed, the underlying theme of my testimony that day. Given our Nation's sorry history of bigotry and African Americans being treated much more harshly by the judicial system, and that half of all those people who have spent a good part of their lives on death row only to be freed later are African American, it can be little wonder that African Americans have a basic distrust of the American criminal justice system. This mistrust and suspicion, in turn, only fosters ill will between law enforcement at every level and the communities they serve.

(3) Lastly, you ask about my assertion that "According to the DoJ's own figures, 48% of the defendants in federal cases in which the death penalty was sought between 2001 and 2006 were African Americans. What we don't know, unfortunately, is whether or not this number is representative of the number of criminal defendants who are accused of crimes in which the death penalty may be sought. And, since there are several layers that must be examined to even begin to assess this number, including whether a crime is tried at the local or federal level, it is not an easy number to attain."

I provided this statistic as part of my testimony (both written and oral) as I believe it is not only valuable but also extremely relevant to the NAACP's concerns about the Death Penalty. As I stated at the end of question #2, African Americans and other racial and ethnic minorities continue to distrust law enforcement officials at all levels. That is why, if there must be federal executions, I believe it would behoove the United States government to look at all the possible reasons for the racial disparities that currently exist in the application of the death penalty. It is incumbent upon the government to explain, and possibly address and even mitigate, the glaring disparities that exist if they ever hope to have the full confidence of the populations they serve.

Thank you again for allowing me to elaborate on some of the points I made in my testimony. I look forward to continuing to work with you on issues of mutual importance to our constituencies.

Sincerely,

A handwritten signature in dark ink, appearing to read "Hilary O. Shelton", with a stylized, flowing script.

Hilary O. Shelton
Director