

AFSCME Corrections United

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Morgan's Murderer Convicted

Jennifer Hyatte, the former prison nurse who fatally shot Corrections Officer Wayne "Cotton" Morgan in 2005, has been convicted of first-degree murder and sentenced to life imprisonment without parole. She began serving her sentence immediately at the Tennessee Women's Correctional Facility in Nashville. Hyatte killed Morgan while helping a convict escape after a hearing at the Roane County Courthouse in Kingston, Tenn., near Nashville. Morgan, 56, was escorting the shackled prisoner outside the courthouse.

A CO at the Brushy Mountain Correctional Complex for 28 years and treasurer of AFSCME Local

2171, Morgan left behind his wife, Viann, and two children. In addition to being an AFSCME leader, he was also a deacon in his church and a loving grandfather.

Despite a Tennessee Department of Corrections requirement that fitted vests be provided to individuals assigned to transportation duty, Morgan's repeated requests for one were denied, and he was not wearing a vest when he was killed. The reasons the requests were turned down? Not enough money.

In the officer's honor, AFSCME Pres. Gerald W. McEntee called in 2005 for new federal corrections-safety legislation, leading to the

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Corrections Officer Wayne "Cotton" Morgan

ACU Congress Honors Fallen Comrades

More than 300 AFSCME corrections and law enforcement officers gathered in Washington, D.C., in September to honor comrades killed in the line of duty and to urge Congress to pass a collective bargaining rights bill for all police, firefighters, corrections officers and EMTs.

The vigil at the Law Enforcement Officers Memorial, led by President McEntee, started with a procession to the memorial site. It was followed by a wreath-laying ceremony led by James

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Paul Tanedo

Leading the procession to the memorial site are bagpipers (from left) Lenny Conway, a Waterbury, Conn., police officer and member of Local 1237 (Council 15), Kathleen Stevens and Peter Lounsberry — both Albany, N.Y., police officers and members of Local 2951 (Council 82).

ACU Honors

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Photos: Paul Tanedo

Howell, executive director of the Connecticut Council of Police Unions (Council 15) and chairman of the AFSCME Law Enforcement Advisory Committee, and Glen Middleton, executive director of Maryland Council 67, chairman of the AFSCME Corrections United Steering Committee and an International vice president. Afterward, officers placed roses near the names of members from their respective councils. Among those honored was Andrew Krakow (photo above), a conservation warden with the Wisconsin Department of Natural Resources, who was shot by a 13-year-old while responding to a domestic dispute. Krakow was a member of Local 1215 (Council 24).

“Let us be inspired by our members’ sense of duty, to live our own lives with hope and purpose,” said President McEntee. “And let us hold the memory of each of them forever in our hearts.”

Oregon CO Tina Turner-Morfitt of Local 2376 (Council 75), says she was “deeply moved by the tribute to our sisters and brothers who understood the dangers they faced every day. Knowing that they dedicated their lives to public service inspires me to perform my own job with a renewed sense of pride.”

Adds Kansas CO David Keister of Local 3371 (Council 72): “One way to honor their legacy is to get the collective bargaining bill passed.” (See editorial, Page 4).

AFSCME is contributing \$10,000 to help build a museum near the memorial site. Designed to complement the memorial, the museum is expected to be the premier source of information on law enforcement in the United States.



Wreath-laying ceremony at the memorial.

This year’s ACU Congress coincided with the Law Enforcement Conference, a three-day gathering that brought together for the first time AFSCME members in corrections and in law enforcement. They shared experiences and insights, delivered a strong message to their elected representatives and laid the groundwork for building AFSCME into the biggest and boldest voice for public safety officers.

“Knowing that [our sisters and brothers] dedicated their lives to public service inspires me to perform my own job with a renewed sense of pride.”

**— CO Tina Turner-Morfitt
Oregon Local 2376
(Council 75)**

In his keynote to the group, McEntee outlined the union’s other legislative initiatives, which include working for Federal Employees Health Benefits Program coverage for spouses and children of officers killed in the line of duty. AFSCME is also lobbying to keep core incarceration services where they belong — in the hands of state and local governments. ●

CCA: Privatizer, Union Buster

An extensive list of federal labor law violations posted all over the San Ysidro, Calif., correctional facility, was a clear blow to privateers who think they can brazenly bust a union and get away with it.

In February 2005, the National Labor Relations Board ordered the Corrections Corporation of America (CCA) — the largest private prison company in the United States — to post a “Notice to Employees” acknowledging its role in trying to decertify a union.

Among the unfair labor practices cited are:

- unlawfully initiating, encouraging, soliciting or coercing employees to take steps to end their union representation, whether by decertification or by other means;
- changing the work assignments of employees because of their status as a union official or because they have engaged in protected activity;
- discharging employees because of their union activities, including serving as a union official or serving as an employee representative assisting fellow employees who are being investigated for misconduct; and
- unlawfully transferring a corrections officer to a less desirable position because of his union activities, and unlawfully terminating another CO for the same reason.

WHAT LED TO RULING. Moreover, CCA was ordered to fully reinstate the fired CO with back pay.

The board’s investigation of CCA’s illegal activities began shortly after March 25, 2004, when the International Union, Security, Police and Fire Professionals of America (SPFPA) complained that CCA tried to end union representation in the San Diego Correctional Facility, near San Ysidro, and then coerce its employees to support the illegal move. After hearing both sides of the case, the NLRB ruled that the privatizer had indeed violated federal law.

SPFPA had been certified two years earlier after an organizing campaign that led to a representation election conducted by the board. The union chose not to elect local officers until contract negotiations were complete. Instead, the union’s district office designated the two COs who led the organizing drive — Cruz Mireless and Edward Carroll — as the acting local president and vice president, respectively. Both also served as bargaining committee members.

UNION BUSTING, CCA STYLE. Bargaining ended after a year without an agreement. That’s when CCA started to bust the union. CCA Warden Barbara Wagner began conducting so-called bargaining update meetings — described by Mireless as “hostile” toward the union — advising employees that the union was

not in their interest. She also started posting “answers” on the bulletin board, purportedly responding to employees’ questions, such as, “Do you have to be a member of the Union to sign a decertification petition or to vote in any certification election?” and “How can we get rid of the union?” As it turned out, the questions were created by the employer in an “underhanded, stealthy effort to get rid of the union.” Wagner used an employee’s inquiry about an inadequate health benefit plan as a basis for blaming and undermining SPFPA — when in fact no union-negotiated health plan was in place at that time.

CCA’s other blatant attempts to break up the union included reassigning Carroll to a less-desirable post and firing Mireless on trumped-up charges. CCA’s actions represented an overtly arrogant attempt to pad the company’s profit margins and continue mistreating employees by simply busting the union.

GUARD RULE. In CCA’s view, SPFPA was vulnerable because of Section 9(b)(3) of the U.S. Labor-Management Relations Act. Known as the “guard rule,” the regulation spells out that only guards’ unions can represent guards. It prevents the labor board from certifying any labor organization as the exclusive representative of a guard unit “if such organization admits to membership, or is affiliated directly or indirectly with an organization which admits to membership, employees other than guards.”

Under this ruling, guards have the same collective bargaining rights as non-guard employees, but only through representation by independent guards-only unions, which are in no way affiliated locally, nationally or internationally with the AFL-CIO or any other “mixed membership” labor organization.

Accordingly, private prison custody officers’ right to organize is limited to a “pure” security union. The NLRB has defined this to mean a union that only represents corrections officers and other security guards.

Using this purity rule, the employer could go to the NLRB and challenge a union affiliation. That’s precisely what CCA tried to do — while illegally initiating and encouraging SPFPA’s decertification. Were it not for the vigilance of Carroll and Mireless, CCA’s efforts might have been successful.

ACU’s policy does not allow correctional custody staff at private prisons to affiliate with AFSCME because it would imply tolerance of the private prison “industry,” which we seek to abolish. However, as long as such prisons exist, we support the efforts of their corrections staff to form unions — such as SPFPA — of their own. ●

Equal Rights for Public Safety Officers

Jon Melegrito



AFSCME corrections officers from across the nation gathered in Washington, D.C., last summer to urge their U.S. senators and representatives to support the collective bargaining bill.

From terrorist strikes and chemical attacks to mass tragedies and prison riots, public safety officers are the nation's first responders and our first line of defense.

Tens of thousands of AFSCME members are employed as law enforcement officers, corrections officers, emergency medical technicians and paramedics. These dedicated professionals are loyal employees of state correctional facilities, city and township police and sheriff's departments and emergency medical services.

Despite long hours, exposure to all manner of difficult situations, corrections and law enforcement officers stay on the job and remain committed to protecting and serving the public.

Yet, unlike 60 percent of public workers, many public safety officers have no collective bargaining rights — no forum for discussing workplace issues with their employer because they work in a state that has refused to create a collective bargaining system.

That is why law enforcement leaders from across the country are lobbying the U.S. Congress to pass H.R. 980, the Public Safety Employer-Employee Cooperation Act — a measure that would require all 50 states to set minimum collective bargaining rights for public safety officers. Congress must pass this bill now!

Congress has expanded the scope of these laws to cover private-sector employees, nonprofit association employees, transportation workers, federal government employees and, most recently, congressional employees. Still, public safety officers and other state and local government employees are the only major category of workers not covered by federal labor law.

Now, more than ever, dedicated public safety employees deserve these basic rights. Call your U.S. Senators at (202) 224-3121 today and ask them to support the Public Safety Employer-Employee Cooperation Act.

Prison Rape: What COs Need to Know

Understanding the need to determine the scope of sexual violence in prisons nationwide, Congress passed the Prison Rape Elimination Act (PREA) in 2003. Signed into law by Pres. George W. Bush, it sets a zero tolerance for rape and sexual assault in prisons.

Because prisons are expected to be more accountable for inmate safety, the PREA commission spent four years developing national standards to prevent, detect and reduce sexual violence in corrections facilities.

Now that the implementation stage is underway, corrections officers need to be aware of PREA's provisions particularly as they relate to such issues as confidentiality, pre-screening of inmates and data collection. Also needed is basic, specialized and ongoing training in the handling of rape cases and the tools required, such as rape kits, to build accurate cases. COs accused of rape should know their due process rights.

Through labor/management meetings and contract negotiations, ACU will be working with the department of corrections in each state to ensure that these requirements are met. ●

Highlights of PREA

- Supports the elimination, reduction, detection and prevention of sexual assaults within the corrections system
- Mandates several national data collection activities
- Provides funding for program development and additional research
- Creates a national commission to develop standards and accountability measures

Harmon Wray: An Appreciation



Interfaith Alliance Foundation

For 40 years, Harmon L. Wray helped to improve the lives of Tennessee's public employees.

Three years ago, the activist marched with AFSCME corrections officers who were protesting a move by the Shelby County Commissioners to privatize the Memphis City Jail. The commissioners backed off and the COs won. He also introduced a "Resolution Calling for the Abolition of For-Profit Prisons," which the General Assembly of the Presbyterian Church approved in 2003.

At the time of his death last summer in Nashville of a massive brain hemorrhage, the 61-year-old Wray was serving as a minister in the Nashville-based Southern Prison Ministry. A longtime anti-death-penalty activist, he was an outspoken proponent of restorative justice.

Says Dorothy Crook, director of Local 1733: "Wray was a great ally and an effective spokesman for our cause. He inspired all of us with his tenacity and passion." ●

Morgan Murderer

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Paul Tanedo

CO Tom Higginbottom honors co-worker Wayne "Cotton" Morgan at the Law Enforcement Officers Memorial.

introduction of the Wayne "Cotton" Morgan Bulletproof Vest Act in 2006. This measure would provide COs across the nation — especially those who work in high-risk prisons or who have transportation duty — with the protection they need.

During the trial, Morgan's son, Dennis, told Hyatte from the witness stand: "Your choices caused my sister and I to be without a father. Your choices caused my mom to be without her companion."

Hyatte responded by apologizing to

the families: "There's no way to make up for what I've done."

Morgan's widow says the families involved concurred with the plea agreement. "We know she's going to be locked up. Yet, daily life goes on for us," says Viann Morgan.

Tom Higginbottom, vice president of Local 2173 and Morgan's co-worker of 28 years, welcomed the killer's conviction. "I lost a brother when Cotton was shot two years ago," Higginbottom points out. "I am pleased that justice is done." ●



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Gerald W. McEntee, *International President*
William Lucy, *International Secretary-Treasurer*

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FORWARDING SERVICE REQUESTED

Help Define Reasonable Response

In two rulings the U.S. Supreme Court has clearly stated that “the reasonableness of a particular use of force must be judged from the perspective of a ‘reasonable officer’ on the scene, rather than with 20/20 vision of hindsight.” In other words, law enforcement officers must act reasonably.

But what constitutes a reasonable corrections officer, and how would he or she act?

Sam Faulkner, a subject control trainer at the Ohio Peace Officer Training Academy, set out to answer that question. Following the 1993 riots at Ohio’s Lucasville Prison, which cost AFSCME member and CO Robert Vallandingham his life, Faulkner created a survey tool that found a greater variance in agreement of what was reasonable, compared to previous surveys. It became apparent that a large-scale study was needed in order to establish national guidelines for reasonable responses

to resistance, assault and aggression against COs.

The survey is now available online at www.responsetoresistance.com. It includes examples of suspects resisting and COs bringing the subject under control. After each example, respondents are asked if the control measure is excessive or unreasonable. Answers from other officers are also shown on the site.

Help define reasonable response. Visit www.responsetoresistance.com today! ●

