



POST OFFICE BOX 110034 BROOKLYN, NEW YORK 11211

Updates for January 30th

15 Jan - Open Letter to the Community from Jalil Muntaqim

The following is written to the community at large, primarily regarding the recent victory in the fight to maintain packages to NYS prisoners.

MORE:

I would like to express my heartfelt appreciation for your hard work and determination to defeat the draconian Directive 4911A restrictions on incarcerated persons' receipt of packages from family and friends. Back in my day, we had a slogan that expressed this initiative and victory; it was "Power to the People." It is when the people collectively unite and decide to act on a common purpose, they are empowered to challenge the system and win.

It is this kind of initiative that needs to be consolidated into a statewide determination for any and all matters pertaining to the New York criminal justice system. It should be stated that empowering the community is like exercising a muscle. In order to become stronger, for the muscle to become bigger, it needs to exert itself with heavier weights to push and pull, to exercise the muscle and ensure it can handle the heavy load when required to do so. Similarly, the building of community power depends on continuing to strengthen one's faith and belief in the unity of the community. With every victory, we can expect push back from the opposition, and we will need to be prepared to substantiate our win with ever more difficult challenges. Failure to do so will result, like the muscle failing to exercise, in atrophy. The muscle becomes relaxed, smaller, lazy and weaker. Therefore, empowerment of the community needs to develop principles of unity, organizational development, and coalition building, eventually to forge a NYS Community Review Board of DOCCS.

In fact, I am of the opinion nothing should happen to the detriment of the incarcerated that does not include the community's input, discourse and being made part of the decision making process. Also, with this victory, a concentrated effort should be directed toward passage of the SAFE Parole Reform Act.

If there is one specific issue that demands the unified and consolidated determination of the progressive community of New York State, it is the passage of the SAFE Parole Act. Ultimately, the SAFE Parole Act will become the foundation for sensible and practical change in DOCCS policy and practices that has immediate impact on the community. It will require more substantial program development for the incarcerated. These programs will ensure that, when incarcerated people go before the Board of Parole, they will be well prepared to return to their home community. They will be returning prepared to support the development of the community, becoming assets to the community and not continued liabilities.

Hence, active oversight and participation in the development of DOCCS programs will be directly attributable to the input of the community. The community's demand for the passage of the SAFE Parole Act and how this legislation will impact the community will ensure our incarcerated loved ones will be well prepared to be returned to our communities.

Again, I want to express my congratulations on our collective victory ... but also to remind everyone that those forces who want to restrict and make prison more punitive have not been defeated. For them it is only a setback, and we must be aware of the fact the struggle continues on all fronts. They will continue to seek to monetize prison slavery. They will continue to make prisons pro-business and anti-family. We must be steadfast, vigilant, and proactive—not reactive—in our collective determination.

Let's exercise our political muscle to become stronger and empowered in our collective effort to change and make the system operate to the benefit of our families and community.

January 22nd - Sign the online petition for Jalil Muntaqim's parole in 2018

Share with your family, friends, coworkers, religious community, etc. Let's bring Jalil home this year! 46+ years is way too long to keep our beloved Freedom Fighter locked away from the world! The petition is online at change.org/p/tina-m-stanford-release-anthony-bottom-jalil-muntaqim-77a4283-on-parole-in-june-2018

16 Jan - Michael Africa Denied Parole

On January 16th, we found out that the Pennsylvania Parole Board denied Michael Africa parole.

MORE:

The reasons the Parole Board cited were:

- Refusal to Admit Guilt
- Refusal to Accept Responsibility for the Crime.
- Negative Recommendation from the Prosecuting Attorney.

These are excuses that are both weak and pathetic and that the parole board can no longer stand on. These are all excuses that we have completely taken apart for the ten years that the Move 9 have been parole eligible. This won't be too much longer.

We will soon have an update on our brother Eddie Africa's hearing from last week and more info will soon follow on the May 2018 parole hearings for Debbie, Janet, and Janine Africa.

Stay strong everyone; this fight is far from over.

16 Jan - Water Protectors Accept Non-cooperating Plea Agreements

On January 16th, attorneys for Red Fawn Fallis notified the court of a change of plea pursuant to an agreement with prosecutors. On January 21st, Rattler entered a change of plea.

MORE:

If the judge accepts the plea, the government will drop the most serious charge and recommend a sentence of no more than seven years for the remaining two charges.

Under the terms of the proposed agreement, Ms. Fallis would plead to Counts 1 and 3 of her indictment (Civil Disorder and Possession of a Firearm and Ammunition by a Convicted Felon) and the government would drop Count 2 (Discharge of a Firearm in Relation to a Felony Crime of Violence). This latter charge carries a mandatory minimum sentence of 10 years and the possibility of up to life in prison.

The next step is a hearing on Monday January 22, 2018 in Bismarck at which time the plea will be tendered to the court and a later date will be scheduled for when the judge will sentence Red Fawn on the remaining two charges.

Under the agreement, prosecutors have agreed to recommend a sentence of no more than seven years in prison, although the judge does have the authority to go as high as 10 years on these charges. There is no minimum sentence. If the judge decides not to accept the agreement the case will continue to trial on all three charges.

Red Fawn has been fighting an uphill battle at every stage of this case. She is facing up to life in prison and the prospect of a trial in North Dakota where there has been extensive pre-trial publicity adverse to Water Protectors and against the no-DAPL movement. Rulings against Red Fawn at every step of proceedings have left the defense with insufficient information about the paid FBI informant who became her boyfriend and who plans to testify against her at trial. The government has refused to provide full disclosure of even potentially exculpatory surveillance and other records in the possession of TigerSwan and other private security firms who coordinated with law enforcement during the encampments at Standing Rock and had targeted Red Fawn as a leader.

Given these circumstances, Red Fawn has made the very difficult decision to enter into a plea agreement that still risks significant prison time, but removes the mandatory minimum and the possibility of life imprisonment. The agreement relates only to Red Fawn and will not harm other Water Protectors.

Red Fawn Fallis is a community leader and human rights advocate. She is well-known and respected for her work with youth and as a medic as well as for her deep commitment to her people and to protecting the water. She was incarcerated for one year awaiting trial and is currently confined to a halfway house. We look forward to the day she can return home to her family and her community and continue her great work.

Water Protector Legal Collective stands by Red Fawn and we call on Water Protectors and community members to continue to support her through this difficult time. Please follow her Support Committee website for information on how to write to her and be in solidarity with her through her sentencing hearing and as she serves her prison time.

This plea would make Red Fawn the first Water Protector to be sentenced to a substantial prison term for activity at Standing Rock. There are five other Water Protectors with pending federal charges preparing for trials in the coming months and over 300 with pending state charges.

January 18th - Standing Rock Water Protector Red Fawn Fallis Back in Jail after Thursday Arrest

by Levi Rickert (*Native News Online*)

Red Fawn Fallis, the woman arrested for allegedly firing three shots at Standing Rock during a confrontation with law enforcement in October 2016, is back in jail on Thursday night.

Fallis, who reportedly will enter a plea agreement on Monday for the 2016 incident at Standing Rock, was arrested by U.S. Marshalls at Centre, Inc. in Fargo, North Dakota for allegedly not being where she was supposed to be earlier in the day, according to sources.

She was arrested without incident after about 5:00 p.m. after a federal warrant was issued.

The warrant was issued based on a petition filed by Fallis' pretrial services officer late Thursday afternoon. The petition states "The defendant signed out of Centre Inc. at 8:05 this morning to attend her GED courses at the Adult Learning Center located at 1305 9th Ave South in Fargo, North Dakota."

At 2:24 p.m., Centre staff went to the Adult Learning Center and the defendant was not present. Centre staff asked the Adult Learning Center staff if the defendant was present on Thursday and were told that the defendant did not attend class. A source tells Native News Online, there was a miscommunication between Fallis and Centre officials.

The news of a plea agreement was announced on Tuesday.

Fallis is being held in the Cass County Detention Center pending an appearance in court.

January 21st - Rattler Reaches Non-Cooperating Plea Agreement

A change of plea hearing has been scheduled for Michael Markus, who is known as Rattler, after reaching a non-cooperating plea agreement with prosecutors. Under the agreement, the government will drop the most serious charge and both parties will recommend a sentence of 36 months for the one remaining charge of Civil Disorder.

This is a non-cooperating agreement relating only to Rattler's own actions and that does not require any testimony or information about anyone else.

Rattler was charged with Civil Disorder and Use of Fire to Commit a Federal Felony Offense, arising from October 27, 2016 protests at Standing Rock. Under this plea agreement, the Use of Fire charge – which carries a mandatory minimum sentence of 10 years and the possibility of up to 15 years in prison – will be dropped entirely. Prosecutors and the defense will then jointly recommend a sentence of 36 months on the Civil Disorder charge, although the judge does have the authority to go as high as five years. There is no minimum sentence. If the judge decides not to accept the agreement the case will continue to trial on both charges.

Rattler made the difficult decision to enter into the plea agreement as he was nearing trial in Bismarck North Dakota, a region that has demonstrated severe prejudice against Water Protectors. A commissioned survey found that 77% of potential jurors in Morton County and 85% in Burleigh County had already decided that defendants were guilty and many potential jurors have close connections to law enforcement or the oil industry.

Given these limited options and high stakes, Rattler decided to enter into a plea agreement that does include significant prison time but removes the risk of being convicted and sentenced to a 10 year mandatory minimum with a possibility of up to 15 years.

Rattler is an Oglala Lakota who was raised on the Pine Ridge Reservation in South Dakota. He is a Sundancer and a ceremonial pipe carrier in the Lakota spiritual tradition and a Marine Corps veteran of the Gulf War. At Standing Rock he took on significant responsibilities caring for and protecting others in camp.

Rattler is Akicita – who have been protectors of the people since before Columbus. For him, this role was a natural fit as he is a direct descendant of Chief Red Cloud, who after many successful battles eventually signed the Treaty of Fort Laramie in an effort to protect his people.

Water Protector Legal Collective is deeply grateful to Rattler for his service and his many sacrifices in support of his community and in defense of the water. Please follow the Free Rattler Facebook page for information on how to write to him and support him as he prepares for his sentencing hearing and then as he serves his prison time. Rattler is currently on supervised pretrial release.

The change of plea hearing will be February 13, 2018 and a sentencing date has been set for May 29, 2018 at 11:00 AM, both in Bismarck federal court before Chief Judge Daniel Hovland. Mr. Markus is represented by attorneys Sandra Freeman of Colorado and John Murphy of South Dakota.

This agreement comes shortly after a plea agreement was announced for Red Fawn Fallis. There are four other Water Protectors with pending federal charges preparing for trials in the coming months and over 300 who have pending state charges.

January 22nd - Judge Accepts Red Fawn Fallis Plea Agreement

On January 22nd, 2018, Red Fawn Fallis's plea agreement was accepted by North Dakota Chief Judge Hovland. The agreement, made between her defense team and federal prosecutors, dropped the most serious charge of "discharge of a firearm in relation to a felony crime of violence." Fallis pled guilty to the remaining charges of 'Civil Disorder and 'Possession of a Firearm and Ammunition by a Convicted Felon.' Red Fawn Fallis is expected to have a sentencing hearing sometime in May.

The US prosecutors have suggested no more than seven years in prison as part of the agreement. Leading up to today's hearing, Fallis was arrested by US Marshals on January 18th, 2018 for alleged violations of her pretrial release. The violation stemmed from her "remaining unaccounted for an entire day" at a halfway house she has resided in Fargo, North Dakota. During the plea hearing, Judge Hovland and Assistant US attorney Gary Delorem said that in conversations with the halfway house, staff described Fallis as a "model resident" with "exemplary behavior."

Red Fawn Fallis's plea hearing came a day after federal defendant Michael 'Rattler' Markus's legal team announced a similar plea agreement. Rattler's change of plea hearing is scheduled for February 13th, 2018.

Despite the thousands who gathered to support the indigenous-led movement to defend the Missouri River, the Dakota Access Pipeline (DAPL) continues to operate. Since coming online, the pipeline has leaked five times.

Recently FOIA'd documents suggest a collusion between the Army Corps and Dakota Access LLC to help make a legally adequate environmental justice analysis, which Dakota Access failed to prepare. The Army Corps asked Dakota Access to specifically address issues Water Protectors highlighted during the months of protests, such as treaty rights granting use of the Missouri River's waterways for hunting and fishing, and racially motivated worries of the move of the pipeline just north of a predominately white Bismarck, North Dakota, to just north of a reservation with an 84 percent Native population.

The issues raised by the Army Corps to Dakota Access LLC were barred from being discussed in court if Red Fawn Fallis's trial would have gone forward. If the trial had occurred, no discussion of "prior treaty agreements" between the Lakota and the United States would have been discussed.

Red Fawn Fallis was arrested October 27th, 2016 when militarized police forces evicted what water protectors called the '1851 Treaty Camp.' According to indigenous groups, the camp was setup in the pathway on the Dakota Access Pipeline to exert treaty rights, which the United States Constitution enshrines as "the supreme law of the land." Their protest and treaty claims were met with a militarized police force.

19 Jan - Prosecutors Are Dropping Most Of The Cases Against People Arrested On Trump's Inauguration Day

The US attorney's office in Washington will continue to pursue charges against 59 defendants and will drop the remaining 129 cases, citing previous court rulings and a jury's acquittal of six defendants in the first trial.

MORE:

by Zoe Tillman (*BuzzFeed News*)

Federal prosecutors will dismiss cases against 129 people still facing criminal charges in connection with mass arrests on President Donald Trump's Inauguration Day, according to court papers filed on Thursday.

Cases are pending for 188 defendants following the acquittal of six defendants at the end of the first trial in December. The government explained in its latest court filing that it planned to proceed with charges, including felony counts, against 59 defendants, but would file a motion to dismiss the indictment in the remaining 129 cases.

Assistant US Attorney Jennifer Kerkhoff, the lead prosecutor, wrote that the government had decided to dismiss the majority of the cases "in light of the legal rulings by the court and the jury's verdicts in the first trial of these cases."

The US attorney's office told the court that it would focus its efforts now on defendants who allegedly engaged in "identifiable acts of destruction, violence, or other assaultive conduct," participated in planning violence and destruction, or who knowingly participated in what's known as "black bloc" tactics in order to aid violence and destruction.

Police arrested 234 people during anti-Trump protests on Jan. 20 in downtown Washington, DC, that turned violent as some demonstrators broke store windows — the government tallied more than \$100,000 in property damage. In the months that followed, prosecutors dropped charges against 20 defendants and 20 others accepted plea deals. Only one defendant, Dane Powell, pleaded guilty to a felony charge. Powell is also the only defendant to receive a sentence that included jail time — he was sentenced to four months.

Most of the 188 remaining defendants faced eight charges, including a felony count of inciting a riot, two misdemeanor counts of engaging in a riot and conspiracy to riot, and five felony counts of property destruction. Although the judge during the first trial granted a motion to acquit the defendants of the felony incitement charge at the conclusion of testimony, the government did not say in Thursday's filing that it planned to drop that charge.

The felony charges carry maximum penalties of 10 years in jail and a \$25,000 fine. The misdemeanors have maximum penalties of 180 days in jail and a \$1,000 fine.

Elizabeth Lagesse, one of the defendants the government says it will still press charges against, told *BuzzFeed News* in a phone interview that she would continue to maintain her innocence and fight the case. Lagesse is also a plaintiff in a civil lawsuit alleging excessive force and constitutional violations by the Metropolitan Police Department on Inauguration Day.

"My immediate reaction was just to be really, really happy because 129 people don't have to worry about this anymore. My second reaction was to be a little bit confused that I'm still on the list. I don't fit any of the criteria that they listed and I have absolutely no idea what their justification is," Lagesse said. "I'm just gonna keep on keepin' on."

Mark Goldstone, a defense lawyer whose two clients are also on the list of 59 people the government says it will continue to prosecute, told *BuzzFeed News* in an email, "Those 129 cases should have been dismissed a year ago, but we are very excited that the Government recognized that it was logically impossible for 217 defendants to have done the exact same conduct." He declined to comment on his clients' situation.

The 59 defendants still facing charges include Aaron Cantú, a journalist currently working as a staff reporter at the *Santa Fe Reporter*. His lawyer did not immediately return a request for comment. Press freedom advocates have denounced the arrest of journalists on Jan. 20 and have called on the government to drop the case against Cantú.

Cantú's lawyers on Friday filed a motion to dismiss the charges against him, arguing that they "impermissibly infringe his First Amendment rights."

Lawyers for the government and a group of defendants appeared in court on Friday morning for a status hearing. The next trial was set to begin March 5, but the judge set new trial dates for April and farther into the year for those defendants.

The cases have been assigned to a new judge in the District of Columbia Superior Court because of standard calendar reshuffling among the judges. Chief Judge Robert Morin — who last year presided over disputes about the government's efforts to enforce search warrants against Facebook and a web hosting company in its investigation of the Inauguration Day cases — will take over from Judge Lynn Leibovitz, who had handled the cases from the start.

In anticipation of a year of trials — the defendants were divided into small groups with trials set through October 2018 — defendants and their supporters took part in a call drive last week to register their opposition to the prosecution with the US attorney's office. Lagesse told *BuzzFeed News* that several hundred people participated across the United States and in Canada and the United Kingdom, and that some even reached Kerkhoff on the phone. The US attorney's office declined to comment.

January 24th - DC Police Face Class Action Lawsuit Over Trump Inauguration Mass Arrest

Last Friday, January 19, a new class action lawsuit was filed against the Washington Metropolitan Police Department (MPD) over the mass arrest of over 200 people at a protest during Trump's presidential inauguration on January 20, 2017.

The first three plaintiffs in the case — a DC-based systems administrator, a journalist, and a street medic — represent a larger class of False Arrest Plaintiffs who will be added to the suit as the case progresses. (A similar lawsuit was filed by the same attorney, Jeffrey Light, on January 20th immediately after the mass arrest, but was later withdrawn on procedural grounds.)

The federal lawsuit brings six different counts against several MPD commanding officials and officers. Defendants include MPD Chief Peter Newsham, Assistant Chiefs Lamar Greene and Jeffrey Carroll, former Assistant Chief Robert Alder, Commander Keith Deville, Lieutenant Paul Niepling, Sergeant Anthony Alioto, as well as Officers Michael Howden, Melvin Washington, Gregory Rock, and Daniel Thau. They face counts of Violation of the First Amendment, Common Law False Arrest, two counts of Negligence Per Se/Violation of the First Amendment Assemblies Act, Violation of the First Amendment, and Violations of the Fourth and Fifth Amendments.

Central to the factual basis of the suit is the chain of command on inauguration day, on which, according to the complaint, Commander Keith Deville told officers the anti-fascist anti-capitalist protest march had turned into a riot, and ordered them to corral, detain, and arrest everyone present without "differentiating who was demonstrating and who was rioting."

The lawsuit also states that by virtue of MPD's chain of command in place that day, "Deville received the order to stop the march from [Assistant Chief] Greene at the command center, where (on information and belief) he received direction from [Chief] Newsham."

The complaint further states that Deville knew there were members of the press present in the group and ordered their arrest anyway:

“Deville knew that not all of the individuals who were marching were committing acts of vandalism when he declared the march a “riot.” He was also aware that some of the individuals walking down 13th St., NW were journalists photographing the march or otherwise documenting the march.”

Additionally, police did not issue a dispersal order before placing people under arrest, as mandated under DC’s First Amendment Assemblies Act. Once they had the march surrounded, police did not attempt to identify specific people in the crowd as responsible for specific crimes, but rather sought to collectively punish everyone present as a group.

The lawsuit also cites statements given by MPD Chief Peter Newsham to the press after inauguration day, in which he endorsed and defended the decision to carry out the mass arrest of everyone present at the protest. Comments given by Newsham, as well as other MPD officials, are given as examples of both the police chief and the government of the District of Columbia officially approving, and accepting responsibility for, police actions on January 20.

The lawsuit’s Statement of Facts also contends that Commander Keith Deville’s personal hostility towards anarchist and anti-fascist protesters informed his decision to order the arrest of everyone present at the march:

“According to his trial testimony on November 29, 2017, Deville believed “the group gathering at Logan Circle was going to be problematic” because they were “anarchist or anarchist ideology and anti-capitalist.” He further testified that he did not want the group to reach New York and 11th St., NW, because it was “the footprint of capitalism” and the stores there were “high-end[.]” He asked at one point whether the group was “an anarchist-type or just protest?” implying that “anarchist-type” groups do not have an equal right to engage in protests.”

Part of the lawsuit is based on the ‘Conditions of Confinement’ of people caught up in the politically targeted mass arrest of the anti-capitalist anti-fascist march. Those arrested when police stopped and surrounded the march at 12th & L streets were detained for up to 11 hours without food, water, or access to restrooms or medical care.

According to the complaint, one officer refused when a detainee asked to be able to use a restroom, saying she should “shit [her] pants.” Another officer reportedly told a J20 detainee, “If you wanted to go to the bathroom, you shouldn’t have gotten arrested.”

The complaint also describes how detainees were forced to rummage through garbage bins to find bottles to urinate in. Officers also threw away food as they laughed at detainees who had been denied food for hours, and taunted them as they went through the trash to find leftovers to eat.

The suit also alleges that MPD had vans ready to take away arrestees at 11:30 AM, but processing of detainees was deliberately delayed “in order to maximize the detainees’ discomfort,” with some people held outdoors until after sunset.

The lawsuit demands a jury trial and seeks unspecified compensatory and punitive damages as well as attorney fees and other litigation costs. The case also asks the court to officially declare that the mass arrest on January 20 was unlawful, and to officially expunge the personal records of people who were falsely arrested.

The court case is expected to drag on for quite some time, as previous class action lawsuits over mass arrests of protesters have generally been fought by government lawyers for years before finally ending in large financial settlements.

Washington, DC has already paid out multi-million dollar settlements to settle an extremely similar lawsuit over the 2002 Pershing Park mass arrest during protests against the International Monetary Fund. The District ended up paying out over \$14 million, \$3 million of which reportedly went to personally defending then-Assistant Chief Peter Newsham.

Apart from the new class action suit filed last week, the District of Columbia and its police department are facing a separate lawsuit brought by the American Civil Liberties Union on behalf of several people abused by police on inauguration day. An additional lawsuit was also filed by the Partnership for Civil Justice Fund in March 2017 over the refusal by DC authorities to release records of the formal decision to carry out the mass arrest of Trump inauguration protesters on January 20, 2017.

January 25th - Far From Over: An Open Letter to Former J20 Defendants

On January 18th, the Assistant United States Attorney Jennifer Kerkhoff filed a motion to dismiss the charges against 129 J20 defendants. This is a big development, but this case is far from over. While this can be seen as a victory in many ways, it is also an opportunity for the State to double down and intensify their attacks on 59 of our J20 comrades. If you just had your charges dismissed, there are a few important things you should know, but don't let them stop you from resisting and being in solidarity with the remaining J20 defendants.

You may be wondering why your charges are being dismissed now, after the prosecution spent a year aggressively trying to prosecute you. The narrative the State is trying to put forward, in the courts and the media, is that the remaining 59 (or at least some of them) are the "real criminals." This is bullshit – don't buy it! The reason our charges have been dropped is because Kerkhoff wants to ensure she wins at all our expenses – which means sending 59 of us to prison...if she can. But the State's losses (i.e., acquittals) in the first trial has made them worry about their prospects of success (i.e., convictions, and thus prison time) in future trials. So as the criminal legal system is designed to do, Kerkhoff has taken a strategic move to divide our ranks and attempt to force more plea agreements, set herself up for greater success in future trial blocks, or just ratchet up the pressure on the remaining defendants.

Yet the extensive solidarity organizing, media work, and fundraising that supporters around the country and around the world pulled together for the first trial group, and indeed for all the defendants, demonstrated its power to defeat the State and its ploys. We defeated the prosecutor's first attempt to make presence at a disruptive demonstration a criminal conspiracy or aiding or abetting so-called crimes, both in court and in the press. The US attorney's office admitted this much in the motion to drop our charges; however, they are still pursuing the exact same conspiracy allegations against the remaining 59.

It's important to remember that it may never be clear why 59 people still have charges – it may be that the government feels they have a better ability to prosecute them, or it may be retribution for speaking in the media, political organizing, past criminal history or literally anything. But what should always be clear is that every decision the prosecution makes is intended to help them win, and thus we should be prepared to fight and resist at every turn, at every new development in our case. We have started to build momentum to win this case, and can't stop now. Let's not forget – SOLIDARITY GETS THE GOODS!

From the beginning, we were targeted not because of what we did or didn't do on J20 – ideas of guilt or innocence are for our enemies, after all. We were targeted for being willing to stand up defiantly to the Trump regime, resurgent fascism, and the whole of capitalism. Almost a year ago, the majority of us agreed to points of unity for approaching our defenses. Those continue to stand. Now it is especially critical that we reject the State's idea of separating 59 of us from those who they've recently decided are less prosecutable. The basics of the case have not changed. These remaining 59 defendants are being targeted

and it is still about setting a precedent to squash dissent. If the State can get away with repressing these 59 comrades, we can be sure they'll be coming for the rest of us next time.

But here's the good news: sticking together, refusing pleas, fighting back in the courts, the media, and the streets, WORKS! Now we have the opportunity to continue to hold strong and support our friends. By doing so, we're not only helping to protect our more vulnerable comrades, we're making it harder for the State to get away with repression like this in the future.

Dismissed without Prejudice: Everything is Complicated and Nothing is Ever Perfect

In each of Kerkhoff's individually filed motions to dismiss the charges against 129 defendants, Chief Judge Robert Morin ordered the "case dismissed without prejudice."

Simply put, "dismissal without prejudice" means that the government reserves the right to refile the same charges at a later time. Essentially, the prosecutor is just using its discretion to dismiss the charges, and that discretion can change at their whim.

The other type of dismissal is "with prejudice," in which case the prosecutor cannot charge you again for the same crimes. This might happen in a situation where the judge dismisses the case for some reason, the prosecutor does not meet the requirements of speedy trial, or the court or the prosecutor believe you were wrongly charged. You can imagine that last one doesn't happen often.

In general, it is very rare for cases that are dismissed without prejudice to be refiled, but it does happen sometimes. Common scenarios that might motivate a prosecutor to refile previously dismissed charges include the discovery of new evidence which the prosecutor believes makes their case stronger, or a former defendant picking up a new charge in the same jurisdiction which draws the prosecutor's ire.

This situation fortunately doesn't last forever; the prosecutor is still bound by the statute of limitations! But unfortunately, in D.C., that's generally 6 years for most felonies, and 3 years for other offenses. See D.C. Code § 23-113. It can sometimes get pretty complicated as to when that time period starts running or what situations might suspend that time period, so talk to your lawyer if you have questions or concerns.

The J20 case is obviously ongoing, and that includes the investigation of it. The lead detective was in the courthouse for the entire first trial, listening and watching people on breaks, collecting evidence to use later on. We should also assume that they are continuing to monitor social media accounts.

Anything you say that sounds even a little incriminating – especially if said publicly or online – will be used against the remaining defendants, or land you or another right back in court where you were. The conspiracy charge allows the prosecution to introduce any statements of alleged "co-conspirators" at trial, even if they are unindicted "co-conspirators." Remember that when what you said as joke is read in a court transcript, it sounds a lot less funny and lot more sketchy. We like to remember the wise words of Eric McDavid's lawyer from a few years back, "Imagine what you say as a ticker tape coming right out of your mouth and onto a court transcript." Speak like that is the case.

With these considerations in mind, we offer the following thoughts.

DON'T:

- Talk about anyone's intent, activities, planning, anything that could be used as evidence.
- Say things like, "I can't believe my/their charges got dropped considering..."

- Talk about what happened on J20 before the handcuffs were on, so to speak.
- Assume that the people who still have charges have particular evidence of the alleged crimes levied against them – or that this evidence is irrefutable.
- Speculate as to why people still have charges.
- Allow the possibility of charges being re-filed to give the government the power to continue to repress social movements and bolster a culture of paranoia.

DO:

- Talk about being a defendant and the experience of being prosecuted if you want to. This is when you can and should talk about everything that happened once the handcuffs were on! Sharing your story is a powerful tool in building support for your remaining codees (i.e., codefendants)!
- Stay careful and stay vigilant!
- Remember what brought you to the streets on J20 and keep organizing for liberation in your communities!
- Support your former codefendants! Stay engaged! Help us fight back!

Back in the Game: Some Ideas of How to Get Involved

Now that your charges are dropped, you have an opportunity to reciprocate the incredible solidarity work that helped get your charges dropped by taking a stand for your former codefendants (if you haven't already!). They need you more than ever, and you are well positioned to fight for them until they too are free. The list is endless, but here are a few things to get you started:

- Join or form a local support crew. You know what it's like to face these charges, and you know what kind of support is needed. You can start small by tabling at events and distributing literature. Write postcards and letters of support to your co-defendants still facing trial.
- Flyers and zines to download and print out for tabling can be found at defendj20resistance.org/resources-def/#supporters
- Start/continue to share material produced from DefendJ20 social media and website to support remaining defendants.
- The Defend J20 Resistance website: defendj20resistance.org
- Twitter: twitter.com/defendj20
- Instagram: [instagram.com/defendj20](https://www.instagram.com/defendj20)
- Organize educational events and fundraisers in your community. There are still too few people who understand what this case is about. Get the word out there!
- Start to talk more openly about your experience of being a defendant (remember – this is still an active investigation, and you shouldn't talk openly about anything that may be harmful to yourself or others).
- If you decide to speak to the media, and things you say can still be used against yourself as re-filed charges or against your former co-defendants at their trial. Do not talk about events of the day with specifics about yourself or others, or in any way that could bolster the narrative of the prosecution. If you don't understand what we mean by this, please wait and reach out to **defendj20resistance@riseup.net** for more guidance. It is very easy to say things that can be taken out of context by journalists, be sidetracked or derailed by questions you weren't expecting them to ask, get nervous or overexcited, or say something that could be used in court.

For many of us, this was our first time facing down the legal system on this scale. We now have first-hand experience of just how confusing, stressful, and life-changing it is even to be charged, much less convicted. While this experience wasn't one we'd like to repeat, it's given us a direct window into the everyday realities of how the legal system works on a daily basis. We should be thinking about not only supporting

our co-defendants, but all prisoners – “political” or not. Write letters, organize noise demos and solidarity rallies, and send books to people locked inside.

We have had the incredible gift to walk through this situation while we are held by our friends, supported even by total strangers. Every day countless people walk into courtrooms alone, no hashtags calling for justice or solidarity trending on Twitter. Let this experience be a catalyst to fight for the prison walls to crumble, the borders to be erased, and the cages emptied! You have a powerful experience to draw from, and we are much more powerful as a movement if we use this experience to mobilize more resistance.

If you’re like many of us, you may be having intensely mixed emotions about these developments. On the one hand, we’re incredibly relieved to not have this huge scary unknown hanging over our heads, and eager to relax and move on with our lives. On the other hand, finding out that many of our friends are still facing trial – and feeling especially targeted by this new development (and perhaps worried that solidarity organizing will recede) – our joy and relief is bittersweet at best. For some of us, it’s more an ambivalent anticlimax than the dramatic redemption of our fantasies.

If so, we feel you! You know, a great way to transform that ambivalence is to keep fighting with past and current codefendants until every last charge has been defeated! Then we can bask in the full glory of our victory without leaving anyone behind. And in the meantime, don’t hesitate to reach out for support yourself. You’ve been on a year-long nightmarish roller coaster; of course you’re gonna feel dizzy and nauseous, even now that the ride’s over! Get the love and care you need to recover and put your life back together as we fortify ourselves to keep struggling in defense of the remaining J20 defendants.

We can’t let the prosecution win by all of us continuing to live in fear. That is what they want: they want people to be scared to take the streets, to resist, to fight. They want us to be frozen by the prospect of years in prison or even the year that we have spent fighting these charges. But they’ve failed to convict 155 of us – largely because the same ideals that inspired us on J20 enabled us to work together and fight this. If we stop resisting in the face of repression, they have won (which means that everyone loses). Act thoughtfully and consider the risks, but don’t let them stop you. Stay strong, beautiful, and brave!

22 Jan - Third Black Charlottesville Resident Arrested in Wake of ‘Unite the Right’

The National Lawyers Guild of Central Virginia recently announced that yet another Black resident of Charlottesville has been charged with a felony. Please read their statement below.

MORE:

Mr. Donald Blakney was arrested at his home on Friday by Charlottesville Police Department (CPD). He is charged with Malicious Wounding—a felony that carries a 5 year minimum and the possibility of up to 20 years in prison.

On August 12, he was physically attacked by a participant in the Unite the Right rally, who also yelled racist slurs at him. Later that fall, he was questioned by CPD and the FBI under the pretext of the ongoing criminal investigation into right-wing violence that day.

The charges against Mr. Blakney are apparently based in part on a video broadcast by the ABC News program 20/20 that depicts him at the scene.

Mr. Blakney is the third counter-protester to be arrested and charged arising out of the events in Charlottesville on August 12, 2017. Corey Long and DeAndre Harris are both also facing criminal charges. All three are Black men and local residents who were attacked that day.

Mr. Blakney was released on personal recognizance Friday. He has an arraignment tomorrow, Monday, January 22 at 10AM in Charlottesville General District Court and is requesting that supporters come in solidarity. Mr. Blakney is represented by attorneys Sandra Freeman and David Baugh.

We demand that the Commonwealth's Attorney and the Charlottesville Police Department immediately drop the charges against Mr. Blakney and cease the racist targeting and harassment of people of color who bravely confront white supremacist violence.

23 Jan - Humanitarian Arrested After Group Releases Report Implicating US Border Patrol

Hours after the release of a report titled 'Interference with Humanitarian Aid: Death and Disappearance on the US-Mexico Border', which exposes the US Border Patrol's efforts to destroy water, food, and blankets left by humanitarian aid workers, agents arrested an aid provider and two others receiving aid near Ajo, Arizona on January 17, 2018.

MORE:

The aid provider arrested by Border Patrol was Scott Warren, who since 2013 has been working with the organization No More Deaths to provide "direct humanitarian aid in an effort to end death and suffering along the US-Mexico border."

Scott was released the next day after appearing in court. For now, he is being charged with a felony involving alien smuggling. The two other individuals arrested with Scott in a remote wilderness area near El Camino del Diablo (Devil's Highway) remain in custody.

The report released hours before the three arrests was the second report in a series of three, titled 'The Disappeared: How the US Border Enforcement Agencies are Fueling a Missing Person Crisis', created by No More Deaths/No Más Muertes and La Coalición de Derechos Humanos, "a grassroots organization that promotes the human and civil rights of all migrants regardless of their immigration status."

Unicorn Riot spent some time in early 2017 following No More Deaths volunteers. During that time we witnessed slashed water bottles and destroyed food stocks that aid workers had left along well-traveled migrant trails.

"On the crisis of death and disappearance of border crossers in the US Southwest borderlands," 'The Disappeared' report details the "intentional destruction of over 3,000 gallons of water left out for border crossers, implicating the US Border Patrol in the majority of this destruction."

Scott's arrest was not the first time authorities have targeted humanitarian aid groups, No More Deaths camp and workers or even Scott them-self. Border Patrol raided the No More Deaths camp twice in one week during the summer of 2017 and arrested four people receiving emergency medical care inside the camp.

The introduction to 'The Disappeared' report reads,

"This report [The Disappeared] calls attention to a significant albeit underreported outcome of contemporary US border policing strategy and practice: the disappearance of tens of thousands of migrants and refugees in the expansive wilderness north of the US-Mexico border. This process of disappearance is related to the much more thoroughly researched and reported deaths of thousands of border crossers since the 1994 launch of the US Border Patrol's strategy of 'Prevention Through Deterrence'" – Disappeared — Introduction

Part I of the report “investigates the US Border Patrol’s deadly apprehension methods in wilderness areas” and finds “that the Border Patrol routinely chases border crossers into remote terrain causing them to scatter, become lost, and often die or disappear.”

Part II details how “water drops”, water left by humanitarian aid groups in remote areas for border crossers, have routinely been destroyed by Border Patrol agents. It draws the correlation between the Border Patrol’s actions of destruction to its systemic policy of “Prevention Through Deterrence” which forces migrants unable to pay to cross via safer methods, into remote desert areas where many lose their lives.

One of the volunteers we spoke to last year from the No More Deaths camp said:

“We have a lot of footage of Border Patrol agents and unsympathetic locals destroying water drops. Often it’s Border Patrol. There have been remains found near water drops. We see this all the time.”

In Part II of ‘The Disappeared’ it was noted that “at least 3,586 gallon jugs of water were destroyed in an approximately 800-square mile desert corridor near Arivaca, Arizona“, from 2012-2015.

Humanitarian aid organizations like No More Deaths continue their work along the US-Mexico border regions documenting lives lost to the policies that push people to the remote desert and providing what aid they can to save lives. The Border Patrol’s well-documented interference with humanitarian aid has been exposed, while threats of ICE raids continue to increase. It’s uncertain what the future holds for the United States’ borderlands, but the clash between human rights and nation-state borders continues.

31 Jan - Advanced Film screening of Cruel & Unusual

WHAT: Film

WHEN: 6:00pm, Wednesday, January 31st

WHERE: Theatre Row– 410 West 42nd Street 10036

COST: FREE

MORE:

We are proud to announce our advanced screening on the film Cruel & Unusual

This is the story of over 100 years in isolation by three members of the Black Panther Party, a system of constitutional punishment, championed by the power of the people.

Please join us January 31st for a screening with panel discussions with Panthers who have braved the human rights movement for decades.

Also a book signing & talk with Bryan Shih The Black Panthers that will be on sale at this event.

Come out and support those directly impacted and meet the leaders of the movement.

1/2 Feb - Events with Former Political Prisoner Oscar López Rivera

WHAT: A Dialogue with Puerto Rican Oscar López Rivera/International Capital, Debt and Puerto Rico Reconstruction

WHEN: 5:15-7:00pm, Thursday, February 1st/5:30 reception, 6:30 panel discussion, 8:00 music presentation, Friday, February 2nd

WHERE: Hostos Community College, 450 Grand Concourse, Bronx, New York 10451/ 411 46th Street, Brooklyn, New York 11220

COST: FREE

MORE:

Happy New Year and Three Kings celebrations. We are hoping that the new year will bring the transformation of Puerto Rico. Wishing all good health and strength for a good struggle ahead.

Oscar will be with us for a few days under a better political climate. Unity is a must for our homeland. Join us in these events in the different communities. Please post of your social media outlets and Facebook these events with Oscar Lopez Rivera. All entrance is free and Oscar's book will be on sale.

4 Feb - Make Political GIFs

WHAT: Training

WHEN: 2:00-3:30pm February 4th, 2018

WHERE: Mayday Space (2nd floor, Main Classroom)–176 St Nicholas Avenue, Brooklyn

COST: Free/\$5 suggested donation to cover the space.

MORE:

Join Metro Anarchist Coordinating Council (MACC) for an introduction to creating political gifs. We'll cover a few different tools and methods you can use to create sick moving memes of all sorts.

This is a hands-on workshop! Bring a laptop and some ideas for gifs you want to make!

9 Feb - Metropolitan Anarchist Coordinating Council General Assembly

WHAT: Organizing Meeting

WHEN: 7:00-8:30pm [orientation at 6:30], Friday, February 9th

WHERE: Verso Books–20 Jay Street (Suite 1010) Brooklyn

COST: FREE

MORE:

MACC general assemblies are open to all anarchists, antifascists, anti-authoritarians and those interested in anarchist ideas and organizing so please invite your friends and share widely!

If you haven't attended before, these assemblies are an opportunity to get plugged in with MACC, its various committees and working groups, and other NYC based anarchist projects.

An orientation will precede the assembly starting at 6:30 PM for those interested in familiarizing themselves with MACC, the history, process and politics that underskirt general assemblies, and anarchist ideas.

As with all assemblies, we encourage everyone to come with ideas about what they would like to see for future campaigns or actions and what direction they'd like MACC to take in terms of building a more powerful, militant anarchist movement.

MACC's safer spaces policy is available at macc.nyc/safer-spaces and for more information visit macc.nyc or contact us at info@macc.nyc