SHOULD THIS CCA INSIDER SERVE AS A FEDERAL JUDGE?

GUSTAVUS A. PURYEAR IV:
Nashville's Next Federal Judge
or
CCA's Inside Man on the Bench?

IF YOU READ NOTHING ELSE, READ THIS! Then read THIS -- a Response from the Private Corrections Institute to Mr. Puryear's testimony before the Senate Judiciary Committee at his Feb. 12 hearing! (exhibits not included)

PCI has filed a formal response to Mr. Puryear's answers to written questions submitted by the Judiciary Committee members.

The issue: Gustavus A. Puryear IV, general counsel since 2001 for Corrections Corporation of America (CCA), the nation's largest for-profit private prison company, was nominated by President Bush on June 13, 2007 for a federal judgeship for U.S. District Court in the Middle District of Tennessee (the same jurisdiction where CCA's corporate headquarters is located).

Who is Gus Puryear? Mr. Puryear's background includes the following: He received his J.D. degree from the University of North Carolina School of Law in 1993; served as a law clerk to Judge Barksdale for the U.S. Fifth Circuit Court of Appeals from 1993-1994; worked as an associate attorney for the Farris, Warfield & Kanaday law firm from 1994-1997 (now Stites & Harbison); served as counsel for the U.S. Senate Committee on Governmental Affairs, 1997-1998; worked as the legislative director for Senator Bill Frist from 1998-2000; and was hired by CCA as general counsel in 2001. He also serves on the National Prison Rape Elimination Commission, and is on the board of Nashville Bank & Trust.

Why is his nomination a bad thing? He's CCA's general counsel and would hold a judgeship in the same district where CCA's corporate office is located, where numerous lawsuits against CCA are filed. He has little trial experience in federal court; during his time at CCA he has worked to conceal damaging information about the company and has belittled prisoner litigation. The top lawyer for the nation's largest private prison company is particularly ill suited to serve as a federal judge.
What are the specific concerns about his nomination?

Conflicts of Interest

1. Mr. Puryear would have a conflict of interest in regard to all litigation involving CCA, his current employer. This is a strong argument against his appointment. Puryear’s 2006 compensation from CCA included a salary of $237,308 plus $602,957 in “other long term compensation,” according to forbes.com. Since Nov. 2006 he has sold shares of CCA stock valued at over $3 million. In short, CCA has made Puryear a multi-millionaire. Pursuant to 28 U.S.C. 455, “Any justice, judge, or magistrate judge of the United States shall disqualify himself in any proceeding in which his impartiality might reasonably be questioned.” Under this statute, Mr. Puryear would have to disqualify himself from any case involving CCA, CCA subsidiaries or CCA employees as parties.

This is significant because according to a federal docket search, over 400 cases naming CCA or CCA executives or staff have been filed in federal court for the Middle District of Tennessee. Since 2000, 260 such cases have been filed. This number includes not only cases involving CCA corporate, but also CCA wardens and company officials such as CEO John Ferguson. At his nomination hearing Mr. Puryear disputed the number of cases in which he would have had conflicts of interest; however, he apparently only counted those cases that named CCA as a corporation. He would, of course, equally have conflicts of interest with cases naming CCA executives, wardens and other staff. Having to assign such cases to other judges would be a burden on the court and would not be an effective use of judicial resources.

At his nomination hearing, Mr. Puryear stated there were only six active cases pending in the Middle District that would require his recusal if he were appointed. Actually, as of Feb. 12, 2008 there were 12 cases in the Middle District pending against CCA or CCA employees. Either Mr. Puryear provided incorrect information to the Senate Judiciary Committee, or he did not know how many cases would require his recusal -- which is his responsibility as CCA's general counsel. A list of the active cases involving CCA as of Feb. 12, 2008 is available here.

Lack of Qualifications and Trial / Litigation Experience

2. Although Mr. Puryear served as a judicial clerk, his time spent in active litigation as a trial lawyer has been scanty. He spent only three years working for a Nashville law firm. One of the attorneys at that firm stated that Puryear was hired right out of law school as a "young lawyer," and mainly assisted other attorneys. According to federal court records, Puryear has been listed as counsel of record in 130 cases in U.S. District Court in Tennessee during his legal career, which certainly sounds impressive. However, an examination of each of those case dockets reveals the following:

- 85 cases were dismissed by the court without service on the defendants; Puryear did nothing.
- 39 cases were handled by another law firm or attorney; Puryear was not directly involved.
- 1 case was answered by Puryear personally; he sent a letter saying the defendant had died.
- 5 cases included Puryear's personal involvement; all were from 1994 to 1998.

Thus, according to the federal court dockets, and by Mr. Puryear's own admission, he has been actively involved in only five federal cases over his entire legal career, and only two cases that went to trial -- most recently 10 years ago. Further, in one of the only two cases he took to trial (which he lost), Mr. Puryear's client sought to have him removed from the case, twice. Mr. Puryear was less than candid when he described his role in that case to the Senate Judiciary Committee, as detailed in this letter.

Mr. Puryear has authored only one published law journal article, in 1992. Apparently his qualifications for a federal judgeship are not based on his extensive knowledge as a trial attorney, nor on his litigation
experience or academic credentials. Nor is his ABA ranking noteworthy (see below). What, then, are his qualifications for a lifetime appointment to the federal bench?

**UPDATE!** The American Bar Association (ABA) ranks federal judicial candidates as Well Qualified, Qualified, or Not Qualified. The vast majority of judicial nominees are rated Well Qualified. Thus far during the 110th Congress, for example, 71 judicial nominees have been rated by the ABA; of those, all but 18 have been rated Well Qualified (75%). The remaining 18, including Mr. Puryear, were rated Qualified. The ratings are available [here](#). Thus, Mr. Puryear is ranked in the bottom 25% of his judicial nominee peers. Consider this: Would you rather have surgery performed by a qualified surgeon or a well qualified surgeon? Would you want your child to be taught by a qualified teacher or a well qualified teacher?

**Partisan Political Appointment**

3. This is a strictly partisan political appointment. Puryear is a dedicated Republican supporter, having previously worked under Republican Senators Bill Frist and Fred Thompson. He was an advisor to Vice President Cheney during the 2000 debates. He has given at least $13,450 to federal and state Republican campaign committees since 2001; specific donations include $3,000 to Sen. Bob Corker from 2005-2006, $1,000 for Mitt Romney in 2007, $2,000 to President Bush for the primary in 2003, $1,000 to Lamar Alexander's Senate campaign in 2005, and $1,000 to Sen. Kit Bond in 2003. The *Nashville Post* referred to Mr. Puryear as a "Republican heavyweight."

Puryear's employer, CCA, has been generous to Tennessee Senators Lamar Alexander and Bob Corker, too. From 2003 to 2008, CCA and the company's subsidiaries, employees and their spouses donated over $30,000 to Senator Alexander and $27,250 to Senator Corker. CCA co-founder Tom Beasley has donated over $100,000 to Senator Alexander, and CCA's extensive connections with Senator Alexander go [way back](#). Both Senators Alexander and Corker have strongly supported Mr. Puryear's nomination; however, they have not acknowledged that Puryear and CCA have made significant donations to their political campaigns.

All of this is par for the course since most federal appointments, including District Court judges and U.S. Attorneys, are political in nature. Still, federal judges, who are supposed to be impartial, should not be as blatantly partisan as reflected by Mr. Puryear's record, irrespective of party. Political payback should not be the basis for a lifetime appointment to the federal bench. That goes for Democrat nominees, too.

**UPDATE!** Much has been made of a letter from David Randolph Smith, a Democrat and plaintiff's attorney in a suit filed against CCA by Estelle Richardson's family (see below), which endorses Mr. Puryear's nomination. Other Democrats have voiced support for Puryear, too -- including Thurgood Marshall, Jr. What do they have in common? The answer is [here](#), though it will likely come as no surprise.

**Not Acting in the Public Interest**

4. As CCA's general counsel, Mr. Puryear has actively worked to hide damaging information about the company from the public, including from governmental agencies that contract with the company. Such actions are antithetical to the ethical qualities that should be displayed by a federal judge. There are several examples that can be cited. Following a hostage-taking at CCA's Bay County, Florida jail in 2004, which resulted in a prisoner and a nurse hostage being shot by a SWAT team member, CCA refused to release an after-action report related to the incident. Mr. Puryear arranged to have a private law firm provide the report to protect CCA from liability, and stated the report would never become a public record. This was reported in the News Herald on Nov. 14, 2004. A copy of the article is archived [here](#) (search for
"Puryear" on the page). Notably, reports by Bay County officials and Florida state officials related to the same incident are public records.

In 2005 CCA's quality assurance division was placed under the company's legal department, so that internal quality assurance reports would not be subject to public record laws. By designating such reports as "attorney client privileged" they could be kept secret, for in-house use only. Of course Mr. Puryear was "just doing his job" as CCA's lawyer; however, deliberately withholding information from the public is not the kind of behavior we want or need in a federal judicial candidate.

But does CCA really withhold information from contracting government agencies and the public? Yes. In one documented incident, Glen Turner, the warden at a CCA prison in Hardeman County, Tennessee, assaulted a restrained prisoner in May 2007. The incident was never reported by CCA to the Tennessee Dept. of Corrections (TDOC); the TDOC only learned about it two months later after being contacted by the inmate's attorney. Following a TDOC investigation, Warden Turner resigned, was prosecuted and pleaded guilty in Sept. 2007. CCA staff had attempted to cover-up his abusive conduct, as detailed in this article. This incident came to light after public records were obtained from the TDOC, including these (warning: large .pdf file).

Does CCA really try to conceal internal documents to prevent them from being publicly disclosed? Yes. For one example of such a document, please click here and read the notation at the bottom of each page. Also, as recently as May 5, 2008, a New York Times article reported that relatives of Boubacar Bah, an immigration detainee at the CCA-run Elizabeth Detention Center in New Jersey, "never saw the internal records labeled 'proprietary information – not for distribution'" by CCA, which described how Bah was "shackled and pinned to the floor of the medical unit as he moaned and vomited, then left in a disciplinary cell for more than 13 hours" before he was taken to a hospital, where he eventually died.

UPDATE! Mr. Puryear has been implicated in a scheme where CCA allegedly withheld information about security-related incidents at CCA prisons from contracting government agencies and the public, as reported by Time Magazine (March 13) and the Tennessean (March 14). The Private Corrections Institute has issued a press release on this issue, and has sent a letter to the Senate Judiciary Committee.

**Questionable Objectivity**

5. Mr. Puryear has indicated he has disdain for lawsuits filed by prisoners. In a 2004 Corporate Legal Times article, Mr. Puryear stated, "Litigation is an outlet for inmates. It's something they can do in their spare time. Most of these folks have had extensive contact with the legal system and are in facilities where they have access to legal materials. Many have turned themselves into jail-house lawyers."

Puryear cited cases such as a prisoner suing CCA to have her silicone breast implants replaced with saline implants, a prisoner suing to have an onion served with every meal, and a prisoner filing a lawsuit claiming he had seizures after using an expired tube of denture adhesive sold in the prison commissary.

Additionally, in the October 2005 issue of GC South, which discussed Mr. Puryear's position as CCA's general counsel, the author cited Mr. Puryear's "no settlement" policy and stated, "Of course the company settles some suits, but Puryear's overarching 'no settlements' goal stems from his belief that many inmates use litigation to fill their free time and that letting them win only encourages more jailhouse lawyering."

Of course most lawmakers don't like litigious prisoners either; e.g., witness the Prison Litigation Reform Act (PLRA). But as a federal judge Mr. Puryear would be hearing numerous prisoner suits. In 2005, 147 prisoner lawsuits were filed in federal court in the Middle District of Tennessee; 143 were filed in 2006, and 183 in 2007 (excluding habeas petitions).
Also, as CCA's general counsel, Puryear should know better than to disparage lawsuits as an "outlet" for prisoners to do in their "free time," given the many jury awards and settlements in suits filed against CCA over the years, which include a $3 million South Carolina jury award for the abuse of juveniles at a CCA facility (2000), a $1.6 million settlement for a suit involving abuse at CCA's Youngstown, Ohio facility (1999); a 2002 $5 million settlement to a female prisoner who was raped by Transcor guards (Transcor is a CCA subsidiary); a $2 million settlement to the children of Estelle Richardson, who died at CCA's Metro jail in Nashville (2006); and a $235,000 jury award for medical neglect involving a TN prisoner (2002). In fact, from Jan. 1, 2001 through Dec. 31, 2003, CCA settled over 190 suits for a combined total of $7.39 million (those cases involved both prisoner and employee litigation).

Given Mr. Puryear's background with CCA in which he has exclusively defended against prisoner cases, his objectivity as a federal judge hearing similar cases is questionable -- especially considering his outlook on prisoner litigation, as stated in the two articles cited above. Yet all citizens, including inmates, deserve impartial consideration from our nation's judges. All people are entitled to equal justice under the law.

Country Club Connection

6. In his responses to a Questionnaire submitted to the Senate Judiciary Committee, Mr. Puryear said he was a member of the Belle Meade Country Club. The Questionnaire asked Mr. Puryear to "indicate whether any of these organizations [he belongs to] ... currently discriminate or formerly discriminated on the basis of race, sex, or religion -- either through formal membership requirements or the practical implementation of membership policies." Mr. Puryear's response was, "While I have no personal knowledge of any prior discriminatory policies by Belle Meade Country Club, I understand that there were no African-American members prior to 1994. To my knowledge, during my membership at the club, it has not discriminated on the basis of race, sex, or religion."

The Belle Meade Country Club (the Club) did not admit its first black member until 1994, and that member was a non-resident member who doesn't live in the state. The Club reportedly still has only one black member today. New members must be sponsored by existing members; thus, if only white prospective members are invited to join, minorities are excluded. This constitutes de facto racial discrimination.

Further, according to Mr. Ridley Wills II, a former Club member and current honorary member who wrote "The History of the Belle Meade Country Club" (2002), only men are Resident Members who have voting rights at the Club. Women are admitted to the Club as so-called "Lady members." Lady members do not have voting privileges. The Club has never had a woman as a Resident Member (which would afford voting privileges) in its 107-year history. The Club declined to comment on its policies related to voting privileges for female members, or on this apparent gender discrimination.

That Mr. Puryear maintains membership in a club that didn't admit its first black member until 1994, is almost exclusively white, and reportedly does not afford voting privileges to female members when such privileges are afforded to male members, is troublesome for a federal judicial nominee. Not just from the standpoint of racial and gender discrimination implications, but also in terms of Mr. Puryear’s character and poor judgment in being a member of such a club. Notably, the Club's membership handbook, Constitution and By-laws do not include a non-discrimination statement (as of June 2007).

UPDATE! Three national women's rights organizations, including the National Council of Women's Organizations, the National Organization for Women and the Women's Equal Rights Legal Defense and Education Fund have expressed concern about Mr. Puryear's membership in a club that excludes women from voting or holding office. Click on the links in this paragraph to read their letters, or click here for a press release that includes all three letters.
Death of Estelle Richardson

7. On July 5, 2004, while Mr. Puryear served as CCA's top lawyer, a female prisoner at the company's Metro Detention Facility in Nashville, Tennessee was murdered. Estelle Richardson, 34, was in a solitary confinement cell when she was found unresponsive; an autopsy revealed a skull fracture, four broken ribs and liver damage. The State Medical Examiner, who ruled her death a homicide, stated her injuries were consistent with blunt force trauma and could not have been self-inflicted. In Sept. 2005, four CCA guards were indicted on murder charges in connection with Ms. Richardson's death. The charges were eventually dropped by prosecutors, partly because they could not determine the exact time the injuries were inflicted. In February 2006, CCA quietly settled a civil lawsuit filed by Ms. Richardson's family.

The question remains: Who murdered Estelle Richardson? Mr. Puryear, who had knowledge about Ms. Richardson's death through internal CCA records and the suit filed by her family, was only interested in protecting CCA's interests. What about the public's interest in knowing who beat Estelle Richardson to death? What about bringing her killers to justice, whether they were CCA guards or other prisoners? That, apparently, was not one of Mr. Puryear's concerns -- and a person who has no interest in ensuring that justice is served has no business in being a judge.

Further, during his Feb. 12, 2008 nomination hearing before the Judiciary Committee, Mr. Puryear said Estelle Richardson's four broken ribs may have been caused by CPR; he also questioned her cause of death, saying it may have been due to self-harm. Both of those opinions were rejected by the State Medical Examiner, who ruled Ms. Richardson's death a homicide. Additionally, Mr. Puryear told the Committee that the four CCA guards had been "exonerated," although that was not the case. He also failed to tell the Committee about a missing video tape of Estelle Richardson's cell extraction the day before she died. For more details on Mr. Puryear's misleading statements regarding Estelle Richardson's death, see the updates below. Estelle Richardson's homicide at a CCA-run jail remains unsolved.

UPDATE! State Medical Examiner Dr. Bruce Levy, who conducted Estelle Richardson's autopsy, has sent a strongly worded letter to the Senate Judiciary Committee regarding Mr. Puryear's testimony. Read his letter here. In response to Dr. Levy's letter, an attorney representing CCA sent this letter to the Judiciary Committee, which resulted in this reply from the Private Corrections Institute.

UPDATE! Estelle Richardson's family has provided a statement to the Judiciary Committee.

UPDATE! Why was there no videotape of Estelle Richardson's cell extraction the day before her death? Read this recent letter sent to the Judiciary Committee. The Nashville Scene has picked up on this new development -- see here and here.

UPDATE! $2 million settlement in Estelle Richardson lawsuit revealed. Puryear's supporters reveal amount of confidential settlement paid to Estelle Richardson's two children. How? Read this letter sent to U.S. District Court Judge Todd J. Campbell, which has been entered on the record in the Richardson case.

What steps can be taken to oppose Mr. Puryear's nomination?

Although Gus Puryear's nomination hearing was held on February 12, 2008, the Senate Judiciary Committee has not yet voted on his nomination. The Committee members still need to hear from
concerned citizens who oppose this nomination -- contact them now to voice your concerns!
Phone calls and faxes to the individual Committee members and the Committee staff are best; due
to security screening, mailed letters may not be delivered.

United States Senate Committee on the Judiciary
224 Dirksen Senate Office Building
Washington, DC 20510
Democratic Phone: (202) 224-7703
Democratic Fax: (202) 224-9516
Republican Phone: (202) 224-5225
Republican Fax: (202) 224-9102

Senator Patrick Leahy, Committee Chair
United States Senate
433 Russell Senate Office Building
Washington, DC 20510
Phone: (202) 224-4242
Fax: (202) 224-3479
senator_leahy@leahy.senate.gov -- if you send an email, please consider calling or faxing, too!

Senator Arlen Specter, Ranking Member
United States Senate
711 Hart Building
Washington, DC 20510
Phone: (202) 224-4254
Fax: (202) 228-3675

A list of all the Senate Judiciary Committee members is available here; all the members need to be
made aware of opposition to Puryear's nomination: http://judiciary.senate.gov/members.cfm

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Organizational Opposition!

The Alliance for Justice has issued a statement opposing Mr. Puryear's nomination, as has the American
Federation of State, County and Municipal Employees (AFSCME), a 1.4 million-member union that
represents government workers. The National Lawyers Guild has issued a press release opposing Mr.
Puryear's nomination. The 32,000-member California Correctional Peace Officers Association has issued
a formal opposition letter, as has Grassroots Leadership. Other organizations are encouraged to do
likewise! Click on the links in this paragraph to read the organizational statements.

UPDATE! The Alliance for Justice has issued a report that raises concerns about Mr. Puryear's
suitability to be a federal judge. The report is available here. Neither Tennesseans Against Puryear
nor PCI contributed to this report, and PCI has disagreed with several points raised in the report,
as reflected in this letter.
Puryear's Nomination in the News

Part 1 of an exclusive Alternet article concerning Mr. Puryear's nomination and the Estelle Richardson case, posted on May 5, 2008. Please click here.

May 3, 2008 Tennessean editorial against Mr. Puryear's judicial nomination, in response to "pro" editorials. Please click here.

An article from the National Law Journal, originally published April 28, 2008, mentions opposition to Mr. Puryear's nomination in the larger context of President Bush's pending judicial nominees. Please click here.

Nashville Scene blog entry on April 25, 2008 cites a letter from state Rep. Mike Turner about the Time magazine article and Mr. Puryear's conduct as CCA's general counsel, plus other concerns related to CCA. Please click here. To read Rep. Turner's letter, please click here.

April 22, 2008 Nashville City Paper article about the clash of special interests among PCI, CCA and CCA's law firms over Mr. Puryear nomination. Please click here.

Nashville Scene blog entry, April 17, 2008, about a recently-released report by the Alliance for Justice, which opposes Mr. Puryear's nomination. Please click here.

April 13, 2008 Tennessean editorial by former Sen. Frist, decrying politics re Mr. Puryear nomination. Please click here. For a rebuttal, see this April 17 Nashville Scene article, or this letter to the editor in the Tennessean. Incidentally, while Mr. Frist was Senate Majority Leader he pushed the "nuclear option" on judicial nominations and filibusters, as documented in this detailed Salon.com article.

Nashville Scene blog entry on April 11, 2008 comments on the previous day's City Paper article (see below), and reveals Mr. Smith's motivation, in part, for supporting Puryear's nomination. That he's not a "right-wing religious nutjob" (in Mr. Smith's words) is not a ringing endorsement. Please click here.

April 10 and 13, 2008 Nashville City Paper articles note support for Mr. Puryear from both Democrats and Republicans. Please click here and here.

Nashville Scene blog entry discusses a website that supports Mr. Puryear's nomination, April 3, 2008. Please click here.

Nashville Scene blog entry on Alex Friedmann's efforts to oppose Mr. Puryear's nomination, March 27, 2008. Please click here.

March 27, 2008 Nashville Scene article about Mr. Puryear's nomination and the death of CCA prisoner Estelle Richardson. Please click here.

March 27, 2008 Nashville Scene article about the Puryear nomination and Senator Lamar Alexander. Please click here.

United Press International (UPI) article about women's rights organizations opposing Mr. Puryear's judicial nomination, March 26, 2008. Please click here.
Mr. Puryear’s nomination is briefly mentioned in this March 24, 2008 Tennessean article about CCA not following its own policies at a jail in Nashville. Please click here.

March 21, 2008 Nashville Scene blog entry on new information related to the death of CCA prisoner Estelle Richardson. Please click here and here.


Another interesting Nashville Scene blog entry, on Mr. Puryear's involvement in whistleblower claims; March 14, 2008. Please click here.

Front page March 14, 2008 Tennessean article about Mr. Puryear's alleged involvement in a cover-up scheme, as reported by Time (see next entry below). Please click here.

March 13, 2008 news story in Time Magazine, implicating Mr. Puryear in a cover-up scheme related to the reporting of incidents at CCA prisons. Please click here.


Mr. Puryear's Belle Meade Country Club connection is addressed in this March 12, 2008 Nashville Scene article. Please click here.

March 10, 2008 Alternet article about Mr. Puryear's nomination, discussing his role in the private prison industry. Please click here.

A Tennessean article, dated March 7, 2008, addresses questions raised about Mr. Puryear's Judiciary Committee testimony. Please click here.

Mr. Puryear's Belle Meade Country Club membership is the topic of a March 6, 2008 Nashville Scene blog entry. Please click here.

Mr. Puryear's judicial nomination was the cover story for the Nashville Scene on March 5, 2008. Please click here.

Politico.com briefly mentioned Mr. Puryear's nomination on March 5, 2008 ("Nominations staredown in the Senate"). Please click here.

A letter to the editor about Mr. Puryear's nomination was published in the Tennessean on Feb. 29, 2008. Please click here.

This website and the Puryear opposition campaign were mentioned on the Institute for Southern Studies website (Facing South) on Feb. 26, 2008. Please click here.

For a Tennessean article regarding opposition to Mr. Puryear's nomination, published Feb. 25, 2008, please click here.

For a Mother Jones feature article about the opposition campaign to Mr. Puryear's judicial nomination, published Feb. 21, 2008, please click here.

An AP National Wire article about the opposition campaign to Mr. Puryear's judicial nomination was published Feb. 21, 2008. Please click here.
For a Tennessean article regarding Mr. Puryear's judicial nomination hearing, published Feb. 13, 2008, please click here.

Feb. 9, 2008 blog entry about Mr. Puryear's judicial nomination (prior to his Feb. 12 Judiciary Committee hearing). Please click here.

For an early editorial on Mr. Puryear's judicial nomination, originally published in the Tennessean on Nov. 11, 2007, please click here.

Spread the word! Copy or reprint this information and distribute to organizational and individual allies who value fairness in our criminal justice system, and urge them to oppose Gus Puryear's nomination for a federal judgeship!

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WWW.AGAINSTPURYEAR.ORG