

SEVEN

Puerto Rican Political  
Prisoners in U.S. Prisons

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IN THE 1960s AND 1970s, Chicago's Puerto Rican community, like so many other communities in the United States, was rebelling, resisting the violence and brutality of colonialism, racism, and exploitation. Its young leaders sought not only to battle against and expose these evils but to help the community take control of its institutions, to instill a sense of hope. It was a time when anti-colonial, national liberation movements had prevailed throughout the world,<sup>1</sup> and anti-imperialist movements were at war. It was a time when young men were being drafted to fight the Vietnamese people's efforts at liberation. It was a time when the Black Panther Party advocated armed self-defense, when police in Chicago assassinated the party's young leaders. Men and women such as Oscar López Rivera, Ida Luz Rodríguez, Carlos Alberto Torres, and Carmen Valentín led these community struggles and were influenced by events not just in their immediate neighborhood but in the world.

The *Fuerzas Armadas de Liberación Nacional* (FALN) formed during this period.<sup>2</sup> Between 1974 and 1980, the FALN would claim responsibility for bombings of military, government, and economic sites, mainly in Chicago and New York, to call attention to the colonial case of Puerto Rico.<sup>3</sup>

In the early 1980s, Oscar López Rivera, Ida Luz Rodríguez, Carlos Alberto Torres, Carmen Valentín, and many other Puerto Rican women and men were captured in the United States, accused of being members of the FALN and the clandestine movement, convicted, and sentenced to the equivalent of life in U.S. prisons for their actions to end U.S. colonial control over Puerto Rico. After most had served almost twenty years in prison,

in an unprecedented act in response to a broad campaign for their release, President Clinton commuted some of their sentences. On September 10, 1999, Ida Luz Rodríguez, Ricardo Jiménez, Carmen Valentín, Elizam Escobar, Alicia Rodríguez, Adolfo Matos, Dylcia Pagán, Luis Rosa, Alejandrina Torres, Edwin Cortés, and Alberto Rodríguez walked out of prison and into the warm embrace of the Puerto Rican people. Oscar López Rivera, Carlos Alberto Torres, Juan Segarra Palmer, and Antonio Camacho Negrón remain in prison.

### WHO ARE THE PRISONERS?

Perhaps the most significant aspect of the legal context is the fact that under international law, colonialism is a crime against humanity.<sup>4</sup> For fighting this crime, for taking measures that are absolutely and expressly protected by international law, the Puerto Rican political prisoners have paid with decades of their lives.

### THE FALN

In 1974, continuing the long history of the Puerto Rican people's resistance to U.S. colonialism, the FALN emerged, a clandestine formation that committed political-military actions inside of the United States. Selecting its targets for their role in the continuing exploitation and oppression of the Puerto Rican people, the FALN explained its armed actions in communiqués and also called for the release of the Nationalist prisoners then in U.S. custody for almost a quarter century.<sup>5</sup>

In the early 1980s, many of its members came to be in the government's custody, some of whom had been the subject of illegal surveillance of their pro-independence activities dating from their years in high school and college. Upon arrest, each declared that she or he was a combatant in an anti-colonial war to free Puerto Rico from U.S. domination and invoked the status of prisoner of war (POW). They asserted that the courts of the United States and its political subdivisions had no jurisdiction to try them as criminals and asked to be remanded to an impartial international tribunal to have their status judged.

While their POW position was to be recognized by international judicial bodies and other international fora,<sup>6</sup> the state of Illinois and the U.S. government refused to recognize their POW status and proceeded to try them for criminal offenses. The prisoners, however, persisted in their refusal to recognize the courts' jurisdiction. In one case, they did not participate at all in the trial; in another, they minimized their participation. They presented no defense and prosecuted no appeals.

On April 4, 1980, among those arrested in Evanston, Illinois, were Carlos Alberto Torres, Ida Luz Rodríguez, Dylcia Pagán, Ricardo Jiménez,

Carmen Valentín, Elizam Escobar, and Adolfo Matos. The arrests were "accidental," occurring because an occupant of a house near where their van was parked reported "suspicious activity." Local police responded, with no idea who they were arresting. Alicia Rodríguez and Luis Rosa were arrested nearby the same day with rental trucks that were reported stolen.

The first seven were tried in state court for possession of weapons found in the van in which they were arrested and for conspiracy to commit the armed robbery of the rental trucks. They were sentenced to eight years in the Illinois Department of Corrections.<sup>7</sup> Alicia Rodríguez and Luis Rosa were tried for armed robbery of the rental trucks, armed violence, and possession of stolen vehicles and sentenced to thirty years in the Illinois Department of Corrections.<sup>8</sup> None of these men and women had previous criminal convictions.

After the state court trials, the federal government charged them with seditious conspiracy—conspiring to use force against the "lawful" authority of the United States to oust it from Puerto Rico—of doing so by membership in the FALN, and of related charges of weapons possession and transporting stolen cars across state lines.<sup>9</sup> They were sentenced to prison terms from fifty-five to ninety years—consecutive to their Illinois sentences—based mainly on the militancy of their statements in court on the day of sentencing. The judge stated his regret that he did not have the power to give them the death penalty.<sup>10</sup>

In 1981, Oscar López-Rivera, who had been named in the aforementioned federal indictment, was arrested after a traffic stop, tried for the identical seditious conspiracy, convicted, and sentenced by the same judge to a prison term of fifty-five years. He received a consecutive fifteen-year term in 1987 for conspiracy to escape—a plot conceived and carried out by government agents and informants and provocateurs.<sup>11</sup>

On June 29, 1983, four independentistas, including Alejandrina Torres, Edwin Cortés, and Alberto Rodríguez, were arrested. The FBI had conducted extensive electronic surveillance, including the use of miniature video cameras with lenses the size of a dime hidden in private dwellings. The government charged them with the same basic seditious conspiracy and with additional related charges of possession of weapons and explosives and transporting a stolen vehicle across state lines.<sup>12</sup> Each of the three received a sentence of thirty-five years in prison.

### HARTFORD

On August 30, 1985, hundreds of FBI agents descended on Puerto Rico and staged a predawn raid in the homes and offices of independence activists, arrested thirteen people, including Juan Segarra Palmer, and spirited them away from their country to the state of Connecticut.<sup>13</sup> There they were charged along with three others later arrested, including Antonio Camacho Negrón, with conspiracy to take \$7.5 million in government-insured money

from a Wells Fargo armored car,<sup>14</sup> an act for which the Puerto Rican clandestine organization, *Los Macheteros* (Machete Wielders), had taken responsibility. The charges included taking the money, transporting the money out of the United States, and giving toys purchased with the proceeds to poor Puerto Rican children.

In preparing for trial, the government revealed that it had conducted extensive, intrusive surveillance, in addition to having seized and analyzed belongings from homes, law offices, and other places. Following years of litigation challenging the constitutionality of such seizures, Juan Segarra Palmer was convicted and sentenced to fifty-five years in prison; Antonio Camacho Negrón was sentenced to fifteen years.

### THE TRIALS

The various proceedings against the captured independentistas shared in common a virtual hysteria by the media, law enforcement, and the courts. Many of the arrests were carried out in military regalia, replete with helicopters, snipers, and excessive numbers of FBI agents.

In the earlier arrests, the government sought, and the courts set, prohibitive bail. With the advent of "preventive detention," the government sought, and the courts ordered, no bail at all, and, in the case of Filiberto Ojeda, set the record for the longest preventive detention.<sup>15</sup> Awaiting trial, all of the prisoners were held in the most punitive, restrictive, often unprecedented isolation unless and until some outside intervention occurred—hunger strikes by the prisoners, protests by the independence movement and supporters, lawsuits by the attorneys, and monitoring by Amnesty International.

Newspapers whipped the public—and potential jurors—into an anti-terrorist frenzy, aided by and assisting the marshals' court "security," which not only sent a message to the judges and juries that the accused were guilty but also sought to intimidate supporters.

The courts, open as a forum for the government's political agenda, facilitated and cooperated in acts ranging from permitting the government's use of terms such as *terrorist* and banning the defense's use of terms such as *colonialism*, to convening anonymous juries, to cutting back on traditional limitations on state power, particularly on the right to be free from unreasonable searches and seizures.

### THE SENTENCES

#### LENGTH OF SENTENCE

Puerto Rican independentistas are punished for their beliefs and affiliations, for who they are, not for any act they committed. Government statistics

prove that those who commit criminal offenses receive far lesser sentences than do independence fighters. In 1981, the year most of the political prisoners were sentenced, the average federal sentence for murder was 10.3 years.<sup>16</sup> Puerto Rican political prisoners—who were not convicted of hurting or killing anyone—were sentenced to an average of 65.4 years—six times longer than the average. By 1997, with sentence lengths increasing, the average federal sentence for murder/manslaughter was 153 months (less than thirteen years).<sup>17</sup> Their sentences were still about five times longer than the average. Perhaps a concrete application of the sentences will provide insight: Oscar López will be 113 years old if he is made to serve his entire sentence; Carlos Alberto Torres, ninety-eight.

Comparing their sentences to those meted out to anti-independence forces likewise proves the politically punitive nature of the independentistas' sentences. Former Puerto Rican police colonel Alejo Maldonado, an admitted assassin, was paroled from prison after serving less time than most Puerto Rican political prisoners did, when, according to press reports,<sup>18</sup> he participated in police death squads that kidnapped, robbed, extorted, trafficked in weapons, tortured, and killed. The five Puerto Rican police officers who were convicted of the 1978 Cerro Maravilla murders of Carlos Soto Arriví and Arnaldo Darío Rosado received sentences from ten to thirty years. The commander of the intelligence unit responsible for the murders was released on parole after six years in prison.<sup>19</sup>

Comparisons to police cases in the United States lead to the same conclusion. Four white New York City policemen who in 1999 shot forty-one bullets at and killed a West African immigrant were acquitted of all charges—murder, manslaughter, criminally negligent homicide, and reckless endangerment.<sup>20</sup> A white Chicago officer, who killed a black homeless man and fled from the scene, was initially not indicted. After the community came out in force, the prosecution still refused to charge him with murder.<sup>21</sup> Three white Chicago policemen who killed a mentally ill Honduran man in his own home were not prosecuted criminally even after the county's impartial medical examiner concluded that his death was a homicide.<sup>22</sup> The white Detroit police officers who used their flashlights to club to death an unarmed African-American citizen when he failed to follow orders to open his hand won reversal of their twelve-to-twenty-five-year and eight-to-eighteen-year sentences.<sup>23</sup> Upon retrial, their sentences were even lower.<sup>24</sup> A border patrol officer who shot at fifteen Mexicans was to serve no more than ten months in prison.<sup>25</sup>

Sentences given to members of right-wing paramilitary groups pale in comparison to the sentences served by Puerto Rican political prisoners. Militia members faced a maximum of twenty-two years upon conviction of conspiring to stockpile pipe bombs for use against the federal government.<sup>26</sup> Anti-Castro Cubans affiliated with a known paramilitary group, captured in a boat loaded with explosives and weapons and suspected of planning an armed raid on Cuba,

were released without charges.<sup>27</sup> Another group of anti-Castro Cubans caught on a boat loaded with weapons and ammunition on the way to overthrow the Cuban government faced a maximum of eight years.<sup>28</sup> A Ku Klux Klan wizard captured in a boat with an arsenal of weapons and explosives about to invade the Caribbean nation with hopes of establishing a white supremacist state was sentenced to three years, paroled after two.<sup>29</sup> A Klan member served six years for a plot to blow up school buses to avoid court-ordered busing.<sup>30</sup> Likewise, sentences handed out to those who bomb abortion clinics and shoot at physicians,<sup>31</sup> as well as sentences given to government officials,<sup>32</sup> reflect a huge disparity with the sentences served by Puerto Rican political prisoners. Sentences in political cases in other countries also confirm the disproportionate, politically punitive nature of Puerto Rican political prisoners' sentences.<sup>33</sup>

TIME SERVED

Puerto Rican political prisoners released in 1999 had served sixteen to 19.5 years in prison. In the 1980s, when they were sentenced, the average time actually served in prison by those convicted in state court of serious violent crimes was "about 2.5 to four years."<sup>34</sup> By the early 1990s, the average time actually served in prison by those convicted in federal court of violent felonies hovered just above four years.<sup>35</sup> Department of Justice statistics for the late 1990s estimated that the average time served for state convictions of murder/manslaughter was 10.5 years; for federal convictions of murder/manslaughter, 10.8 years.<sup>36</sup>

PRISON CONDITIONS

It is a violation of human rights that those who have dedicated their lives to the freedom of their people, to self-determination—a right protected by international law—must endure prison, even for one day. But Puerto Rican political prisoners have endured conditions that are designed to break their commitment to independence and to break their human spirit, conditions that violate even minimum standards under international law.

Placement in prisons far from their families meant long-term separation, contrary to the Bureau of Prisons' stated policy encouraging maintenance of family and community ties. Adolfo Matos, in Lompoc, California, for the bulk of his almost twenty years in prison, rarely saw his daughters who live in New York. Ida Luz Rodríguez's son Damián could afford to see her only infrequently. Elizam Escobar's elderly mother, a resident of Puerto Rico, could travel to see him in Oklahoma only once a year.

Many of the prisoners' parents passed away during their long imprisonment. In spite of the bureau's policy permitting bedside visits and attendance at funerals, and ignoring letters of support from ministers and elected officials, prison authorities consistently refused to let the prisoners grieve with their

families. Among others, they rejected requests that Ricardo Jiménez see his mother who died of cancer, that Adolfo Matos attend his mother's funeral, that Carmen Valentín attend her father's memorial service, and that Elizam Escobar be present at his father's bedside and burial.

Officials classified every one of the prisoners as a special monitoring and high-security case, resulting in heightened surveillance and limited programs and movement for all of them. Some were subjected to special control units, isolating them from the prison population, restricting sensory stimuli and human interaction. In 1984, Ida Luz Rodríguez was held for close to a year at Alderson, West Virginia's Cardinal Unit; Alejandrina Torres and other women political prisoners spent two years, 1986 to 1988, at the infamous Women's High Security Unit in Lexington, Kentucky; and Oscar López Rivera was held for twelve torturous years, 1986 to 1998, at the U.S. Penitentiary in Marion, Illinois, and its successor, Florence, Colorado's Administrative Maximum Unit. Such extreme isolation, known to cause psychological and physical deterioration, has been widely condemned as violating international human rights standards.<sup>37</sup>

PAROLE

Parole, or conditional release from prison before the expiration of one's sentence, while available to those convicted of anti-social offenses<sup>38</sup> is not available to Puerto Rican political prisoners. Four of the Puerto Rican political prisoners sought release on parole, approaching the process from various perspectives. The response from the government—oblivious to what approach was used—was to apply a higher standard than most prisoners must meet by assigning them to a unique category to which only 1 percent of all prisoners are assigned, and then to deny parole. Alberto Rodríguez, after accumulating an unprecedented spotless record over twelve years of his thirty-five-year sentence, was told that he must remain in prison until the expiration of his sentence. Dylcia Pagán and Carlos Alberto Torres, who at the time of their hearings had served more than fourteen years of their fifty-five- and seventy-year federal sentences, were told to serve an additional fifteen years before they would be considered for release on parole. Juan Segarra Palmer received the identical response. The documents denying them parole expressly relied on their pro-independence affiliations and activities.

PETITION FOR RELEASE

THE CAMPAIGN

In November 1993, the campaign for the release of the prisoners submitted a formal application to the U.S. Justice Department asking the president to

exercise the constitutional power of pardon to grant the immediate and unconditional release of the prisoners. The pardon process in practice is rather routine, but in fact the president is free to follow whatever process he wants. While the routine requires an individual application from the federal prisoner himself or herself, in this case the campaign made the application not on behalf of a single person but rather fifteen, not all of whom were in the same case and not all of whom were even in federal custody at the time.

In accepting the application, the Justice Department's pardon attorney acknowledged the political nature of the case, indicating that in addition to applying the legal norms of the criminal justice system, she, and more particularly, the president, would have to then evaluate the political consequences of the disposition.

During the time the petition was pending, an unusual phenomenon developed—in the highly contentious political atmosphere in Puerto Rico, a consensus emerged that it was time for the prisoners to come home. Crossing party lines, the leadership of the entire spectrum of Puerto Rican politics asked the president to release them, as did the Speaker of the House and his predecessor, the president of the senate, former three-term governor Rafael Hernández Colón, former governor Roberto Sánchez Vilella, many other elected officials, the Manufacturers' Association and the Puerto Rico AFL/CIO and other labor groups, churches and bishops groups, including the Episcopal Church, the United Evangelical Church, the Christian Church (Disciples of Christ), the Baptist Church, and the Presbyterian Church, community leaders and organizations, lawyers groups, municipalities, university faculties, artists, and so many others.

The call for their release enjoyed wide support in the United States as well, including former president Jimmy Carter, the three Puerto Rican U.S. congressional representatives, Luis Gutiérrez, José Serrano, and Nydia Velázquez, elected officials from municipal, county, and state governments, including the New York City Council, Democratic Party local leaders and activists, countless churches and religious groups, including the National Council of Churches of Christ, the United Church of Christ, the Baptist Peace Fellowship of North America, the General Board of Church, and the Society of the United Methodist Church, women's groups, artists, lawyers associations, professional athletes, Latino coalitions, and more. Wide support also came forth on an international level, including Archbishop Desmond Tutu and ten other Nobel Prize laureates, members of parliament from Australia, human rights organizations from Central America and Africa, labor organizations, lawyers associations, and others.

#### THE EXECUTIVE GRANT OF CLEMENCY

On August 11, 1999, President Clinton announced his decision—a complicated, conditional offer of clemency that if accepted would amount to imme-

diate release on parole for eleven (prisoners Ida Luz Rodríguez, Ricardo Jiménez, Carmen Valentín, Elizam Escobar, Alicia Rodríguez, Adolfo Matos, Dylcia Pagán, Luis Rosa, Alejandrina Torres, Edwin Cortés, and Alberto Rodríguez), delayed release on parole for two (after an additional five years in prison for Juan Segarra Palmer and after an additional ten years in prison for Oscar López), a remitted fine for one (Antonio Camacho Negrón), and an inexplicable wholesale denial for one (Carlos Alberto Torres).

Declaring that "the prisoners were serving extremely lengthy sentences—in some cases 90 years—which were out of proportion to their crimes,"<sup>39</sup> the president said that he was moved by the support from "various members of Congress, a number of religious organizations, labor organizations, human rights groups, and Hispanic civic and community groups," along with "widespread support across the political spectrum within Puerto Rico," and thousands of letters requesting their release.<sup>40</sup> He also indicated that he was moved by "worldwide support on humanitarian grounds from numerous quarters," pointing specifically to former president Jimmy Carter, Nobel Prize laureate South African Archbishop Desmond Tutu, and Coretta Scott King.<sup>41</sup>

#### THE RESPONSE

The campaign immediately criticized the president's offer for failing to release all of the prisoners and for attaching conditions; the prisoners and their counsel set about to discuss the complicated offer; and the campaign in Puerto Rico mobilized one of the largest mass marches in the nation's history to press for the unconditional release of all.

In the month following the offer of conditional clemency, as the prisoners weighed their options, the right wing in the United States set about to whip the public into a hysterical frenzy, adopting the issue—with a vengeance and to achieve vengeance—to batter Clinton for having avoided their efforts to remove him from office following the discovery of his affair with a young White House intern.<sup>42</sup> Several committees in both houses of the legislature convened hearings, and both houses overwhelmingly approved a joint resolution condemning the action of President Clinton,<sup>43</sup> in what was thought to be the strongest bipartisan rebuke to Clinton from Congress,<sup>44</sup> accusing him of "making deplorable concessions to terrorists and placing in danger the national security in conceding clemency to Puerto Rican 'terrorists.'"<sup>45</sup> The proximity of presidential elections, with Republicans desperate to regain the White House, led to posturing on the issue by party leaders and candidates.<sup>46</sup> Even the president's wife, herself a candidate for the U.S. Senate, ventured into the fray, challenging her husband.<sup>47</sup> The prevailing atmosphere in the United States during the prisoners' deliberations was hate-filled hysteria that ultimately pressured the president to set a date by which the offer would expire if not accepted.

The conditions attached to the clemency offer included renouncing the "use, threatened use, or advocacy of the use, of violence for any purpose, including the achieving of any goal concerning the status of Puerto Rico."<sup>48</sup> Since the prisoners had submitted a statement to the U.S. Congress in 1997 when it considered legislation to resolve the status, indicating their disposition to participate in an open, democratic process, the renunciation of their use of force gave them no pause. There were hesitations, however, with the prospect of leaving some behind, and also with the conditions of parole, particularly in two aspects: the restriction on association "with persons who have a criminal record" and the restriction on travel. Not only would they be prohibited from seeing each other—problematic enough for the Rodríguez sisters and for all of them for the difficult process of transition from prison—but, in a movement for so long criminalized by the U.S. and colonial governments, many of whose leaders and heroes are former political prisoners, these restrictions would interfere with their participation in the independence movement. The conditions would have given pause due to the sordid trajectory of COINTELPRO, but additional concern arose upon learning of the Justice Department's public opposition to their release,<sup>49</sup> given that this agency was to be responsible for monitoring their compliance with the conditions. Support offered by the *Colegio de Abogados* (Bar Association) in Puerto Rico and the National Lawyers Guild in the United States helped allay some of this concern.<sup>50</sup>

The prisoners, scattered throughout the United States in eleven remote prisons, were not given the opportunity to meet face-to-face to discuss the president's offer.<sup>51</sup> However, in three unprecedented conference calls, they discussed the president's offer as frankly as they could, given the assumption that the calls were being intercepted. The years of separation and arduous prison conditions had not daunted them. With developed political vision, creativity, love, and maturity, they carefully listened to each other and to their movement, and, wholly supporting each other, together decided their course.

#### RELEASE

On September 10, 1999, eleven women and men became former political prisoners,<sup>52</sup> emerging from prison to be received with a hero's welcome in Chicago, where two returned to their families and communities, in San Juan, where nine went to live, and in New York, even though none of the prisoners appeared there.<sup>53</sup> In Puerto Rico, hundreds of enthusiastic supporters waited hours at the airport for their arrival, greeting them with shouts of "hero, hero."<sup>54</sup> Parents and grandparents, recognizing the significance of the historic moment, brought their children and grandchildren to witness the moment and to learn the importance of their flag and their country.<sup>55</sup>

Not only did San Juan's Catholic archbishop invite them as special guests to participate in mass on Three Kings Day,<sup>56</sup> where he and San Juan's mayor celebrated the prisoners' freedom and integration into the community, but they have been welcomed by churches, civic and religious groups, universities and labor organizations, and family and friends, and offered temporary housing, economic support, and employment. They are seen and respected as "ex-political prisoners," including by the island's largest daily newspaper.<sup>57</sup> They are recognized wherever they go, as people they have never met stop them in the street to embrace them, to show their respect, to thank them for their contribution to the nation, and to express a most heartfelt welcome.

The eleven have fully complied with the conditions that accompanied the president's order, meeting as required with probation officials, submitting reports, limiting their association, and traveling only with permission, granted only rarely. While initially much of their time was spent reuniting with their families and getting acquainted with their new surroundings,<sup>58</sup> after a few short months, most were working and/or attending university.<sup>59</sup> They have established themselves as teachers and mentors, artists, musicians, artisans, and museum guides, media and public relations professionals, and office clerks and handymen. Involved in their communities, caring for their elderly parents and, in some cases, spouses, they are popular on the high school and university lecture circuit, where they are asked for their autographs, their opinions, their advice, and their input. They are public figures, revered, respected, and honored by their people.

Their rapid integration into the fabric of Puerto Rican society is a testament to the president's good judgment in ordering their release, a judgment Clinton said he did not regret, even after the congressional onslaught.<sup>60</sup> The former prisoners' comportment likewise demonstrates that the release of their remaining imprisoned patriots would result in no risk to society—a release actively sought by the same campaign that won the release of the eleven.

#### SEPTEMBER 11, 2001, AND THE POLITICAL PRISONERS

The necessity of working for their release was only confirmed on September 11, 2001. Within hours of the World Trade Center and Pentagon attacks, various political prisoners throughout the United States, including Puerto Rican political prisoners Carlos Alberto Torres and Antonio Camacho Negrón, were removed from the general population and segregated. Even Haydeé Beltrán, who for over a decade has made clear to the government her withdrawal from the political scene, was swept into segregation.

None of the political prisoners segregated on September 11 was suspected of involvement in the attacks carried out that day. None was suspected of violating prison rules, none was provided with written notice of

charges, none was offered a hearing or any other opportunity to defend himself or herself, and none was allowed to communicate with attorneys or family members to inform them what was being done to them.

Antonio Camacho was held so completely incommunicado at the Federal Correctional Institution (FCI) of Allenwood, Pennsylvania, that it took three weeks to learn about his situation. When he asked prison staff why he was segregated, they told him, "You know how the general situation is. You know why you are here" (personal communication). He was allowed no incoming or outgoing mail and no telephone calls, not even with his attorney. The medication for his stomach ulcer was withheld, in spite of his many requests to prison staff. He was returned to the general population on October 2, some ten to fifteen pounds thinner, only to learn that he lost the two-man cell he had occupied and had to move to a six-man cell, and that much of his personal property, including clothing and a radio, had been taken.

Carlos Torres was detained in segregation at FCI Oxford, Wisconsin, for a month. In daily conversations, prison staff, those responsible for his day-to-day supervision, universally expressed to his lawyer their puzzlement at his placement in segregation, given his spotless record in prison. They likewise expressed universal impotence to do anything about it, given that the order came from Washington. An attorney in the office of the Bureau of Prison's general counsel in Washington made it quite clear that his segregation had nothing to do with his prison conduct and everything to do with what she called "national security" and the fact that he was convicted of seditious conspiracy. A journalist reporting this story encountered a similar response from Bureau of Prisons' (BOP) spokesperson Linda Smith: "Were they terrorists?"<sup>61</sup>

Other political prisoners segregated on September 11 include Marilyn Buck, Sundiata Acoli, Yu Kikumura, Raymond Lévasseur, and Richard Williams—even Phil Berrigan, a former priest and radical pacifist. Acoli and Williams were so held for four and five months, respectively.

Indefinite, long-term solitary confinement, legitimated by the new regulations, causes psychological and physical deterioration of the sort widely condemned as violating international human rights standards.<sup>62</sup> The devastating consequences to isolated human beings are well documented and well known to the Bureau of Prisons, particularly Puerto Rican political prisoners.

The attorney general has announced on many occasions following September 11 that he fully expects more terrorist attacks. Given his segregation of political prisoners on September 11, in spite of the fact that the government knew full well that they had no relationship to the attacks, the attorneys for political prisoners have asked the government for assurance that such sweeps not recur. Assurance has not been forthcoming. Carlos Torres, Oscar López, and many other political prisoners are serving lengthy, disproportionate sentences the equivalent of life in prison. Torres's projected release date is October 15, 2024; López's, September 27, 2027. There is no assurance that

they will not be made to serve these long sentences in total isolation, barred from communication with families, loved ones, and counsel. Instead, there is a new law that ensures their vulnerability to illegitimate political punishment, a vulnerability only confirmed by Attorney General Ashcroft's testimony before the Senate Judiciary Committee criticizing President Clinton for being soft on terrorism, offering the example of his 1999 order granting clemency to the eleven Puerto Rican political prisoners.

As for the former political prisoners, they are not immune from the anti-terrorist hysteria reigning in Washington. After two and a half years of scrupulously complying with all of the conditions, having integrated into civil life, working and supporting themselves, and reunited with their families and loved ones, they are now being subjected to increased supervision, required to submit to urinalysis, with officials telling them that they are likely to make visits to their families' homes (although they do not live with these family members), to their places of work, and to places they are known to frequent.

## CONCLUSION

In the month following the president's clemency offer,<sup>63</sup> and in the times of the U.S. Navy's military "exercises" in Vieques—those rare moments when Puerto Rico actually appears on the radar screen of U.S. news—notably missing from the public discourse is any acknowledgment of the colonial case of Puerto Rico or the U.S. Congress' responsibility for resolving the status question.<sup>64</sup> Pro-statehood and pro-commonwealth leaders readily agreed in 1999 that the prisoners' release and the simultaneous, brewing issue of the U.S. Navy's presence in Vieques were "symptoms of a deep-seated problem, the unresolved status of Puerto Rico, that will crop up in other forms in the future,"<sup>65</sup> that they reflect "the frustration and the powerlessness that the people of Puerto Rico feel in their political status,"<sup>66</sup> demonstrating "a persistent deficit of democracy in the current relationship"<sup>67</sup> between Puerto Rico and the United States that detracts from the legitimacy of U.S. sovereignty over Puerto Rico. A White House announcement in 2000 to call for a process to resolve the colonial status<sup>68</sup> seemed more calculated to win support for the administration's decision to keep the navy in Vieques than to envision any legitimate decolonization efforts.

The decade of the 1990s, declared by the United Nations the decade to end colonialism, came and went, with Puerto Rico's colonial status undisturbed. The United Nations Decolonization Committee continues to pass annual resolutions recognizing the right of self-determination of the Puerto Rican people, while successive U.S. administrations consistently take pains to avoid the United Nations' scrutiny, in spite of occasional lip service to the need to resolve the status of Puerto Rico.

Regardless of the prevailing hysteria in the United States, and whether or not the colonial status of Puerto Rico is resolved, eleven women and men who dedicated decades of their lives to the freedom of their country now walk free, contributing, if only by their mere presence and example, to the real potential for independence. Their compatriots remain behind bars, contributing, by their absence and example, to the need for a speedy and just resolution of the status, which would of course result in their release.

In this not-yet-postcolonial era, following the attacks of September 11, much can be gleaned from the astounding pace at which "anti-terrorist" legislation has wiped out many civil liberties, the government's frontal attack on the most harmless dissent,<sup>69</sup> the increase in domestic spying,<sup>70</sup> and the utter disregard for domestic and international law in the treatment of those being held in Guantánamo.<sup>71</sup> This historical moment promises to be difficult for the remaining Puerto Rican political prisoners—and all political prisoners—as well as for the movements they represent.

#### NOTES

Portions of this chapter were part of a presentation at the International Seminar "Liberation of Puerto Rican Political Prisoners and Prisoners of War," October 13–16, 1995, San Juan, Puerto Rico.

1. "The independence of Ghana (1957), the agony of the Congo (Lumumba was murdered in January 1961), the independence of France's sub-Saharan colonies following the Gaullist referendum of 1959, finally the Algerian Revolution (which might plausibly mark our schema here with its internal high point, the Battle of Algiers, in January–March 1957, as with its diplomatic resolution in 1962)—all of these signal the convulsive birth of what will come in time to be known as the 60s." Fredric Jameson, "Periodizing the 60s," in *The 60s without Apology*, ed. Sohnya Sayres et al. (Minneapolis: University of Minnesota Press, 1980), p. 180.

2. Armed Forces of National Liberation.

3. "Terrorists without a Cause," *Chicago Tribune* editorial, March 18, 1980, sec. 2, p. 2. ("Most of the incidents have involved bombs, fortunately so placed and timed as to damage property rather than persons. . . . But again the terrorists were out to call attention to their cause rather than to shed blood").

4. In 1960, the United Nations General Assembly called for "a speedy and unconditional end [to] colonialism in all its forms and manifestations" (Resolution 1514 [XV]). By 1970, that same body declared that "further continuation of colonialism in all its forms and manifestations is a crime which constitutes a violation of the Charter of the United Nations, the Declaration on the Granting of Independence to Colonial Countries and Peoples, and the principles of international law" (Resolution 2621 [XXV]). The latter resolution recognized the right of colonial peoples to do precisely what the thirteen colonies that would later comprise the United States had done: "to struggle by all necessary means at their disposal against colonial powers which suppress their aspiration for freedom and independence." The same United

Nations, through its Decolonization Committee, established to monitor the implementation of its resolutions mandating an end to colonialism, has repeatedly declared that Resolution 1514 (XV) applies to the case of Puerto Rico.

5. For example, a 1977 FALN communiqué following bombings of multinational corporations in New York explained the choice of targets as "they best characterize and represent Yanki imperialism. These corporations are using underhanded and barbaric tactics to explore and exploit our natural resources, especially land and off-shore petroleum and minerals such as copper and nickel." In *Towards People's War for Independence and Socialism in Puerto Rico: Documents and Communiques from the Revolutionary Public Independence Movement and the Armed Clandestine Movement*, ed. Sojourner Truth Organization (Committee in Solidarity with Puerto Rican Independence, May 19 Communist Organization, October 30 Organization, January 1979).

6. See, e.g., Verdict of the Permanent Peoples' Tribunal, Session on Puerto Rico (Barcelona, 1989); Verdict of the Special International Tribunal on the Violation of Human Rights of Political Prisoners and Prisoners of War in United States Prisons and Jails (New York, 1990); Verdict of the International Tribunal of Indigenous Peoples and Oppressed Nations in the U.S.A. (San Francisco, 1992).

7. *People of the State of Illinois v. Carlos Torres et al.*, No. 80-4794 (Circuit Court of Cook County).

8. *People of the State of Illinois v. Mary Rodriguez and Luis Rosa*, No. 80-2479 (Circuit Court of Cook County).

9. *United States v. Carlos Alberto Torres et al.*, No. 80 CR 736 (N.D. Ill.).

10. At the sentencing hearing, which took place soon after the holiday marking George Washington's birthday, Federal Judge Thomas McMillen made the following retort to an observation by one of the prisoners about the irony of the occasion: "You mentioned George Washington. You know, if George Washington had been captured by the British during the American Revolution he wouldn't have been put in the penitentiary or jailed; he would have been executed. And that, as a matter of fact, is the penalty which should be imposed on Count 1 [seditious conspiracy] in this case." *U.S. v. Carlos Torres*, Transcript of Sentencing Hearing, February 18, 1981, p. 20.

11. *United States v. Oscar Lopez et al.*, No. 86 CR 513 (N.D. Ill.).

12. *United States v. Alejandrina Torres et al.*, No. 83 CR 494 (N.D. Ill.).

13. Others arrested include Jorge Farinacci, Hilton Fernández Diamante, Isaac Camacho Negrón, Orlando González Claudio, Yvonne Meléndez Carrión, Luis Colón Osorio, Roberto José Maldonado, Norman Ramírez Talavera, Carlos Ayes Suárez, Luz Berríos Berríos, and Filiberto Ojeda Ríos. The first four, in a negotiated plea with the government, admitted to having committed acts in the name of Puerto Rican independence considered crimes by the United States, and they received prison sentences of five years to be followed by five years of parole. In an earlier plea agreement, Luz Berríos pled guilty and received a five-year prison sentence. Yvonne Meléndez received a sentence of probation following trial, and Carlos Ayes was found not guilty. Roberto José Maldonado and Norman Ramírez were found guilty and sentenced to five years in prison. Juan Segarra and Antonio Camacho were found guilty, as indi-



cated earlier. Filiberto Ojeda, who had been released on bond after almost three years in pretrial detention, was tried in Puerto Rico for defending himself and his home when FBI agents opened fire during his arrest. A Puerto Rican jury acquitted him. Before trial in Connecticut, in 1990, he left his electronic ankle bracelet to be delivered to the FBI in Puerto Rico with a note that he was returning to clandestinity. He was tried in absentia and sentenced to fifty-five years. Over the years since his departure the FBI has offered an ever-increasing reward for information leading to his arrest. See Hiraldo de León, "\$150 mil por captura Ojeda Ríos: FBI duplica recompensa." *El Vocero*, March 25, 2995, p. 4; Rosita Marrero, "\$500,000 por hallar a Filiberto: FBI subirá la recompensa" *Primera Hora*, January 7, 1999, pp. 1A, 10A.

14. *United States v. Victor Gerena et al.*, No. H-85-50 (D. Conn.).

15. *United States v. Filiberto Inocencio Ojeda Rios*, 846 F.2d 167 (2d Cir. 1988).

16. Administrative Office of the United States District Court, *Sentences Imposed Chart for Year Ended June 30, 1981* (Washington, D.C.), p. 145. See also, Alice Vachss, "Megan's Law Won't Reduce Sex Crimes," *New York Times*, July 31, 1995, p. A9 ("According to the most recent Bureau of Justice report, the national average sentence for convicted violent felons was less than eight years, of which they served less than four in prison.")

17. Kathleen Maguire and Ann L. Pastore, eds., *Sourcebook of Criminal Justice Statistics 1997* (Washington, D.C.: U.S. Department of Justice, Bureau of Justice Statistics, 1998), table 5.57, p. 430.

18. "Acuerdo esclarecerá Caso Muñoz Varela," *Claridad*, August 4-10, 1995, p. 3; Marilyn Pérez Cotto, "Justicia no puede descansar en testimonio Alejo," *Claridad*, August 11-17, 1995, p. 3.

19. Ortiz Luquis, "Ignacio Rivera: Un agente encubierto de abogado," *Claridad*, November 29-December 5, 1991, p. 3; Ortiz Luquis, "Cartagena desmiente a Romero e involucra al FBI," *Claridad*, November 29-December 5, 1991, p. 5. According to *United States v. Moreno Morales et al.*, 815 F.2d 725 (1st Cir. 1987), the commander was indicted in 1984 and tried in 1985. Given that his sentence was twenty years, this means his 1991 release on parole occurred immediately upon becoming eligible.

20. Tara George, "4 Diallo Cops Go Free: Albany Jury Acquits Officers on All Counts in Bronx Death," *New York Daily News*, February 26, 2000, p. 2.

21. Andrew Martin, "Becker Now Indicted in Killing: New Evidence Is Cited by O'Malley in Shooting Death of Homeless Man," *Chicago Tribune*, September 28, 1995, p. 1.

22. Andrew Martin, "Probe of Police Sought in Humboldt Park Death," *Chicago Tribune*, November 26, 1996, section 2, p. 3.

23. "Ex-Detroit Officers Will Go to Prison for Beating Death," *New York Times*, October 13, 1993, p. A1; also see <http://www.larrynevers.com> (accessed June 15, 2003).

24. See, e.g., "New Trial Convicts Larry Nevers of Manslaughter: Appeal Planned," Law Enforcement Legal Defense Fund, *With Justice For All: Protecting Those Who Protect* 2:1 (Summer 2000); also see <http://www.leldf.org/Newsletters/jun2000-p.1.html> (accessed June 15, 2003).

25. "Border Shootings," *USA Today*, September 9, 1994, p. 3A.

26. "3 Militia Members Guilty in Bomb Plot," *Chicago Tribune*, November 1996, sec. 1, p. 8.

27. "U.S. Seizes Armed Anti-Castro Squad off the Florida Keys," *Chicago Tribune*, January 24, 1996, sec. 1, p. 11.

28. "Mississippi Boat Is Linked to a Plot against Castro," *New York Times*, December 26, 1995, p. A13.

29. James Ridgeway, "Hard Time: Why the Left Goes to Jail and the Right Go Home," *Village Voice* (December 11, 1990).

30. Mark Starr, "Violence on the Right," *Newsweek* (March 4, 1985): 25.

31. See, e.g., "Guilty Plea Expected in Fires at Clinics," *New York Times*, June 1995, p. Y16 (ten-year sentence for attempted murder of doctor); Sue Anne Pressle "From Prison Back to P.G. Pulpit," *Washington Post*, July 26, 1989, p. B1 (man guilty of bombing ten health clinics and causing over \$1 million in damage sentenced to ten years, released after serving 3.8 years).

32. See, e.g., Linda Campbell, "Poindexter Gets 6 months in Iran-Contra," *Chicago Tribune*, June 12, 1990, p. 1; George Lardner Jr., "Abrams Sentenced to Years' Probation, Fined \$50: Former Official at State Department Withheld Iran-Contra Information from Congress," *Washington Post*, November 16, 1991, p. A20 (among those prosecuted and convicted for the Iran-Contra government arms for hostage scandal, the longest prison sentence was six months); "The Luckless Watergate Four," *Newsweek* (November 19, 1973): 45-46; G. V. Higgins, "Judge Who Tried Harder," *Atlantic* (April 1974): 83-92 (anti-Castro Cuban Watergate "plumbers" sentenced to six years for burglary; Watergate executives received lighter sentences for lesser offenses).

33. See, e.g., Tina Rosenberg, "Force Is Forever," *New York Times Magazine* (September 24, 1995): 44 (former leaders of the Chilean DINA, or intelligence police sentenced to terms of six and seven years in prison for U.S. car bomb assassinations of Salvador Allende's former cabinet minister, Orlando Letelier, and his assistant, one of whom refused to surrender to custody); Stephen Kinzer, "3 Ex-East German Leaders Convicted," *New York Times*, September 17, 1993, p. A3 (former East German officials responsible for deaths of seven people killed as they tried to cross to west, sentenced to 5.5 and 7.5 years in prison, eligible for 50 percent reduction of sentence).

34. Herbert Koppel, *Time Served in Prison: Bureau of Justice Statistics Special Report* (Washington, D.C.: U.S. Department of Justice, Office of Justice Programs, Bureau of Justice Statistics, 1984), p. 1. As of 1991, state prisoners convicted of violent offenses including murder, manslaughter, and sexual assault, could expect to serve an average of 5.8 years. See *Survey of State Prison Inmates, 1991* (Washington, D.C.: U.S. Department of Justice, Bureau of Justice Statistics, March 1993), p. 7.

35. *Federal Criminal Case Processing, 1980-89 with Preliminary Data for 1990: A Federal Justice Statistics Report* (Washington, D.C.: U.S. Department of Justice, Office of Justice Programs, Bureau of Justice Statistics, October 1991), p. 18 (between 1985 and 1990, for violent offenses, the average time served until first release ranged from

a low of 48.8 months (4.0 years) to a high of 54.2 months (4.5 years); see *Sourcebook of Criminal Justice Statistics 1993*, table 6.92.

36. Kathleen Maguire and Ann L. Pastore, eds., *Sourcebook of Criminal Justice Statistics 1997* (U.S. Department of Justice, Bureau of Justice Statistics: Washington, D.C., 1998), table 5.57, p. 431. See also, *Sourcebook of Criminal Justice Statistics 1993*, table 6.92, p. 652 (average time served in federal prison for murder, 5.4 years); *National Corrections Reporting Program*, 1992, p. 34 (average time served in state prison, eight years); Michael Pollan, "How Pot Has Grown," *New York Times Magazine* (February 19, 1995): 32 ("An American convicted of murder can expect to spend, on average, less than nine years behind bars.").

37. Amnesty International, *Allegations of Ill Treatment in Marion Prison, Illinois, USA* (May 1987): 15 ("[w]ithin Marion, violations of the [United Nations] Standard Minimum Rules [for the Treatment of Prisoners] are common. . . . There is hardly a rule in the Standard Minimum Rules that is not infringed in some way or other."); L. C. Dorsey, *Marion Prison: Progressive Correction or Legalized Torture?* (New York: National Interreligious Task Force on Criminal Justice), p. 6 ("The absence of balance in the procedures at Marion prison, where security measures override the individual need for human contact, spiritual fulfilment, and fellowship, becomes an excuse for the constant show of sheer force. The conditions of Marion prison . . . constitute, in our estimation, psychological pain and agony tantamount to torture."); *Prison Conditions in the United States* (New York: Human Rights Watch, 1991), pp. 3, 75-77 (noting the proliferation of state maximum security prisons modelled after Marion, condemning as dangerous the trend toward "Marionization" of prison in the United States).

38. The majority of those who seek parole are released. See, e.g., *Sourcebook of Criminal Justice Statistics, 1993*, p. 658, reflecting that in 1993, 70 percent of those applying were freed.

39. William J. Clinton letter of September 21, 1999, to Rep. Henry Waxman, p. 2 [hereinafter "Waxman letter"].

40. Waxman letter, p. 2.

41. Waxman letter, p. 2.

42. Marco Antonio Rigau, "Es la colonia, estúpidos," *El Nuevo Día*, September 14, 1999, p. 105; see also, José Javier Colón Morera, "¿Qué esperar del Congreso estadounidense en el 2000?" *Claridad*, January 14-20, 2000, pp. 8-9.

43. Lina M. F. Younes, "Continúa debate sobre perdón de Clinton," *El Mundo*, September 19, 1999, p. 9. See also, Robert Friedman, "Clinton Attacked from All Sides As Clemency Debate Continues," *San Juan Star*, c. September 1999.

44. Robert Friedman, "U.S. Senate Approves Censure of Clinton," *San Juan Star*, September 15, 1999, p. 5.

45. Ibid.

46. See, e.g., Robert Friedman, "U.S. Senate to Vote on Censure Today," *San Juan Star*, September 14, 1999, p. 5; James Anderson, Associated Press, "A flote el status ante la clemencia," *El Mundo*, September 12, 1999, p. 8.

47. See, e.g., Ana Mendieta and Lynn Sweet, "Freed Puerto Ricans Hailed," *Chicago Sun Times*, September 12, 1999, p. 3A.

48. U.S. Department of Justice. "News Advisory." Wednesday, August 11, 1999. <http://www.usdoj.gov/opa/pr/1999/August/352dag.htm>. Accessed August 12, 1999.

49. See, e.g., Katharine Q. Seelye, "Director of F.B.I. Opposed Clemency for Puerto Ricans: A Sign of a Fierce Debate," *New York Times*, September 22, 1999, p. 1 ("The FBI 'unequivocally opposes' President Clinton's offer of clemency to the 16 Puerto Rican nationalists, affirming that the liberation of the majority of the prisoners would reinvigorate their terrorist movement.").

50. John M. Broder, "12 Imprisoned Puerto Ricans Accept Clemency Conditions," *New York Times*, September 8, 1999, p. 1.

51. John McPhair, "Justice Nixes P. R. Inmates' Request for Joint Session," *San Juan Star*, August 14, 1999, p. 4.

52. Juan Segarra Palmer also accepted the conditional clemency, which provided for his release five years hence.

53. No author, "Recepción de héroe," *Primera Hora*, September 11, 1999, p. 3A. See also Milvia Archilla, "Fustiga CRB timidez sobre el terrorismo: En convención PNP," *Primera Hora*, September 13, 1999, p. 4A; Ana Mendieta and Lynn Sweet, "Freed Puerto Ricans Hailed," *Chicago Sun Times*, September 12, 1999, p. 3A; Richard Sisk, "11 in FALN Freed," *New York Daily News*, September 11, 1999, p. 6; Helen Peterson and Salvatore Arena, "Cheers Welcome Returning FALN Members," *New York Daily News*, September 12, 1999, p. 5.

54. Agnes J. Montano, "Multitudinaria bienvenida," *El Nuevo Día*, September 11, 1999, p. 62.

55. Ibid.

56. Mireya Navarro, "Freed Puerto Rican Militants Revel in Life on the Outside," *New York Times*, January 27, 2000, p. A14.

57. Ibid.

58. Daisy Sánchez, "En busca de un nuevo destino: Hablan los ex prisioneros políticos," *Diálogo*, November 1999, p. 34.

59. See, e.g., Benjamín Torres Gotay, "Navidad sin rejas para los ex presos políticos," *El Nuevo Día*, January 4, 2000, p. 32; Benjamín Torres Gotay, "Difícil la reintegración de los ex prisioneros," *El Nuevo Día*, January 3, 2000, p. 26.

60. Francine Kiefer and James N. Thurman, "Race, Pardons, and a Small Boy from Cuba," *Christian Science Monitor* (January 20, 2000): 1.

61. Anne-Marie Cusac, "You're in the Hole: A Crackdown on Dissident Prisoners," *The Progressive* (December 2001); see also <http://www.progressive.org/0901/amc1201.html> (accessed June 14, 2003).

62. See note 36.

63. José Garriga Picó, "El sentir del Congreso," *El Mundo*, September 12, 1999, p. 35.

64. Lina M. F. Younes, "Próxima semana vista sobre clemencia a presos," *El Mundo*, September 17, 1999, p. 12.
65. Robert Friedman, "Bill Ordering Navy Withdrawal To Be Filed," *San Juan Star*, September 16, 1999, p. 5, citing the then pro-statehood Governor Rosselló.
66. Ibid.
67. Rafael Hernández Colón [former governor of Puerto Rico], "Presos Políticos en U.S.A.," *El Nuevo Día*, September 8, 1999, p. 133 (translated from the original Spanish).
68. Leonor Mulero, "En este mismo año la consulta," *El Nuevo Día*, February 8, 2000, p. 20; Lina M. F. Younes, "Denuncian inacción del Congreso: Sobre status," *El Vocero*, September 20, 1999, p. 13.
69. Neil A. Lewis, "Ashcroft Defends Antiterror Plan and Says Criticism May Aid Foes," *New York Times*, December 7, 2001, p. 1A. "Mr. Ashcroft told the Senate Judiciary Committee, 'To those who scare peace-loving people with phantoms of lost liberty, my message is this: your tactics only aid terrorists.'"
70. Carolyn Skorneck, "House OKs More Money for Spying," Associated Press, December 12, 2001.
71. See, e.g., Schey, Peter A. 2002. "In Pursuit of Justice: Taliban Prisoners in Guantanamo Have Geneva Convention Rights," posted in the Interfaith Communities United for Justice and Peace website (<http://www.icujp.org>). Accessed August 30, 2002.