



Death Chamber, Louisiana State Penitentiary, Angola

Photo courtesy of Richard Ross, *Architecture of Authority* Aperture Press, 2007

# Louisiana’s Historic Opportunity to End the Death Penalty and Affirm Life

By Alex Mikulich, Ph.D.

In September 2011, Louisiana Catholics Committed to the Repeal of the Death Penalty publicly launched its campaign to end the death penalty in Louisiana. The Louisiana Conference of Catholic Bishops initiated this campaign in 2010. This essay highlights key findings of a comprehensive study of Louisiana’s use of the death penalty that I have conducted over the past year. The full study, co-authored with Sophie Cull of the Louisiana Capital Appeals Project, was part of the campaign’s launch.

Louisiana is a case in point of the fact that the modern death penalty in the United States emerged as a “law and order” alternative to the “rough justice” of lynching in the 19th and early 20th centuries and as a way to enforce racial hierarchy.<sup>1</sup> White complicity in this legacy endures. Disproportionate arrests, prosecution, capital sentencing, and

application of the death penalty against African Americans belie any claim that the administration of the capital punishment in Louisiana is rational or fair.

Standing among those Southern states that have most aggressively utilized the death penalty, Louisiana illustrates the key differences of retentionist states from abolitionist states. The social scientific literature indicates that states that were slower to develop formal governmental institutions, slower to establish formal due process mechanisms to secure rights of defendants, that have legacies of lynching, that have high homicide rates, that most resisted passage of Civil Rights laws, and states with least developed social welfare systems are states that most vigorously retain the death penalty.<sup>2</sup>

Conversely, abolitionist states developed formal governmental systems earlier, retain stronger formal due process

mechanisms for defendants, have lower homicide rates, have more developed social welfare systems, tend to have stronger traditions of anti-death penalty advocacy, and more homogeneous populations without histories of racial hostility. These states are predominantly in the northeast and Midwest and also include Alaska, Hawaii, North Dakota, and New Mexico.

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Illinois is the fourth state in four years to abolish the death penalty. The legislation, signed by Governor Pat Quinn in March 2011, was successful because both conservative and liberal legislators agreed that expenses for the death penalty would be better applied to support for victims and other law enforcement needs, that the death penalty was not an effective deterrent, and that it was unfair in light of the 20 exonerations—more than the number of executions (12)—in the state since 1976.

The states that use the death penalty most in the nation include Alabama, Florida, Louisiana, and Texas. Since 1976, Texas has executed 449, Florida 69, Alabama 44, and Louisiana 28 people.

Although African Americans constitute 33 percent of total Louisiana population, 64 percent of death row inmates are African American. Conversely, whites constitute nearly 65 percent of total Louisiana population, yet whites make up only 35 percent of death row inmates. This fact should give us pause to ponder the reasons for this disproportionality.

The contemporary use of the death penalty in Louisiana cannot be understood out of historical context. Louisiana may be the most diverse Southern state, both culturally and topographically, with the Cotton Belt of the north, the Sugarland and Cajun areas of south Louisiana, and one of the South's largest cities, New Orleans. All of these areas, in different ways, either resisted or revolted against the post-bellum, modern development of legal due process in order to enforce racial hierarchy through lynching or mob violence against African Americans.<sup>3</sup>

For example, according to the Tuskegee Institute, Caddo and Bossier Parishes often led the nation in use of lynching against African Americans between 1900 and 1931. Currently, 46 percent of all inmates on death row were convicted in three parishes: East Baton Rouge, Caddo, and Jefferson.

East Baton Rouge is especially instructive. A comprehensive study of 191 homicides in East Baton Rouge between 1990 and 2008 finds that the odds of a death sentence were almost three times higher for those who killed whites than those charged with killing African Americans. After controlling for the number of aggravating circumstances, number of concurrent felonies, and number of homicide victims, the study found that the odds of a death sentence are 97 percent higher for those who kill whites than those who kill blacks. The authors conclude: “these results are remarkably consistent with general findings from previous research across a multitude of jurisdictions in the United States over the last thirty years.”<sup>4</sup>

These historical patterns are found in multiple dimensions of Louisiana's criminal justice system. For example, our full study highlights the following:

- Eight African American men on Louisiana's death row have been exonerated of the crimes for which they were wrongly convicted. Louisiana is fifth in the nation in the number of people exonerated from death row.
- The Louisiana Crisis Assistance Center's 2003 “Black Strike” study found that the Jefferson Parish District Attorney's Office chose to strike African American jurors at three times the rate that they struck white jurors.
- According to a National District Attorney's Association 2011 study, nearly 98 percent of district attorneys in states that apply the death penalty are white. In Louisiana, 97.5 percent of DAs are white and only 2.5 percent are African American. Of 291 Louisiana state judges, only 18 percent are African American.

In light of this enduring legacy, Senator Mary Landrieu proposed and the United States Senate passed Senate Resolution 39 in 2005, an historic apology issued to lynching victims and their families for the failure of U.S. Congress to end this practice. In the spirit of Senate Resolution 39, which calls upon citizens to remember “the history of lynching to ensure that these tragedies will be neither forgotten nor repeated,” we Catholic Louisianans commit ourselves to Christ Jesus to remember, to understand, and to change this violent legacy, including its contemporary manifestation in the death penalty. This is an historic opportunity for the people of Louisiana to end this violent legacy and join the growing number of states that affirm life over death.

## ENDNOTES

- 1 Michael J. Pfeifer, *Rough Justice: Lynching and American Society 1874-1947*. (Urbana: University of Illinois Press, 2004). See also Adam Fairclough, *Race and Democracy: The Civil Rights Struggle in Louisiana* (Athens: University of Georgia Press, 1995).
- 2 David Garland, *Peculiar Institution: America's Death Penalty in An Age of Abolition*. (Cambridge: Harvard University Press, 2010).
- 3 *Ibid.*, *Rough Justice*, p.22-24.
- 4 Glenn L. Pierce and Michael L. Radelet, “Death Sentencing in East Baton Rouge Parish 1990 to 2008,” *Louisiana Law Review*, Vol. 71, 2011, pages 647-673. Timothy Lyman gathered the data for East Baton Rouge and Caddo Parishes.



## Catholic Social Thought and the Death Penalty

By Alex Mikulich, Ph.D.

The U.S. Catholic Bishops, in their 2005 pastoral letter *A Culture of Life and the Death Penalty*, reaffirm the teaching of Pope John Paul II, of the Roman Catholic magisterium, and of U.S. Catholic Bishops since 1979, that “the death penalty is unnecessary and unjustified in our time and circumstances.” Four fundamental points inform their judgment:

- The death penalty violates human dignity especially when—in our contemporary context—it is unnecessary to protect society.
- State-sanctioned death penalty “in our name” diminishes all of us.
- The application of the death penalty is deeply flawed, is irreversibly wrong, highly prone to errors, and biased by race, the quality of legal representation, and location of the crime.
- We know alternatives both to punish criminals and protect society.

In his encyclical *The Gospel of Life*, Pope John Paul II challenged followers of Christ to be “unconditionally pro-life.” He reminds us the “dignity of life must never be taken away, even in the case of someone who has done great evil. Modern society has the means of protecting itself, without definitively denying criminals the chance to reform.” Since God’s love and mercy is unconditional, human beings neither earn nor lose human dignity.

The *Catechism of the Catholic Church* explains that “the traditional teaching of the Church does not exclude recourse to the death penalty, if this is the only possible way of effectively defending

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**“As a people of the Gospel of Life, we are called to build a civilization of life and love.”**

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human lives against an unjust aggressor. If, instead, bloodless means are sufficient to defend against the aggressor and to protect the safety of persons, public authority should limit itself to such means, because they better correspond to the concrete conditions of the common good and are more in conformity to the dignity of the human person” (#2267). The test of whether the death penalty can be used is not the gravity of the offense, but whether it is absolutely necessary to protect society. The *Catechism* stresses that “the cases in which the execution of the offender is absolute necessity are very rare, if not practically non-existent,” (#2267) quoting Pope John Paul II.

### Louisiana Catholic Bishops on the Death Penalty

In *Violence in Our Society: Death is Not the Answer* (1994), the Louisiana Catholic Bishops underscore the teaching of Pope John Paul II to promote a consistent culture of life. While the bishops recognize the anger, fear, and frustration that may lead some people to promote the death penalty in Louisiana, the fact is that the death penalty has neither deterred nor decreased homicides; “violence only begets violence, death begets death.”

In their more recent pastoral letter addressing the criminal justice system and the death penalty, *Let Justice and Mercy Meet* (2002), the Louisiana bishops stress the biblical message of God’s mercy, compassion, and justice. The bishops emphasize restorative justice, “the return to right order, effected through the acceptance of responsibility, the assignment of appropriate punishment and the return or restoration of as many as possible to the human community. The appropriate punishment redresses harm done to the victims, their families and the wider society and both rehabilitates offenders and restores them to their families. Hence the title of our national document *Responsibility, Rehabilitation, and Restoration*.” Addressing the death penalty in *Let Justice and Mercy Meet*, the Louisiana bishops state:

*Restorative justice also calls us to reject capital punishment as an effective and moral means of confronting crime. Death does not restore, heal, or make whole what was lost. Death only causes more death. When the state imposes death as a sentence, a further insensitivity to the loss of life is the result. The death penalty makes it easy to give up on others and neglect the underlying causes which yield violence and death. As a people of the Gospel of Life, we are called to build a civilization of life and love.*

# The Debt Debate Debacle

By Fred Kammer, S.J.

The nation was held prisoner this past summer as our politicians played “chicken” with one another about raising the debt ceiling, slashing spending, increasing revenue, or somehow reneging on our fiscal obligations to ourselves and to external creditors. A last-minute deal was reached at the end of July, but it still cost us our Triple-A credit rating. Now there is a new congressional “super-committee” at work on the debt.

*But stop for a minute!* It is helpful to know a bit about where the debt has come from and, perhaps, to reconsider the responsibilities of various actors for our current debt mess. Fair or not, many observers place the credit or blame for the budget on the person sitting in the White House and their political party. As President Harry Truman put it, “The buck stops here.” So, for our first look at the debt numbers, we turn to the accrual of debt in the presidencies going back as far as President Reagan. Prior to Reagan, the overall debt from all prior administrations was a total of \$1.0 trillion, accrued from the costs of wars and earlier economic hard times and, yes, the failure to pay our bills or cut our costs. But, from Reagan on, the debt has grown dramatically and exponentially, as shown by the chart on page 5.<sup>1</sup>

As you can see, during his term, Reagan almost tripled the debt, raising it to \$2.9 trillion. How? By passing permanent tax cuts and raising peacetime defense spending. President George H.W. Bush then increased it by another \$1.5 trillion, including costs of the first Gulf War and revenues reduced by recession. President Clinton added another \$1.4 trillion to the debt, although, by the time he left office, the federal budget had two years of surplus due to tax increases and spending reductions. Then, President George W. Bush added a whopping \$6.1 trillion dollars, doubling the nation’s debt, by not paying for two wars or the new Medicare Part D and implementing more tax cuts in the context of an initial economic downturn and a recession beginning in 2007. Now, under President Obama, the debt has increased by another \$2.4 trillion due to stimulus spending, new and continuing tax cuts, the 2007 – 09 recession and its related expenses for unemployment compensation and other relief.

Democrats have been criticized as being the “tax and spend” party. Republicans have been called the “borrow and spend” party. As every mortgage-holder knows, borrowing creates debt. As the chart indicates, during Republican administrations,

almost three times as much of the national debt has occurred as during Democratic administrations since Reagan took office 30 years ago.

## Looking more closely at our summer “crisis”

The specific “event” that triggered our summer conflict was the issue of raising the nation’s debt limit. Republicans and, especially, their Tea Party cohort insisted that the nation could not afford to raise its debt limit without radical counter-measures in terms of domestic, not military, spending cuts (and absolutely no revenue increases). Interestingly, the nation’s debt limit has been raised 78 times since 1960. Why? Because the level of debt was increasing, as indicated above, primed mostly by Republican policies. Who raised the debt limit? It was raised 29 times under Democratic administrations since 1960, but an astounding 49 times under Republican administrations (including seven times under President George W. Bush and eleven times under President Reagan). So, why the “crisis” this particular summer when Obama requested a debt limit increase for the first time— was it the accumulating debt or a political opportunity for those who created most of the debt to accomplish other political goals?

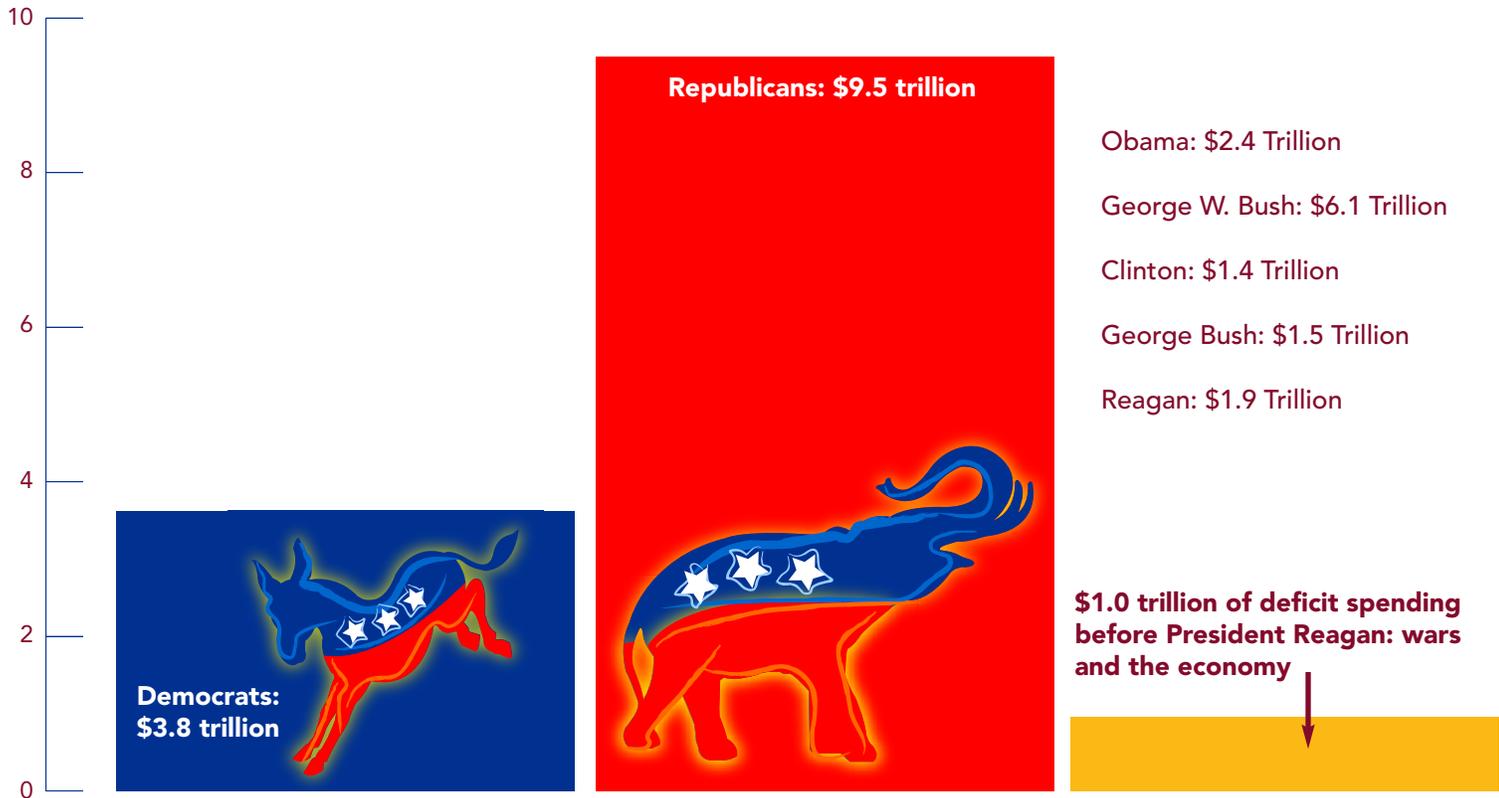
## The moral lens

In the heat of July’s debt debate, the U.S. Catholic Bishops repeated the fundamental “moral measure” that should have guided the members of the Congress in their critical deliberations:

*The moral measure of this budget debate is not which party wins or which powerful interests prevail, but rather how those who are jobless, hungry, homeless or poor are treated. Their voices are too often missing in these debates, but they have the most compelling moral claim on our consciences and our common resources.<sup>2</sup>*

Unfortunately, the measures being used by various parties were often other than that urged by the Catholic bishops and many other moral leaders in the nation. Meeting with Obama as part of a delegation representing the Catholic bishops in the days immediately before the “debt deal,” Bishop Ricardo Ramirez put it this way:

## Who created the July 2011 U.S. debt of \$14.3 trillion dollars?



There seem to be several “givens” in this debate. For Republicans, no new taxes is a given. For some Democrats, no cuts in Medicare are a given. For others, no cuts in military spending is a given. For your administration, some additional revenues are a given. Sadly, if you listen to the debate it seems that protecting the poor and vulnerable is not a given. That is why we are here.<sup>3</sup>

Resolution of the various national issues raised in the debt debate are still unresolved at this point; and too many positions seemed carved in political stone, not shaped by justice or compassion. As we make contact now with our elected officials at all levels, we need to urge the principles clearly enunciated by Bishops Blaire and Hubbard in their July letter to Congress:

*A just framework for future budgets cannot rely on disproportionate cuts in essential services to poor persons. It requires shared sacrifice by all, including raising adequate revenues, eliminating unnecessary military and other spending, and addressing the long-term costs of health insurance and retirement programs fairly.*<sup>4</sup>

On the table for threatened massive cuts in the federal “super-committee” are all domestic programs, including programs serving the most poor and vulnerable, as well as poverty-focused international development and humanitarian assistance. Our voices must be heard calling for a moral “circle of protection” for the least among us.<sup>5</sup> Even more, “shared sacrifice” means reversing tax and budget policies that have driven the gap between rich and poor in this country to dangerously unprecedented levels.

### ENDNOTES

- 1 Sources: Bureau of the Public Debt, Office of Management and Budget, Bipartisan Policy Center, and “Charting the American Debt Crisis,” New York Times, July 29, 2011.
- 2 Letter of Bishops Howard J. Hubbard and Stephen E. Blaire to the members of the U.S. House of Representatives on behalf of the United States Conference of Catholic Bishops, July 26, 2011.
- 3 “Report on the Debt Ceiling Debate: Good News, Bad News, and Worse News...,” John Carr, Executive Director of the Department of Justice, Peace and Human Development, United States Conference of Catholic Bishops, August 3, 2011, p. 3.
- 4 Letter of Bishops Hubbard and Blaire, op. cit., emphasis in original.
- 5 See the collaborative Christian community resources at <http://www.circleofprotection.us> for details.

# My Experience in Immigration Detention

By Omar Hassan



*Omar Hassan came to the United States from Somalia in 1996 to apply for political asylum. After an immigration judge denied his application, his case was on appeal for 14 years. During that time, he worked 12-hour days as an electronic technician in Austin, Texas, and Phoenix, Arizona. In October 2010, he was suddenly picked up and detained by Immigration and Customs Enforcement (ICE) for five months. Since his release, he has been living at Casa Marianella, a homeless shelter for immigrants in Austin, Texas, begun in 1986 by the Austin Interfaith Task Force for Central America. On April 18, 2011, Omar Hassan provided Sue Weishar, JSRI Migration Specialist, a detailed account of his experience in ICE detention and how his detention senselessly derailed the life he had built for himself in the U.S. Excerpts from that interview follow:*

## A Bad Feeling

I am one of those people who have what you call a sixth sense. When I went to work on Thursday, October 1, 2010, I was feeling that something was not right for some reason. At a quarter to two my boss and two guys walked into my work area. My boss said, “Omar, these guys want to talk to you.” They were ICE agents. They said, “We are going to have to take you to the station so we can talk more.” I knew that my work permit had not expired and that I was not illegal in the system. I thought they were just going to chit chat with me. They took me to downtown Phoenix and I sat in a little interrogation room. One of the ICE agents said, “You know you lost your last appeal in November 2009, so now we automatically have to detain you.” I said, “OK, why don’t you give me a couple of days so I can take care of my apartment and my car?” The other one said, “I don’t think so. You ain’t going nowhere today.” I told them I have a car sitting at work and I have an apartment with all my things in it. Their response was, “We don’t care about that; we care about you.” So they took me and searched me. Then they put me in a cell, with some people from South America. They said we were all going to Florence.

## Florence, Arizona

I had never heard of Florence before in my life. In the immigration area there, they strip searched me. They took my clothes and gave me a green uniform. Now I have flip flops with no socks and am sitting in a cement room with cement benches, not even a chair. I was there for 24 hours and by the end about 30 people were in that room. At five o’clock in the morning they drove us to another place in Florence where they held me and about 300 people for two days. They took me to the medical area to give out blood and urine. Then I had to take a shower and put on some powder so you don’t get an infection.

## Another Planet

I had never been in detention in my life. I had never even been in a police station in my life. I am scared. They don’t tell you what they are doing. You feel that you are at the mercy of someone else’s hand. It makes you feel like someone from another planet. There was no humanity in it. There was no nothing in it. For two days they kept moving me around. I don’t have a criminal record. I don’t even have a traffic ticket. And all I did since I came here was work. If this is happening to someone like me, it can happen to anyone else.

After the two days in the immigration area they shackled me and took me to another area in Florence, a private detention center for immigration only. When I walked in my cell the guard said, “Here is your room you are sharing with seven other people, and that’s your bed.” He gave me a booklet and that was it. I am too tired—I haven’t slept for three days—so I slept till around 11 o’clock the next day.

In detention the day pretty much revolves around the meals served, with lock downs three to five times a day to check for food and drugs. During free time you can watch TV, buy stuff at the commissary, take a shower, or talk to the other guys. I used to take three showers a day—why not?

## A Whole Different Level of Racism

I’d say pretty much half the guards were racist. And they acted like they’d never seen a Spanish person in their life. Some of them came from North Dakota straight to Arizona. Some of them came from Idaho. Ohio. They’ve never been exposed to other cultures at all—you can tell. I have been in the United States for 15 years. Racism in the United States is something that is there. People can deny it. And especially at work, you see that all the time. But what I’d seen outside and what I saw in there—that was a whole different level.

—Continued on back cover

# JESUIT SOCIAL RESEARCH INSTITUTE

From July 10 – 13, 2011, on Loyola's campus, JSRI co-hosted the **25th Annual Social Action Summer Institute of The Roundtable Association of Catholic Diocesan Social Action Directors**. Other co-sponsors included the Archdiocese of New Orleans, Catholic Charities U.S.A., Catholic Relief Services, JustFaith Ministries, U.S.C.C.B. Catholic Campaign for Human Development, and U.S.C.C.B. Justice Peace & Human Development.

Photos by Harold Baquet • Collage by Christina Schott



## My Experience in Immigration Detention

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By Omar Hassan

One time I remember I was serving food with other black guys. One of the guards inside the kitchen—he had tattoos all over, and pretty much everyone knew what kind of person he was—he goes, “Hey, I didn’t know we had that many Negroes in here. I knew we had wetbacks. I knew we had Chino-town, and Wetbacks-town, but we have to make a Negro-town, too.” It obviously spelled out exactly what he was thinking about. I just turned around and looked at him and he’s just laughing at me. What are you going to say to that person?

When it’s his turn to search the rooms he purposely does bad things to people—like to the Somali guy who prayed five times a day. After that guard searches the room he finds his Koran on the floor.

### Racist Taunts to Phoenix

After five months a guard came and told me, “Ok, Omar, you are in roll up.” So I got my stuff from my room and went upstairs to say good-bye to everyone. Then I got in a van with six other detainees and five ICE guys. The ICE guys taunted us all the way to the bus station in Phoenix. To the Chinese guy they said, “You little Chino, we’re going to pick you up while you are driving someplace.” To the Pakistani guy they said, “Yeah, you are a Taliban. If you don’t leave the country we are going to be doing this and this to you. We know where your family is.” I went off! You rednecks! They didn’t like that so they said, “Hey, nigger. We are going to put you in your place.” I mean they were going at it. They were having fun.

When they stopped at the gas station they told a lady, “We’re going to take some scumbags back to society. But don’t worry, we’re going to pick them up soon.” You know what I mean? Is that professional?

When we got to the bus station in Phoenix one of the ICE guys said, “Let the dogs out.” So they opened up the door and they let us go outside. As soon as we were outside, one of them tells the Chinese guy, “You keep that up and I’m going to come after your family next week.” Then they closed the door and they’re gone. That was it.

### A Refuge in Austin’s Casa Marianella

I got a ticket to Austin and when I got here I heard about Casa Marianella. If Casa Marianella was not here for me, believe me, I don’t know what I would have done. All I did was work hard and try to make a better life for myself, but ICE came and took it all away from me. I have no family in the United States, I have nobody. The people at Casa Marianella are beautiful, caring people who try to help others. Words cannot express the love and thanks I have for all they have done for me. Soon I will be getting my work permit and will try and re-build my life. I am one of those persons who believe that things happen for a reason, so I hope that something good will come out of my detention experience, so no one ever has to go through what I did.