SOLEDAD BROTHERS

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On March 17, 1970 three young men were brought into the Superior Court at Salinas, Monterey County, California, to answer to the charge of murder in the first degree. Normally strong, lithe and athletic, they shuffled of necessity because their legs were in irons. Their wrists were shackled to chains bound around the waist and under the crotch. Their entrance, in prison clothes, shackled and bound, was no accident. Fleeta Drumgo, John Clutchette, George Lester Jackson had been groomed since childhood by the police, by the courts, by the prison system, by our racist society itself for the role they were called on to play.

Although they had known each other only in Soledad Prison, the three young men had this in common: they were black. Drumgo was first picked up by the police for some minor infraction of the law at the age of 13, Clutchette at about the same age.

"In Compton, if you're black and walk down the street, you're going to get arrested," his mother explained.

At the age of 15, George Jackson, illegally driving his father's car, came to the attention of the police.

From the moment of their first arrest, the three were no longer in the care of loving families—and all of them do have loving families—but were channeled over the period of the last ten years through one "facility" or another, groomed for the role of suspect—a better word is victim—when law and order forces were pressured to solve a crime.

From Juvenile Hall or Rehabilitation Camp to County Jail and on to Soledad, they were helped every step of the way by indifferent judges, by indifferent or inept lawyers or overworked Public Defenders, who advised the easiest way for themselves, who saw no other way than pleading guilty to crimes someone else had committed—this is the much-traveled road for black youth with a "record."

"You know the line," wrote George Jackson from his prison cell to a friend outside. "Inside the joint it is the same, only more intense. A sense of terror, betrayal and insecurity prevails at all times, it flows outward from the captain's office, divide and rule, divide and rule . . ."

THIS IS WHAT HAPPENED JANUARY, 1970

On January 16, John Mills, a white guard at Soledad Prison, was beaten and thrown over the third tier railing of Y-wing. He died. For the following eight days, all 137 inmates of the wing were confined to their cells while the prison administration investigated. Three black inmates—John W. Clutchette, Fleeta Drumgo and George Lester Jackson—were isolated in solitary confinement for an additional 21 days. The grand jury of Monterey County, meeting secretly with neither the defendants nor their attorneys present, found the District Attorney's evidence sufficient to indict these three men for assault and murder.

Some have suggested a link between the incident of the 16th and an earlier one in which three black inmates were killed and a white inmate seriously wounded. On January 13, eight prisoners on O-wing were in the recreation yard when a scuffle allegedly broke out. No prison official was present, but without warning O. G. Miller fired four shots from his nearby guard tower. Prison officials, the District Attorney and the same grand jury called these killings "justifiable homicide." Although this incident involved no one present in Y-wing on the 16th, deputy superintendent Black has publicly expressed the administration's view that those who killed Mills did so to avenge the murder of the three O-wing inmates.

Fleeta Drumgo | John Clutchette | George L. Jackson

THE MEN IN CHAINS

All three defendants now face a death sentence. It seems pertinent to consider who these three black men are and how they came to be in Soledad Prison at the time the alleged crime of killing prison guard John V. Mills occurred. How did it happen that they were "available to be chosen" to be charged with this crime?

FLEETA DRUMGO is 23 years old. He is an only child of a shy, gentle working mother and has no memory of his own father. Half the years of his life have been spent in and out of "correction centers" and jails. The last three years have been spent in Soledad Prison where he was sent on a charge of burglary. Insulted, humiliated, ignored, he has found himself in prison mostly for the crime of being black and poor.

Fleeta Drumgo has his mother's gentle ways and infectious smile, but his life experience has given him strength in his struggle. He would probably have been paroled a year ago had he not tacked political posters of his heroes, Rap Brown, Stokely Carmichael, on the walls of his cell. When the white guard was killed, Drumgo was about to have a parole hearing, with every expectation that parole would be granted shortly.

JOHN CLUTCHETTE had already been given a parole date—April 20, 1970—before the incidents at Soledad took place. The parole board had ordered him sent to Chino, a training center, before being returned to his home in Compton in time to celebrate his 24th birthday. John is one of eight children. His job with an aircraft company has been held open since the day three years ago when he was arrested on his job, accused of having stolen a TV. His mother had raised bail and they had traced the real thief when Clutchette was hailed by a policeman one day during his noon hour and told to get in the car.

John Clutchette asked: "For what?" The police pushed him into the car. "We'll find something," the officer answered, with a warning not to resist arrest. A couple of unpaid traffic tickets were unearthed—enough to keep John in jail until his trial. Impeded in this way from finding the man from whom he had innocently bought the stolen TV, he was convicted and sent on his way to Soledad and Judge Gordon

Campbell's court in the chains of chattel slavery. The actual thief left the area—this was of small concern to the law-and-order record of Compton. They had the TV and they had John Clutchette in Soledad.

His conviction was a self-fulfilling prophecy. Six months earlier his mother had appeared in court to explain why her son had missed one day out of a hundred in reporting to a probation officer (John was on probation for an earlier charge). As Mrs. Maxwell, the mother, left the court, the arresting officer said: "You got your son out this time. If he so much as stubs his toe, we'll put him in the penitentiary next time." An inept lawyer advised John to plead guilty to the charge of stealing the TV "because, after all, he had a record."

The life experience of GEORGE JACKSON illustrates as dramatically the peculiar institution known as black justice in California and—for that matter—over the other forty-nine of these United States as well.

The Jacksons live in Pasadena. George is the oldest son of five children. He attended Catholic school, was choir boy and frequently served as acolyte celebrating mass. He is handsome, studious, with a strong sense of dignity.

None of this saved him from collecting a "record" with the police before he was 18. A "joy ride" in the family car when he was 15 ended in a slight accident. The car knocked a few bricks out of the side of a small grocery store in the neighborhood of his home. George's father paid the damage and the owner of the store brought no charges. But George was black and too young to have a driver's license. The police took him to juvenile court and he was sent to Las Robles and then to Tracy. His record had begun.

Out briefly in 1958, working at a good job, George made a down payment on a motorbike, which proved to be stolen. The receipt of purchase in the hands of his mother was ignored and, without counsel to defend him, George Jackson was again sent to Tracy, this time for theft.

At Tracy the young man was fortunate enough to have a sympathetic counselor who taught him a skilled trade and arranged probation and a job as a meatcutter. George bought an old car, invited an acquaintance to go riding. This man asked to stop at a filling station, went inside, held up the attendant and came out and told George to "get going."

Stopped by the police, George Jackson was charged with armed robbery. His record was on hand to condemn him in court. The only lawyer the Jacksons could afford in their son's defense gave his client's record as his excuse for making no adequate defense, though the white filling station attendant was willing to testify that George had taken no part in the robbery.

The average sentence, even if the 18-year-old had been guilty, is 2½ years. George Jackson was given "one year to life." He has been in prisons—San Quentin or Soledad—for ten years!

The parole board considers this young man a "trouble maker." In one instance, he was placed in solitary—a cell with only a mattress and a hole in the floor—for refusing to be segregated in the back row of the San Quentin television room. (The white inmates who attacked him were not punished.) Again the parole board refused to set a termination date to his one-year-to-life sentence because he argued with the prison barber who was cutting his natural shorter than he wanted.

Because of the failure of the parole board to set a termination date, this ten-year inmate of the worst prisons in California is considered a "lifer." If convicted of assault, a death sentence for George Jackson is *mandatory*.

"If they kill me, Mama, I'll just be dead," he said, "but I'll not be any man's slave."

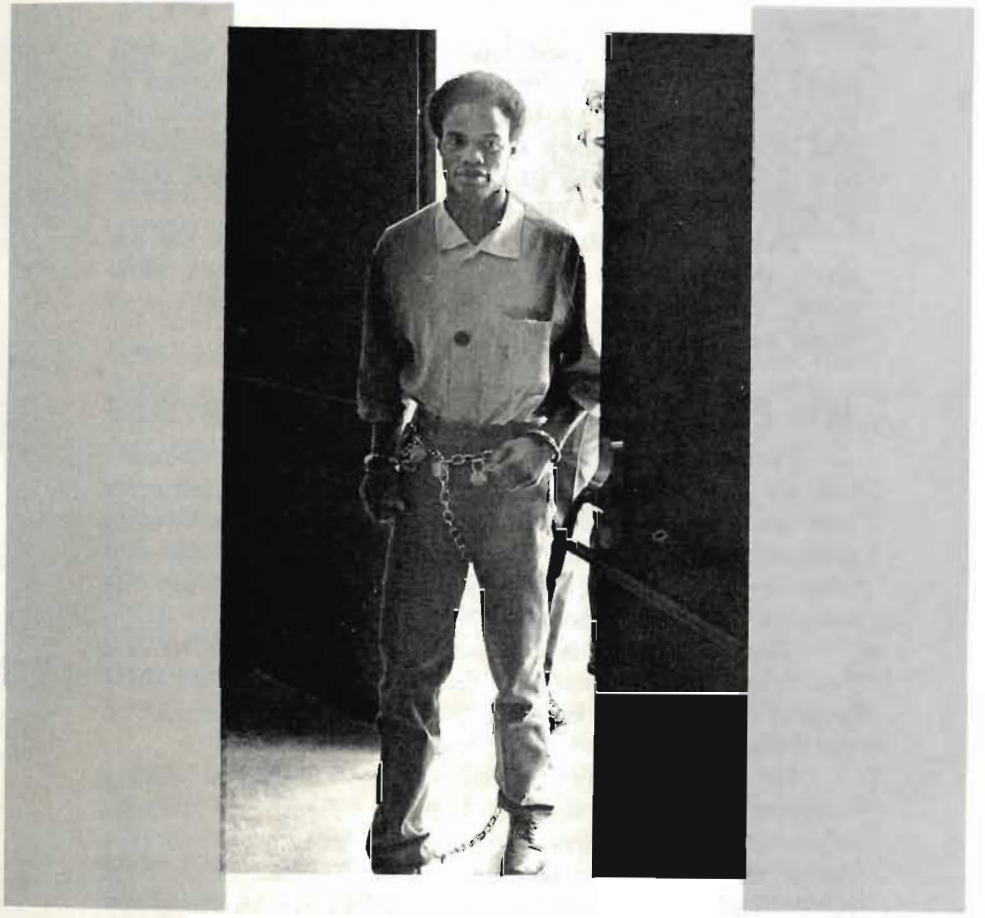
Mrs. Inez Williams,
mother of Fleeta Drumgo

Mrs. Doris Maxwell,
mother of John Clutchette

Mrs. Georgia Jackson,
mother of George L. Jackson

THE PECULIAR INSTITUTION OF JUSTICE IN CALIFORNIA

In the pre-Civil War South, slavery was often called the "peculiar institution." The term is unfortunately applicable to the system of justice meted out to blacks, Chicanos, and, indeed, all poor people today.



THE POLICE

The single dominant factor that set Blacks apart from their white counterparts is, according to the Kerner Report of 1967, contact with the police. In urban communities such

as the Los Angeles area where all three of the accused grew up, police harrassment is pervasive from earliest childhood. Police invade homes without warrants; they question black youth in the schools, on the street without cause. Arrests are made with deliberate effort to degrade and humiliate; beatings before any charges are made are commonplace. Police brutailty is a fact of life. It was not absent in the experience of Fleeta Drumgo, John Clutchette or George Jackson.

The defendants' race has a further bearing on their plight. Had they been white and had they been accused of the same crimes, they probably would not be in prison at all. The likelihood of a black man being accused and convicted of a given felony in the State of California is several times as great as that of a white man.

The fact that 40% of the prisoners in California are black, though Blacks make up only 8% of the state's population, points to use of the penal system as a vehicle of racial suppression within our society.

THE POWER OF THE PRISON AUTHORITIES

The officials of Soledad Prison occupy a most powerful position in this case. Inside Soledad itself their authority over inmates is absolute. Although prisoners have some political rights, such as protection from unreasonable and arbitrary punishment, those rights can all too easily be violated by penal authorities.

This oppression is common to most prisons; in this case, however, it is unusually dangerous, for it has extended beyond the walls of Soledad to jeopardize the chances of the defendants to have a fair trial.

During the 29 days the defendants were held in solitary confinement, communication between them and persons other than prison officials was cut off. They were not permitted to inform their families of their situation; they were not told what charges were being brought against them and had no legal counsel.

The prison authorities seem to resent the loss of exclusive control over the prisoners now that they are defendants with legal counsel; moreover, their resentment appears to be shared by Judge Campbell. Campbell has repeatedly

hindered attempts of the defense attorneys to interview the witnesses, who are themselves prisoners, and would not let the attorneys see the scene of the crime until after the area had been remodeled and changed. Had the crime been committed outside prison walls, such obstruction to due process could not have occurred.

THE GRAND JURY

In Monterey County 99% of all felony cases proceed on the complaint-information system. In these proceedings persons under investigation receive a preliminary examination in municipal court, where they are entitled to confrontation, cross-examination and rights to discover and produce evidence. On the basis of this examination, the municipal court magistrate decides whether or not information should be filed in Superior Court.

The indictment process is used in the remaining 1% of cases. Before a grand jury, the District Attorney has control over all evidence and all questioning of witnesses; those being investigated cannot participate in the examination except insofar as they may be called as witnesses in a context established by the District Attorney.

The District Attorney has total discretion in deciding whether indictment or information will be used as the means of investigating and charging suspects. Since there are no statutory guidelines for this decision, the District Attorney may bring persons before the grand jury on a punitive basis. This denies to a selected few certain basic legal rights which are enjoyed by over 99% of Monterey County felony defendants, and by 90% in the State of California as a whole.

The fact that information proceedings in this case were abruptly discontinued and indictment proceedings instigated is critical. This reversal indicates that the District Attorney found need to appropriate entire control of the proceedings. The defense claims that this action was a punitive and selective violation of the rights of the defendants. As such, it exposes the danger of injustice inherent in the vague statutes governing the indictment process.

The grand jury is chosen by the judge and a Jury Selection Committee who compile a list of 30 names from which 19 are selected at random. Seventeen of those selected in this

case were white; two were black. The substantial Chicano population of Monterey County was not represented. Moreover, while there are more registered Democrats in Monterey County than Republicans, 13 grand jury members were Republicans, 5 were Democrats and 1 was an Independent. On these bases, it may be reasonably asserted that this grand jury was not representative of the community of Monterey County. At its best, the staute allows this kind of discrimination. At worst, it could permit the judge and committee to select a group of their friends. In either instance, persons who do not fall within the category from which the judge and committee customarily choose are precluded from a hearing by a body of their social equals.

THE COURT

On February 17, the date of arraignment, a date set with less than 24 hours notice to the families of the prisoners and none to the Public Defender, everything pointed to a quiet railroading of these three innocent victims. The mere opportunity to win a fair trial was due to the determination of the young men, the intelligence and quick action of their mothers, and to the existence of an embryo Committee for Defense of Political Prisoners. The intended scapegoats were brought into court shackled like slaves, a court presided over by a patently biased judge who was prepared to cooperate with the plans of the prison authorities. But the prisoners were no longer divorced from family and supporters. Highly competent lawyers were waiting at court and battled for the concession of a week's delay in the arraignment.

On February 24, the defendants were arraigned separately and each excluded from the proceedings against the other two. Since they were charged together, each was thus denied the right to be present at two-thirds of the proceedings in his own case, a violation of the Brothers' right to due process. The court reserved the prerogative to resume this procedure when the actual trial begins, but discontinued it for further pre-trial hearings, perhaps due to the growing numbers of supporters attending the hearings.

The Brothers have been shackled during all their court appearances. Remarking that "their lips are not shackled," the judge has repeatedly denied motions to have the chains removed, though no disruptive behavior has even threatened to occur. The Brothers are similarly bound during their private interviews with their attorneys; the judge has likewise denied motions to remove the shackles at such times.

The court ruled that neither the Brothers nor their attorneys may release to the media statements of fact or of opinion relating to the trial or to any issue likely to be relevant. Thus the press has received only the accounts of the prosecution (before the "gag rule" was imposed) and the grand jury proceedings which, as noted above, excluded the defense completely. On March 17, when final arraignment took place, the judge specifically denied the defense an opportunity to rebut publicly the grand jury transcript.

The defense holds that the judge has imprudently exercised his power over the proceedings and has violated the defendants' right to a fair trial.

Efforts by the defense attorneys to discover the facts of the case have been thwarted by the prison and the court. Eight inmates identified by one of the defendants as witnesses have been transferred to other institutions throughout the state. As long as the court delayed discovery rights, defense counsel was not permitted to interview these witnesses or other inmates of Y-wing who may be able to shed light on the circumstances and events at the time and place the murder allegedly took place.

The prison administration, with the concurrence of the court, has further violated the Brothers' right to an adequate and effective defense by changing the physical aspect of the site, thus making it impossible for the attorneys and their investigators to test the credibility of accounts of the purported eye-witnesses.

The Court denied the defense motion for rights of discovery before pleas were entered. The Judge's unprecedented ruling was that, if he granted the motion and if the defendants then pleaded guilty, the State would have been put unnecessarily to great expense!

On grounds of the unconstitutionality of the proceedings and on advise of their attorneys, the defendants "stood mute"—that is, refused to enter any plea. The Judge entered a plea of not guilty for them and set the case for trial beginning June 22, thus insuring that there could not be enough time to interview the 200 witnesses now dispersed

over the entire state.

CALIFORNIA PENAL CODE

In addition to the racist bias evidenced against the defendants, and the obstructions to a proper defense placed as barriers by prison authorities and the Court, the defendants face some of the most oppressive sections of the California Penal Code.

California Penal Code Section 4500, under which George Jackson is charged, specifies a *mandatory* death penalty for assault on a non-inmate by an inmate serving a life sentence. A life sentence has been interpreted by the California Supreme Court to be any sentence which has a top limit of life. The defense claims that the statute is unconstitutional on its face (that is, regardless of any possible application) because it designates a penalty in regard to a particular status (that of "life") rather than a particular offense, assault—which is not a capital crime.

The defense challenges the statute as unconstitutional in its application to Jackson because he is serving an interminate sentence which, although its limit is life, could have been set at one year. (As stated above, the average term for second degree robbery is 2½ years.) The California Adult Authority, which may fix a maximum term at any time after service of one year, is exclusively responsible for the continuation of Jackson's "lifer" status over nine years. Neither Jackson nor the judicial system, nor any other body of persons or rules affect decisions of the parole board. An inmate has no right to counsel before his board; decisions as to his prison term, for which no reasons need to be given, are made in rigidly secret circumstances; records are not available to the public, to counsel, or to the inmate—although to any prison employee. Such studies as have been permitted of these records show that black men serve longer terms than white.

Conviction on a murder charge (California Penal Code Section 187) permits the jury an option of the death penalty or life imprisonment, so that Jackson is in the bizarre situation of facing two charges, the lesser of which carries the harsher penalty.

Defense motions for a continuance, including testimony

by a psychiatrist as to coercion of inmate witnesses, and a sociologist on the need for access to the 1970 census figures (available July 1) to show how black people, Spanish-speaking and the poor are excluded from Monterey trial juries, were required by Judge Campbell to be presented *in ten minutes* (and denied forthwith). Expensive appeals must follow.

PROBLEMS OF THE DEFENSE

Because both the indictment process and the composition of the grand jury are historically entrenched aspects of California's legal system, an impetus to new interpretation will require forceful and complex legal presentations by the defense.

In the view of the defense, Judge Campbell's order prohibiting defense statements to the press is a clear violation of the rights of Jackson, Drumgo and Clutchette to a fair trial. In theory, the purpose of such an order is to preserve the public and, hence, potential jurors from prejudices and so to insure that the defendants will be heard in a fair, unbiased climate. But in this case, for two weeks before the proceedings began (though not after the Judge's ruling), the District Attorney and prison authorities were at liberty to publicize remarks on the matter; there was discussion in the press of revenge as a motive for the killing; the press was allowed to interview the widow of the guard and to cover the activities of a number of organizations which raised funds for her. Efforts on behalf of the widow have naturally stirred public sympathy and hence, in conjunction with statements by the District Attorney, have inevitably created a temper favorable to the prosecution. But the public is denied an opportunity to consider the plight of the defendants, for they and their attorneys have been ordered not to respond to prejudices cast by the prosecution. Surely this is damaging to a presumption of the innocence of these defendants.

The transcript of the grand jury hearing in which the defendants were indicted has been released to the press, as is customary, but the defense holds that the document is defective. The fact that the testimony of one witness was cut off, clearly before he was able to yield pertinent informa-

tion, is held to be characteristic of the District Attorney's whole presentation. At the hearing on March 17, the defense moved that the defendants be permitted to make a public statement of length equal to that of the transcript. In this way, the public might have been informed of questionable aspects of the transcript and so would not be subject to only one view. The motion was denied; no reason for the denial was given. The judge, the jury and the penal authorities seek total power over the lives of the defendants. Only by unobstructed recourse to their legal rights can Drumgo, Jackson and Clutchette hope for a fair trial.

The thousands of black youth trapped in the prison systems through poverty and racial prejudice stand before us in the persons of Fleeta Drumgo, John Clutchette and George Jackson. The wasted lives, the brutal inhumanity inherent in the prison system is here on trial. These three young men are being routed to the gas chamber for refusing to bow down, for trying to save their identities and self-respect. Their lives are in jeopardy for who they are, not for what they have done. Jackson's letters from prison, written over the period of his ten-year incarceration, are soon to be published. Clutchette was given his parole date on December 9, 1969. Two weeks later, the Soledad authorities had instructions to transfer him. Why was he not sent away from racially troubled Soledad at first mention of his parole date?

HOW TO HELP

To carry out an effective defense we need help with fund-raising, public education and research. If you can give money, time or expertise, please call or write one of the following:

(Bay Area) Lynne Hollander,
1839 Rose St., Berkeley.....(415) 524-3969
Sue Castro,
282 Clipper St., San Francisco..(415) 285-2360

(L.A. Area) Don Wheeldin,
P.O. Box 3206, Pasadena.....(213) 798-0412

(Central) Diane Martin, Dierdre Stone,
1103 Mission St., Santa Cruz....(408) 423-4907
Joan Hammer,
795 Morse St., San Jose.....(408) 295-9096

Contributions may be sent directly to:
Soledad Brothers Defense Fund
c/o Dr. Linus Pauling, Treasurer
795 Morse Street, San Jose, Calif. 95126

Attorneys are:
1) For John Clutchette.....Floyd Silliman (Salinas)
2) For Fleeta Drumgo.....Richard Silver (Carmel)
3) For George Jackson.....Fay Stender (Berkeley)
and John Thorne (San Jose)

Soledad Brothers Defense Committee (in process of forming):
Kay Boyle, Ron Dellums, Jean Genet, Ralph J. Gleason, Saul Landau, Jessica Mitford, Linus Pauling, Prof. Charles Sellers, Nina Serrano, Philip Shapiro, M.D., Benjamin Spock, M.D. Herman Blake, St. Clair Drake

"All that is necessary for the forces of evil to win in the world is for enough good men to do nothing."
—EDMUND BURKE