

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

BEFORE THE ATOMIC SAFETY AND LICENSING BOARD

In the Matter of)	Docket Nos. 50-247-LR
)	and
)	50-286-LR
ENTERGY NUCLEAR OPERATIONS, INC.)	
)	
(Indian Point Nuclear Generating Units 2 and 3))	
)	October 11, 2011

INITIAL PRE-FILED TESTIMONY OF ANTHONY PAPA IN SUPPORT OF
HUDSON RIVER SLOOP CLEARWATER, INC.'s
CONTENTION REGARDING ENVIRONMENTAL JUSTICE (EC-3A)

Q1. What is your name and your employment?

A1. My name is Anthony Papa and I am employed as the manager of media relations at the Drug Policy Alliance.

Q2. In what capacity are you providing testimony today?

A2. I am providing testimony in my individual capacity and as the author of the book, 15 to Life: How I Painted My Way to Freedom, which is my autobiography.

Q3. Do you have personal knowledge of the conditions inside Sing Sing prison, the sociology of the prisoners, and the prison's proximity to Indian Point?

A3. Yes I do. I served part of a 15 to life sentence for a non-violent drug crime involving the transportation of 4.5 ounces of cocaine. Even though I was a first time offender that sentence resulted from the mandatory minimums imposed by Rockefeller drug laws of New York State. In the end, I was an inmate at Sing Sing for 12 years.

While I was confined at Sing Sing, I was keenly aware of Indian Point. I often worried about Indian Point, including what would happen to the prisoners at Sing Sing if there were an accident at Indian Point -- and whether or not we would be evacuated. I also thought a lot about the Hudson River while I was at Sing Sing. I watched it for years, from the hobby shop and looking out from all of the windows facing the river. It was the focus of many of my paintings, as seen from my perspective, framed in the barbed wire. I loved looking out at the beautiful Hudson and took comfort from it. My painting, "Metamorphosis," even has the two reactors at Indian Point in the background (see Exhibit CLE000019).

Q4. Why did you only serve part of your sentence?

A4. As detailed in my book, 15 to Life, after a period of intense despair, I discovered painting as a means of self-expression. It gave me hope and I discovered I had a talent for it. When the Whitney Museum chose one of my paintings to exhibit, I received intense media attention. In addition, while in prison, I earned Bachelor's Degree and a Masters. In 1996, Governor Pataki took notice of my case and I was granted clemency after 12 years of hard time. In effect, I painted my way to freedom.

Q5. After your release from Sing Sing what have you done with your life?

A5. I have continued to paint, have acted in several films, and have become a leading advocate about the need to reform draconian drug laws that emphasize punishment over treatment. I use my art as way to promote positive social change. Art as a social weapon has been around for a long time. I am following a long tradition in this regard. Recall the great German expressionist painter Kathe Kollwitz, who created works of art that centered on themes such as poverty, unemployment and worker exploitation. Diego Rivera and the other Mexican muralists used their art as a tool for the oppressed against their oppressors. They expressed their opinions and got their message across to the literate and illiterate alike, and earned worldwide recognition. In April 1937, the world learned the shocking truth about the Nazi Luftwaffe's bombing of Guernica, Spain - a civilian target; Pablo Picasso responded with his great anti-war painting, Guernica.

Q6. Why do you advocate for changes in America's drug laws?

A6. Largely as a result of draconian drug laws, the U.S. now has the highest incarceration rate in the world - one American adult out of every 100 is currently behind bars. More than 700,000 Americans were arrested last year for simple marijuana possession. It simply does not make sense to incarcerate a large number of young, mainly minority, men for very long sentences because they have committed one minor drug offense. In my experience, this policy is harmful to taxpayers because it leads to large direct costs for the taxpayer and large indirect costs because it is so difficult for released prisoners to find dignified work. It is also devastating for minority communities because respect for the law is greatly diminished and family life for the offenders' children is largely destroyed.

Q7. What is the Drug Policy Alliance?

A7. The Drug Policy Alliance ("DPA") is the nation's leading organization promoting alternatives to the drug war that are grounded in science, compassion, health and human rights. DPA is actively involved in the legislative process and seeks to roll back the excesses of the drug war, block new, harmful initiatives, and promote sensible drug policy reforms. As a result of our work, hundreds of thousands of people have been diverted from incarceration to drug treatment programs, hundreds of thousands of sick and dying patients can safely access their medicine without being considered criminals under the law, and states like California have saved more than \$2.5 billion by eliminating wasteful and ineffective law enforcement, prosecution and prison expenditures. In New York, DPA spearheaded the successful campaign to enact major reforms of New York's notorious Rockefeller Drug Laws. The reforms, signed into law by Gov. David Paterson in 2010, include eliminating mandatory minimum sentences and returning judicial discretion in many drug cases; reforming the state's sentencing structure; expanding drug treatment and alternatives to incarceration; and allowing re-sentencing of people serving sentences under the old laws.

Q8. What do you do at the DPA?

A8. I am the manager of media relations. As part of my work I write editorials about the drug war that have appeared in news sources across the country, such as the Huffington Post and the Buffalo News. I am also a frequent public speaker and college lecturer on my art and criminal justice issues. I have also appeared on TV and radio. A Court TV interview I did accompanied by now Governor Cuomo is on You Tube at http://www.youtube.com/watch?v=Lvqq_tOexMo.

Q9. During the period you were at Sing Sing did you ever hear of or practice an evacuation plan?

A9. I never saw any planning whatsoever for evacuation of the prison and never heard anyone discuss an evacuation plan. I also did not see any evacuation drills for prisoners or staff.

Q10. How hard would evacuation of Sing Sing be?

A10. In my estimation it would be extremely difficult to evacuate Sing Sing in a reasonable amount of time. The standard procedure for moving prisoners while I was at Sing Sing was to shackle the inmate by his arms and legs and then transport a small number of inmates with guards in a security vehicle that had bars on the windows. Moving all 1,700 prisoners in this manner would be hugely time consuming and labor intensive. For example, assuming it takes 10 minutes to shackle each prisoner and two guards are dedicated to the shackling it would take 141 hours or about 6 days just to get all the prisoners in shackles. It might be possible to lower the security requirements for an emergency, but there is then the danger that the prisoners could use the opportunity to try to escape. In addition, there would be a big problem finding a place to take the prisoners. Most jails in the area are lower security than Sing Sing and are already full. Providing places for 1,700 maximum-security inmates would be extremely difficult, if not impossible at other existing jails in the region.

Q11. How do you think prisoners would react to a slow evacuation?

A11. I think that if prisoners knew that there was a nuclear accident at Sing Sing and that evacuation of the prison was starting they would become very agitated indeed. Many prisoners already feel that they are discriminated against and are not treated fairly by the system. Once they got word that they could be exposed to radiation while waiting for evacuation, there would be a real possibility of violence that I believe the guards would counter by locking down the prison so that prisoners would be confined to their cells. During such confinement, I believe there would be a major danger of inmate on inmate violence because prisoners some of whom already lack impulse control would feel intense frustration, indignation, and fear. Such violence could also induce the guards to open cell doors allowing the prisoners to look for a means of escape.

Q12. Do you understand the term "shelter-in-place"?

A12. I understand that shelter-in-place is when people stay indoors instead of evacuating.

Q13. Physically, how suitable is Sing Sing for sheltering in place?

A13. Sing Sing is an historic building. The oldest part opened in 1826 and was fully completed in 1828. The cellblocks have thick walls, but no effective ventilation system. In the summer windows are left open to allow air to circulate naturally. Because there is no means of filtering the air and the temperature inside the prison would be unbearable without any ventilation. In addition, often windows are broken and then left unfixed, so that some air would penetrate, even if all the windows were closed. Finally, if the public water supply became contaminated, I think it would be very difficult to supply enough bottled water to keep the prison population and staff adequately hydrated. Therefore, I do not think Sing Sing is a very good building for sheltering in place. Certainly, Sing Sing would be a much less suitable place to shelter-in-place than an average family house in Westchester.

Q14. If prisoners were required to shelter-in-place while the general population was told to evacuate, how do you think they would react?

A14. As discussed above in A.11, if prisoners were confined to their cells and existing feelings of unfairness were reinforced by differential treatment compared to the general population, there would be a major danger of inmate on inmate violence or perhaps even arson in an attempt to force guards to open the cell doors.

Q15. Did you ever see any drills relating to sheltering-in-place?

A15. No, none at all.

Q16. Do you think that some planning should be done to reduce the potential impacts on prisoners as part of the license renewal for Indian Point?

A16. Yes. I do not understand how it could be justifiable to plan for the evacuation of the general population and not plan for the evacuation of prisoners at Sing Sing, when evacuating Sing Sing would be far harder than evacuating the general population. From my perspective, if the government is going to allow Indian Point to operate for another 20 years, it must make plans to reduce the potential effects of a nuclear accident on the prisoners at Sing Sing, who are nearly all low income and the majority of whom are part of racial minorities. This imperative has been made even stronger by the accidents at the Fukushima reactors in Japan, which show that nuclear accidents can go on for weeks and can contaminate areas far more distant than 10 miles away. Given this new knowledge, the government can't just ignore the issue of how Sing Sing prisoners would be affected by an accident at Indian Point. If those prisoners, who are more vulnerable than the general population, are not treated with dignity and respect, it would not only be an outrageous injustice, it could also lead to multiple tragedies in terms of violence among prisoners and guards. This problem must be carefully studied and solutions found.

Q17. Do you have any suggestions for potential solutions to some of these problems?

A17. Well, obviously the problem could be solved by either closing Indian Point or closing Sing Sing, but short of that I believe that there are a number of things that could be done to improve the situation. With regard to Sing Sing, the most obvious improvements would be training both the guards and the prisoners for shelter-in-place and for evacuation. If drills were done, that would make any real situation somewhat less traumatic and stressful. I also think that if shelter-in-place is to be a viable option, provision must be made for the windows to seal and cool filtered air to be provided to the prison. There also needs to be some provision for storage of food and bottles of water. Even more importantly, the government needs to ensure that Indian Point's owner, Entergy, does as much as possible to avoid an accident. I understand that Entergy has looked at some options that could improve safety, but has decided most of them are too expensive. I find this deplorable and question whether the potential tragedy at Sing Sing in the event of an Indian Point accident has been properly taken into account. Human life and safety should be paramount in deciding whether to relicense Indian Point. If Entergy is not prepared to spend the money to make the plant as safe as possible and minimize its effects on environmental justice populations who cannot easily escape the path of any released radiation during an accident, I do not believe that the license extension should be granted.

In accordance with 28 U.S.C. § 1746, I state under penalty of perjury that the foregoing is true and correct:



Anthony Papa

Date:

11/28/11