

ALABAMA POST-CONVICTION RELIEF PROJECT, INC.

817 SOUTH COURT STREET

MONTGOMERY, AL 36104

TELEPHONE (334) 834-2099

FACSIMILE (334) 834-0353

Website: www.alapcrp.org

www.facebook.com/APCRP

CHRISTINE A. FREEMAN
Executive Director

An Open Letter to Jeff Bezos
From the Alabama Post-Conviction Relief Project

Dear Mr. Bezos,

On June 15, you asked Twitter to help you figure out a radical new philanthropy strategy focused on the short term: “the right now,” as you put it. The Alabama Post-Conviction Relief Project (APCRP) applauds your open-mindedness, and hopes that we might be exactly the sort of opportunity you’re looking for.

APCRP is a non-profit organization that exclusively serves Alabama death row prisoners with state post-conviction claims. We do not choose cases to help advance a particular policy agenda. Instead, at APCRP, our clients are our cause. Each case is handled with the sole objective of getting justice for our death-sentenced clients – some of whom are innocent, intellectually disabled, or severely mentally ill, and all of whom were denied effective representation at trial because of Alabama’s retrograde and unjust death penalty scheme.

And every death penalty case is an opportunity to help a single individual obtain justice and to leverage that justice to make meaningful change to the criminal legal landscape. Thus, the Alabama Post-Conviction Relief Project represents a marriage of your two stated passions: the radical immediacy of “the right now” wed to the “lever” of the long-term.

Alabama has great enthusiasm for the death penalty, but little appetite for the kind of robust defense system that might arguably justify use of this gravest of punishments. The state does not have a statewide public defender system, has no state post-conviction offices, and does not even provide appointed counsel in state post-conviction litigation until after a post-conviction petition has been filed in state court – and then only if it “appears that counsel is necessary in the opinion of the judge.”

Although state prisoners may receive appointed counsel when they challenge their cases in federal court, they are barred from raising in federal court any issue not sufficiently raised beforehand in state court. Thus habeas litigation in federal court cannot be successful if death row clients have not been adequately represented in their state court post-conviction proceedings. Just as important, any state court decision on a state procedural rule is held to be binding on any federal court reviewing the state death penalty conviction. Lack of trained lawyers or adequate funding for state post-conviction litigation prevents success in federal court.

Most critically, Alabama lacks experienced qualified capital counsel at all stages of the process. To be appointed to a capital case, Alabama law requires only that a lawyer be licensed to practice and have

five years of experience in any type of criminal case. Alabama provides no additional training in handling capital cases and has historically capped fees for appointed counsel at extremely low rates.

The state also resists every effort at reform, including the retroactive application of watershed changes to the law. For instance, until 2017, Alabama's judges, who are elected in partisan contests relying heavily on "tough-on-crime" rhetoric, were empowered to override jury verdicts for life and sentence people convicted of these crimes to death. The legislature finally voted to end this immoral, politically-driven practice this year, but attorneys for the state are pushing back vigorously against making this change retroactive or revisiting the cases of APCRP clients who were sentenced to die due to judicial override.

The state also strenuously resists efforts to obtain justice for intellectually disabled clients on death row. Despite a 2002 Supreme Court ruling saying that the "mentally retarded," as they were then called, are constitutionally barred from execution, and several more recent rulings clarifying clinical standards for the diagnosis of intellectual disability, Alabama's death row still includes numerous individuals with low IQs, who attended special education classes and who never functioned independently as adults due to their disabilities.

APCRP's clients include people whose sentences stem from judicial override, people who are intellectually disabled, people who are severely mentally ill, people whose lawyers abandoned them, and others. We evaluate each case with an eye toward getting justice for the client and nothing else.

Yet investment in APCRP also represents an opportunity to broadly affect the criminal legal landscape. Because, as the Supreme Court has said, "death is different," capital cases receive a great deal of scrutiny, and changes made as a result of capital litigation can have a trickle-down effect that means more justice for everyone. Perhaps the most significant recent example of this is seen in the line of cases stretching from *Atkins v. Virginia* to *Miller v. Alabama*. In its 2002 *Atkins* decision, the U.S. Supreme Court ruled that intellectually disabled individuals cannot be sentenced to death. "Because of their disabilities in areas of reasoning, judgment, and control of their impulses," the Court wrote, "they do not act with the level of moral culpability that characterizes the most serious adult criminal conduct. Moreover, their impairments can jeopardize the reliability and fairness of capital proceedings against [them]." Based on the same reasoning, the Supreme Court held in 2005, in *Roper v. Simmons*, that individuals may not be sentenced to death for crimes committed before they turned 18. And in 2012, 10 years after the original *Atkins* decision, the legal system's trickle-down effect made itself felt when the Supreme Court ruled it unconstitutional to impose mandatory life without parole sentences on juveniles, a decision that has led to hundreds of resentencings across America.

Mr. Bezos, funding Alabama Post-Conviction Relief Project means "right-now" impact and long-term results. It means immediate justice for a few and enduring justice for the many. If you are interested, we would love to talk with you more about what an investment from you could mean to our clients and to the state of the law.

Please call us.

Sincerely,
Christine Freeman
Executive Director