



POST OFFICE BOX 110034 BROOKLYN, NEW YORK 11211

Updates for December 27<sup>th</sup>

## **8 Dec - Is Burlington, Vermont suffering a crime wave because "woke" officials cut police funding?**

*A genre of formulaic I-told-you-so punditry has taken root since the George Floyd protests. It goes something like this: First, find a city in which progressive political leaders payed some lip service to the "defund the police" movement and toyed with cutting police budgets. Second, point out that crime in that city subsequently went up. Finally, revel in the humiliation as those political leaders slowly walk back their reforms.*

### **MORE:**

by Radley Balko (*Substack*)

There are lots of problems with these narratives. In all but a handful of cities, funding for the police was never actually cut. In most, it went up. For most cities, the crime stats are more far complicated than the pundits let on. These narratives also don't account for the fact that cities like Mobile, Indianapolis, Toledo, Albuquerque, Baton Rouge, and Columbus set homicide records over the past two years despite increases to their budgets or that they added more uniformed officers.

Finally, there are of course other explanations for the increases we've seen in some types of crime, most notably a once-in-a-century pandemic that had massive and still unknown effects across virtually every part of daily life.

The latest attempt to shame progressive policymakers comes from the *Washington Post's* Charles Lane, who takes aim at Burlington, Vermont.

Lane writes:

*The progressive City Council in Burlington, Vt., thought it was striking a blow for social justice when, in June 2020 — just after George Floyd's murder — it cut the police force's authorized strength from 104 officers to 74. Morale plunged, many cops quit and a downsizing intended to occur gradually through attrition happened precipitously.*

*Now, the city of 44,000 has 61 officers, 53 of whom are "actively deployed." According to a recent New York Times report, organized bicycle theft and open-air drug sales have proliferated. Police in October said there had been four murders since July, as opposed to zero in the preceding two years.*

There's a lot to unpack in those two paragraphs.

Let's start with the murders. It's already quite a stretch to say we should blame fewer cops because the city went from zero murders in one year to four in the next. It's even more preposterous if you look at the details of the murders. The first was committed by a 19 year old against someone with whom he had apparently had a long family feud. The second was a domestic murder/suicide. The third was a man who killed two people, but only one of those was in Burlington. It was committed in a crowded public park "within earshot of numerous police officers, who had been stationed in the roughly half-square-mile downtown core that night as a show of force." The final murder was a stabbing that police chief Jon Murad said "appears to have been bar-closing-beer-muscles and a fight that comes from that kind of behavior and ends up being something that turns into something a lot worse." So a bar fight.

None of these seem like the sorts of crimes that more cops on the street would have prevented.

Moreover, murders are up significantly statewide in Vermont. The entire state certainly did not defund its police forces. Overall, police budgets in Vermont have increased by about 6 percent since 2020.

As for that *New York Times* article, it quotes police and city officials as well as some residents of Burlington who claim that bike thefts, gunfire, and drug offenses are more common. But hard data on these crimes isn't yet available, and other residents took issue with how the article characterized the city. In any event, the city hardly seems like a "a world of violence and despair," as the Times described Burlington in a tweet promoting the article.

Lane isn't the first to chastise Burlington down for "de-funding" its police. Last year *NBC* ran an article with the headline, "Burlington decided to cut its police force 30 percent. Here's what happened next," and *The Daily Beast* followed up with "This liberal city defunded the police. Now it's paying cops to stay."

You had to get to the 56<sup>th</sup> paragraph of the *NBC* article to find this:

*It's hard to tell whether crime has risen in Burlington as officers have left the force, in part because there are no solid numbers yet. The best year-to-year comparisons would come from FBI data — which won't be available until next year.*

*For now, the Burlington Police Department has incident data for 2021, which show that the total number of incidents fell by 11 percent in the first 11 months of the year compared to the same period last year.*

A year later, we do have the numbers 2021. They show that reported violent crime dropped in Burlington last year. Driven by property crimes, overall crime went up, but only a little, and only back to where it was in 2019, before the pandemic.

So what about this year? The data we have so far for 2022 are from the Burlington Police Department's "activity reports." They run through the end of October. Here's what those reports show:

These graphs measure police activity, which is a bit different than reported crimes. So the presumed response from someone like Lane would be "of course the police are making fewer arrests and stops, because there are fewer police officers overall."

But the charts above show that police activity was slowing down in Burlington long before the department began losing officers. And the slope on the first two graphs decreases after the police department shrunk.

One alternative explanation for the decrease in activity is less proactive policing due to low police morale. There could be lots of reasons low morale, from a "Ferguson effect" response to protest and criticism, to low pay, to poor leadership. I don't know if any of that explains what's happening in Burlington, but if it is, these are issues with police culture, and won't be solved by simply hiring more officers.

We don't yet have numbers on reported crimes for 2022, but local news outlets who spoke to local officials, activists, and civic leaders are more skeptical of the narrative from pundits like Lane. Here's a story from 2021, when the stories about Burlington's alleged crime wave first began to proliferate:

*The Burlington Police Department issued press release after press release this summer.*

*But police data analyzed by VT Digger and separately by the ACLU of Vermont — which published its analysis in a letter Thursday morning — suggests that while the rate of press releases is increasing, the rate of crime is not . . .*

The data shows gunfire incidents in the city are increasing in frequency: In 2016 there were two gunfire incidents; in 2021 so far there have been 12. But overall crime has been trending downward for years in Burlington, including violent crime specifically — such as homicides, robberies and assaults.

And here's an article from last June, about the numbers to that point this year:

*. . . overall, the volume of crime remains well below what it was a decade ago, having dropped by nearly a third since 2012. Of the crimes that did increase since the police cuts, most went up only slightly, and the majority were nonviolent offenses.*

The June article also undercuts the argument that the decline in police activity is due solely to a decline in the number of police officers:

*It's true that fewer police are available to respond to calls — at a time when a growing percentage of those calls are classified as “Priority 1,” requiring an immediate police response.*

*But most of the calls driving that increase weren't even to report crimes. Priority 1 call data show that cops delivered more restraining orders for courts and responded to more 911 hang-ups, vehicle crashes, overdoses and suicide attempts in 2021 than in 2020. Calls for many serious crimes either declined, stayed level or increased only slightly.*

One study by a student at the University of Vermont found that the percentage of Priority 1 calls that involved genuine threats to public safety was at its lowest point since 2011.

More restraining orders, overdoses, and suicide attempts are certainly all bad things, and together they paint the portrait of a city facing the same struggles the country is facing more broadly. But of the trends listed, only traffic crashes could arguably be the result of fewer cops on the street.

Much of the narrative about Burlington's alleged crime wave is anecdotal. And much of it seems to have emerged from a pattern we've seen in coverage of other cities that have implemented police reform:

- Police officials believe more cops always means less crime. So when the number of cops drops, they naturally assume the city must be less safe.
- Because of this, police officials repeatedly tell the city's residents they're less safe.
- Journalists report these claims, which makes people actually feel less safe.
- Other journalists then seek out residents who say they feel less safe and interview them, thus making other residents feel even less safe.

When the actual numbers come in, they typically complicate or undermine the idea that the city is, in reality, less safe. But this only comes later, once the narrative has been set.

It isn't even clear that most residents of Burlington share the fears expressed to the NY Times (as opposed to, say, the most vocal). After the initial round of scare stories in 2021, state's attorney Sarah George, an outspoken reformer, took a lot of criticism for the city's allegedly exploding crime rate. This year she got a challenger in the Democratic primary, who promised to roll back many of her reforms. George won by 20 points.

Hiring more cops also brings costs — costs that disproportionately hit minority communities. More cops means more disproportionate use of force, more racial profiling, and more misdemeanor arrests, which leads to more people with criminal records . . . which leads to more crime.

Lane tries a few arguments to bat away these concerns. The first is rather pollyanna-ish:

*Police must be not only more numerous but also trained, equipped and accountable, so as to promote maximum trust between them and the people they serve.*

“I would hire more officers, but simply ensure that they are well-trained, accountable, and have the trust of the people they serve.”

Who knew it could be so easy!

Lane also reiterates the common argument that black people would disproportionately benefit from reduced crime rates. This is true. But minority communities shouldn't have to choose between safe streets but with police harassment, mass incarceration, and regular constitutional violations, or living crime-infested neighborhoods in which they retain full array of rights granted to everyone else.

For this, Lane offers a dubious proposition: more cops now, less incarceration later.

*Achieving this aspiration would entail a combination of many more cops and significantly less severe punishment.*

*Politically, it's probably easier to sell the American public on the "more cops" part. Even so, if the beefed-up police presence came first and deterred crime, it could lead to less incarceration, due to the lagging effect of lower crime. Once crime rates decline, a confident public might be more willing to support more discriminate sentencing.*

So if we agree to hire more police officers and swell the rolls and coffers of already powerful police unions in exchange for the possibility that once the increase in cops results in less crime (an outcome that's far from guaranteed), the public might then consider the kinds of reforms that law enforcement groups, most notably police unions, have aggressively — and generally successfully — lobbied against.

Quite the bargain.

Finally, Lane expands his scope to claim that the United States ranks behind much of the developed world in policing per capita.

*Many other industrialized democracies field more police per capita than the United States does. At 212 officers per 100,000 total residents, this country ranks in the 41<sup>st</sup> percentile, behind Germany, Spain and Belgium, among others.*

*Relative to its level of serious crime, the United States is even more of an outlier; it has one-ninth as many police officers, per homicide, than the median developed country.*

There are several ways you might measure how a country commits resources to policing, but "officers per homicide" would seem to be one of the least relevant because the U.S. has a far higher homicide rate than most other developed countries. Lane of course would argue that this because we have fewer police officers. But that's begging the question.

Spending seems like a much better measure of resources devoted to policing, because it accounts for the fact the budgets are fungible. Once you've allocated money to the police department, it's difficult to control how that money is spent. You can say you want it to go to solving murders, but it's difficult to micromanage spending in that sort of detail.

The U.S. spends about 2 percent of GDP on policing. That's double what Ireland, Japan, Norway, and South Korea spend, 40 percent more than France and Germany, and 20 percent more than England. Our crime rate — and our homicide rate in particular — far exceeds that of all those countries.

More broadly, since the George Floyd protests drew attention to police funding, several studies and surveys have also shown that more spending on police doesn't even correlate with — much less cause — less crime. There is some research showing that more police officers overall correlates with decreases in some types of crime, but again, most of these studies don't factor the costs of additional policing, nor do they consider less coercive alternatives that don't incur those costs.

Lane then blames underfunding for the U.S.'s comparative low closure rates:

*The result is that U.S. police are 44 percent less likely than counterparts abroad to clear cases of serious crime. Lewis and Usmani emphasize that American police devote as much effort — per officer — to such cases; the problem is insufficient personnel . . .*

It isn't insufficient personnel. It's how police departments allocate resources. The typical U.S. police officer spends only a tiny portion of on-duty time solving or responding to crimes with victims. In many cities, it's less than 2 percent of a typical officer's time on the clock. They spend far more time enforcing traffic laws, enforcing drug laws, and routine patrolling. Oddly, it's the latter that "more cops, less crime" advocates say we need more of.

(For the record, despite diminished ranks, Burlington police have closed all four homicide cases this year and more than half the shootings since 2020 — both put the department far above the national average.)

It doesn't help — and shouldn't be unsurprising — that the communities with the most crime are least trustful of police. So they're less likely to cooperate, which makes it harder to solve crimes.

Again, these aren't problems that can be solved simply by hiring more police officers. They'd likely be made worse. More cops would mean more contacts between cops and residents, and there's evidence that the more contact people in marginalized communities have with police, the less they trust them.

Would more cops on the street lower the crime rate in Burlington? I don't know. But hiring more cops comes with costs, both tangible and less tangible. More to the point, there's little evidence that overall crime is up significantly in the city, despite a police department that's been halved in size. At most we can say there have been increases in some types of crimes and decreases in others.

I can't prove that Burlington is a better or safer city with fewer cops. But there's even less evidence to support Lane's contention that the city is suffering because it has fewer cops — or that it would be better and safer with more.

### **9 Dec - Cruel and unusual: How the justice system is failing Mumia Abu-Jamal**

*On December 9, 1981, award-winning journalist Mumia Abu-Jamal was arrested for the murder of Daniel Faulkner, a Philadelphia police officer.*

#### **MORE:**

by Linn Washington (*WHYY*)

His case has generated unprecedented attention both nationally and internationally. This attention includes books, documentaries, feature-length films and a seminal report by Amnesty International.

Curiously, one of the least examined — but most peculiar — aspects of the most contentious murder case in Philadelphia's history is the unusual pattern of rulings by judges. These judges have denied Abu-Jamal the legal relief that others convicted of murder — who asserted violations of their legal rights — were granted.

For example, during the 28 years after Abu-Jamal's arrest, Philadelphia and Pennsylvania appellate court judges overturned 86 Philadelphia death penalty convictions due to various errors by police, prosecutors, defense attorneys and even judges — including the judge at Abu-Jamal's 1982 trial.

However, during that time frame, judges declared not a single error — evidentiary or procedural — existed anywhere in the Abu-Jamal case, despite the persistent emergence of compelling new evidence that undermined all elements of his conviction.

The fact that state and federal judges have consistently upheld Abu-Jamal's conviction is cited as solid confirmation of his guilt. Brushed aside is the fact that judges have upheld Abu-Jamal's conviction by skirting established legal procedure (precedence), creating new legal standards that undercut Abu-Jamal's claims, and rejecting newly discovered evidence of improprieties by police, prosecutors, and even judges.

An analysis of Abu-Jamal's case by Amnesty International in 2000 tracked the Pennsylvania Supreme Court's 1986 establishment of a standard that prohibited particular remarks prosecutors could make to a jury.

Pennsylvania's highest court reversed that standard when it rejected Abu-Jamal's first appeal in 1989. A year later that standard was reinstated.

"This contradictory series of precedents leaves the disturbing impression that the Court invented a new standard of procedure to apply it to one case only: that of Mumia Abu-Jamal," the report read in part.

A more troubling pattern in the Abu-Jamal case is judicial rulings that endorse actions by judges who deviate from judicial conduct code provisions, such as prohibiting judges from exhibiting "bias and prejudice" in performance of their duties.

During a pivotal 1995 appeal hearing for Abu-Jamal, Judge Albert Sabo exhibited a bias so apparent that it drew wide condemnation in the news media, including criticism from the conservative Washington Times and the liberal Independent of London. Philadelphia's two daily newspapers published editorials that bashed Sabo, with one castigating Sabo's visible "hostility toward" Abu-Jamal.

Despite media confirmation of Sabo's prejudice, Pennsylvania's Supreme Court dismissed it when they rejected Abu-Jamal's second appeal in 1998. That rejection claimed the "opinions of a handful of journalists" did not provide proof of Sabo's "settled bias" against Abu-Jamal.

Pennsylvania's Supreme Court had refused to bar Sabo from hearing that appeal. Allegations of Sabo's bias when he was the judge during Abu-Jamal's 1982 trial were elements in that appeal. In 2003, Pennsylvania's highest court found no fault in disturbing new evidence that Sabo declared on the eve of Abu-Jamal's 1982 trial that he would eagerly help prosecutors "fry the ni\*\*er."

New evidence is again the issue in the Abu-Jamal appeal, which is now pending before a Philadelphia city court judge. That evidence is from six boxes of Abu-Jamal case material that was stashed away in the District Attorney's Office for 36 years. U.S. and Pennsylvania law requires prosecutors to promptly disclose evidence favorable to an accused.

Among the new evidence in those six boxes is a letter from the prosecution's key eyewitness during the 1982 trial. In this letter, the witness was pleading for the "money" that the trial prosecutor promised him; correspondence among prosecutors indicating aid to another key witness; and notes from the trial prosecutor evidencing use of forbidden racial bias during the selection of the 1982 trial jury.

Consistent with past judicial practice, the judge handling Abu-Jamal's latest appeal announced her intent to reject the request for a new trial, asserting that the activist/author suffered no legal unfairness when prosecutors improperly withheld boxes of evidence from his attorneys for over 13,000 days.

The unusual pattern of judges altering and/or ignoring the law in the Abu-Jamal case has convinced millions of people around the world that a double standard of justice sabotaged this defendant's constitutional right to equal justice under the law.

### **December 19<sup>th</sup> - Judge Orders DA to Disclose All Evidence in Mumia Abu-Jamal Case**

by Amy Goodman (*Democracy Now!*)

Supporters of imprisoned journalist Mumia Abu-Jamal are celebrating a decision by a Philadelphia judge on Friday to order the Philadelphia District Attorney's Office to share all of its files on the case with Abu-Jamal's defense team. Judge Lucretia Clemons gave prosecutors and the defense 60 days to review the files, including many that Abu-Jamal's team has never seen. The judge is then expected to rule on whether to hold a new trial for the former Black Panther, who has been imprisoned for over 40 years for his 1982 conviction in the murder of police officer Daniel Faulkner. His supporters have long claimed prosecutors withheld key evidence and bribed or coerced witnesses to lie, and documents found in the DA's office in 2019 show Abu-Jamal's trial was tainted by judicial bias and police and prosecutorial misconduct. For more on the case, we speak with Johanna Fernández, an associate professor of history at CUNY's Baruch College and one of the coordinators of the Campaign to Bring Mumia Home. "We have enough evidence here to clearly give Mumia at least an evidentiary hearing, a new trial or set him free," says Fernández. She is the executive producer and writer of the film "Justice on Trial: The Case of Mumia Abu-Jamal" and is also the editor of "Writing on the Wall: Selected Prison Writings of Mumia Abu-Jamal."

**AMY GOODMAN:** This is *Democracy Now!*, [democracynow.org](http://democracynow.org), The War and Peace Report. I'm Amy Goodman.

Supporters of imprisoned journalist Mumia Abu-Jamal are hailing a decision by a Philadelphia judge to order the Philly DA's Office to share all of its files with Mumia Abu-Jamal's defense team on the case. Judge Lucretia Clemons gave prosecutors and the defense 60 days to review the files, many of which Abu-Jamal's team has never seen. The judge is then expected to rule on Mumia Abu-Jamal's request for a new trial.

Abu-Jamal is a former Black Panther, journalist, has been imprisoned for over 40 years. He was convicted in 1982 of the murder of police officer Daniel Faulkner. He spent much of his years on death row. But his supporters have long claimed prosecutors withheld key evidence and bribed or coerced witnesses to lie. Documents found in the District Attorney's Office in 2019 show Mumia Abu-Jamal's trial was tainted by judicial bias and police and prosecutorial misconduct. The judge's surprise ruling came just days after a U.N. working group submitted an amicus brief urging the judge to grant Mumia Abu-Jamal a new trial.

To talk more about the case, we're joined by Johanna Fernández, associate professor of history at City University of New York's Baruch College, one of the coordinators of the Campaign to Bring Mumia Home. She spoke Friday outside the courthouse.

**JOHANNA FERNÁNDEZ:** There are documents that emerged recently, as early as January 2019, which clearly suggest that the main witnesses in this case were bribed. A letter by Robert Chobert, the star witness in the case, who said that he saw what happened, and he allegedly saw Mumia, he wrote a letter, with his handwriting, asking the lead prosecutor in the case, Joe McGill, "Where is my money?"

**AMY GOODMAN:** Johanna Fernández joins us now. She is also executive producer and writer of the film *Justice on Trial: The Case of Mumia Abu-Jamal* and the editor of *Writing on the Wall: Selected Prison Writings of Mumia Abu-Jamal*.

Professor Fernández, it's great to have you back. So, why don't you talk about the scene in the courtroom? We interviewed an Arkansas trial judge who was calling for Mumia Abu-Jamal to be released last week, and he was particularly talking about issues like the one you just mentioned outside the courthouse, the issue of bribery — if you could explain that? — and, once again, the judge himself in the original trial, Judge Sabo, referring to Mumia Abu-Jamal with the N-word.

**JOHANNA FERNÁNDEZ:** Good morning, Amy, and thank you so very much for covering this issue.

That letter, handwritten by Robert Chobert, is really the smoking gun, if you will, in this case. It's exculpatory evidence. At this hearing, the prosecutor argued, somehow, that it is pro forma, it is customary, to give witnesses money. But our attorneys corrected the record. They said, "Well, yes, you give witnesses money for missed work and for transportation. However, Robert Chobert was driven to work by police nightly. He was a cabdriver. And he was held in a hotel, and all of his expenses were paid. And he was cared for by the police during the trial. So, what money exactly was he being compensated for?" This is bribery. He would have said in the letter, "I was promised compensation for travel." But that could not have been the case.

Another thing that was raised in the hearing by our attorneys is the significance of circumstantial evidence and inference. This was a man who was driving with two DWIs and who was driving without a license. He said that he was parked directly behind the police car, the car of Officer Faulkner, who was killed that night. But photographs show that he was not where he said he was, and a person who's driving with two DWIs and a driver's license that's been canceled is not going to want to park anywhere near a police officer's car. So, the record suggests that Robert Chobert was bribed for fingering Mumia.

**AMY GOODMAN:** And the judge, Judge Sabo, what he said, reportedly overheard by the stenographer in the original trial?

**JOHANNA FERNÁNDEZ:** Terry Moore Carter was a stenographer at the time, working with a different judge. And her judge used the same courtroom that the lead judge in this case, Albert Sabo, used. And this was during a shift of cases. And Terry Moore Carter, the white stenographer, overheard the major judge in

this case, Albert Sabo, say, quote, “I’m going to help them fry the [N-word],” referring to how he was going to instruct the jury in this case.

The amicus brief that was filed by the Working Group of Experts [on] People of African Descent said that it is the responsibility of the state to remediate decades, centuries of racism, that there was no time bar on this, and that it is the responsibility of this court to right this wrong. The only way to right this wrong is to release a man who was wrongfully on death row for 28-and-a-half years. A federal judge ruled that his death sentence was obtained unconstitutionally in 2010, and he was released to serve a life in prison without parole. You’d think that after 28-and-a-half years of wrongful sentence on death row, you’d get out of prison.

**AMY GOODMAN:** And can you tell me more about Cynthia White — she was another witness — and what apparently is in these boxes that were found in the DA’s Office, and the significance of the fact they were found, what, in 2019?

**JOHANNA FERNÁNDEZ:** So, they were found in January 2019. And what we see is a string of documents wherein the lead prosecutor in the case, Joe McGill, is tracking what is happening to Cynthia White’s other cases. She was a sex worker and had over 36 violations pending against her. So, she was facing upwards of 20 years in prison. And he was consulting with other prosecutors, ensuring that before they made any decision in Cynthia White’s case, they consulted with him. So there was clearly some kind of bargain made between Cynthia White and the prosecutor, Joe McGill, that if she fingered Mumia, she would get off and would not have to serve time in prison.

**AMY GOODMAN:** I wanted to go to Judge Wendell Griffen. We spoke to him last week. He is a Division 5 judge of the 6<sup>th</sup> Circuit in Arkansas. He spent more than 10 years as a judge in the state Court of Appeals. He’s retiring at the end of this year after almost a quarter of a century on the bench. This is what he had to say about why he’s become a prominent voice — another trial judge, just like the trial judge in Philadelphia, but he’s in Little Rock — why he’s become a prominent voice for a new trial and the release of Mumia Abu-Jamal.

**JUDGE WENDELL GRIFFEN:** So, we have to ask ourselves the question: Why is this journalist, why is this Black activist not free? And why is it so hard for a judge to say, “Hey, we’ve got the law that requires him to be free. I’m going to follow the law and declare him free”? And if the commonwealth wants to retry him, they can do so. If the commonwealth decides we can’t retry him because the evidence is no longer there, people have passed away, witnesses have forgotten information, then that is not Mumia’s fault. That is the fault of prosecutors, and Mumia should not be imprisoned because, A, he had a pretense of a trial in the first place, and, B, because, for some reasons, bloodlust or the desire to keep a Black activist journalist in prison means that we don’t want to do what’s right.

**AMY GOODMAN:** Again, that is sitting Arkansas trial Judge Wendell Griffen, speaking to us from Little Rock, Arkansas. The significance of this judge speaking out? And then I want to go back to the beginning, before we end, and what happened on Friday — what you expected to happen, what the judge had said would happen on Friday, but then what did happen.

**JOHANNA FERNÁNDEZ:** Well, she had promised on October 26<sup>th</sup> that she would make a decision in this case on December 16<sup>th</sup>. And, in fact, she issued an intent to dismiss opinion on October 26<sup>th</sup> and said, “We will make a final decision on December 16<sup>th</sup>, because this case has gone on for too long.” But the facts of this case, she now understands, merit adjudication.

And the prosecutor in this case said over and over again, “These issues have been litigated. The Pennsylvania Supreme Court litigated this issue. Why are you bringing this up now?” What the prosecution fails to understand is that new evidence has emerged, that that office has hidden for 41 years. That is the reason why these previous courts were unable to grant Mumia relief, not to mention the fact that the judges in this case have historically been funded by the Fraternal Order of Police, the same organization that has attempted to keep Mumia behind bars and the same organization that attempted to execute him and make sure that he was executed when he was on death row.

**AMY GOODMAN:** We just —

**JOHANNA FERNÁNDEZ:** The fact —

**AMY GOODMAN:** Go ahead.

**JOHANNA FERNÁNDEZ:** The fact that a sitting judge has spoken out in this case is tremendous. It speaks to the validity of the new evidence, the new exculpatory evidence, in this case.

**AMY GOODMAN:** And finally, we just have 30 seconds, but can you remind our viewers and listeners and readers why these boxes were discovered in 2019? What changed? Where were they?

**JOHANNA FERNÁNDEZ:** Well, another judge, Leon Tucker, was hearing the issue of judicial bias in the case, that Ronald Castille was in fact funded by the Fraternal Order of Police and named him Man of the Year, the same judge that was hearing Mumia's appeals. He should have recused himself.

In the process of that hearing, these new boxes emerged, and they were hidden in the underworld of the prosecutor's office, six boxes with exculpatory evidence. The judge currently has asked us to look at all of the boxes, 32, maybe 200, but we have enough evidence here to clearly give Mumia at least an evidentiary hearing, a new trial or set him free.

### **11 Dec - A Message to President Biden: No Prisoner Swap Needed to Free Peltier**

*As Americans were beginning their day this past Thursday, news spread quickly that President Joe Biden's administration had worked out a deal for the release of Women's National Basketball Association (WNBA) superstar and two-time Olympic gold medalist Brittney Griner from a Russian penal colony.*

#### **MORE:**

by Levi Rickert (*Native News Online*)

Griner was arrested in February when customs officials in Moscow discovered vape canisters with cannabis oil in her luggage. She pleaded guilty to the offense, was sentenced to nine years and then transferred last month to the penal colony.

For months, Griner's supporters put tremendous pressure on the Biden White House to do everything it could do to secure her release. As part of the negotiations, the Biden administration also worked to secure the release of Paul Whelan, a Michigan corporate security executive who had been held in Russia for four years on spying charges that are thought to be baseless.

In the end, only Griner was released through an exchange brokered by the State Department for arms dealer Viktor Bout, who is nicknamed "Merchant of Death." He was convicted 11 years ago in by a jury in New York City of conspiracy to kill U.S. citizens and officials, delivery of military equipment and providing assistance to a terrorist organization. He was sentenced to the minimum of 25 years in prison.

Griner's release required an exchange. Bout was the exchange. Critics are saying Bout for Griner was not an even exchange.

The whole Griner-Bout prisoner swap prompted talented Native American artists Ricardo Caté (Santo Domingo Pueblo), creator of the Santa Fe New Mexican's daily "Without Reservations" comic strip, to create a cartoon that read; "It doesn't take a prisoner swap to free Leonard Peltier."

Caté's cartoon, as usual, was on target for a bullseye.

President Biden would not have to worry about coming up with an arms dealer criminal to grant the release of Leonard Peltier (Turtle Mountain Ojibwe), who has been incarcerated for 47 years for a crime he did not commit.

Following a controversial trial, Peltier was convicted of aiding and abetting murder and has been imprisoned since 1977. Many people and human rights organizations, including Amnesty International, the Southern Christian Leadership Conference, National Congress of American Indians, the Robert F. Kennedy Memorial Center for Human Rights, Archbishop Desmond Tutu and others believe Peltier is a political prisoner who should be immediately released.

Kevin Sharp, former chief judge for the U.S. District Court for the Middle District of Tennessee and now in private practice, spends his time these days seeking the long-overdue release of Peltier.

He gave this statement to *Native News Online* on Saturday:

*"I am happy Brittany Griner is home. Was her trade for Russian arms dealer Viktor Bout the right thing to do? That will be for history to decide. But there is another political hostage in this country, Leonard Peltier, and it doesn't require a swap with the 'Merchant of Death' to bring him home. It merely requires the President to sign clemency papers. Leonard's 47 year incarceration is the product of an FBI vendetta, and the continuation of the government's mistreatment of Native Americans dating back hundreds of years. Enough is enough. Free Leonard Peltier."*

In a previous conversation with *Native News Online* in August 2021, Sharp said the federal government now admits they don't know who shot the agents

"Rather than receiving equal protection under the law, Leonard Peltier was convicted based on fabricated evidence, perjured testimony, and a hidden exculpatory ballistics test. Leonard remains in prison not because of proof beyond a reasonable doubt but because of politics. His last chance at freedom is the collective voice of people who care and dare to stand up for justice and mercy," Sharp said.

In the case of Griner, there was tremendous pressure put on the White House during the past 10 months to get her freed for what many believe was a miscarriage of justice.

Similarly, there has been a lot of pressure by Native American organizations and many others, including U.S. senators, to see Peltier rightfully set free.

Readers of *Native News Online* will know I have written several opinion columns calling for the release of Peltier. Obviously, there is a need to write more on this matter.

### **14 Dec - Charges Dismissed Against Nick Tilsen**

*NDN Collective announced yesterday that all charges against NDN Collective president and CEO Nick Tilsen have been dismissed by the Pennington County State Attorney's Office.*

#### **MORE:**

by Darren Thompson (*Native News Online*)

Tilsen's charges stem from a protest organized during former President Trump's visit to the Mount Rushmore National Memorial on July 3, 2020.

"My case held a mirror up to the so-called legal system, where prosecutors – fueled by white fragility and fear of Indigenous power – wasted years of state resources to intimidate, criminalize, and violate me," Tilsen said in a statement. "The fact that I've gone from facing 17 years in prison to all charges dismissed is not a coincidence or an act of justice – it's evidence that the charges were bogus from the start. We only won because we had effective tools and a strong network to fight them and did not back down until we had exhausted the system that was built to exhaust us."

Tilsen was charged with second-degree robbery and grand theft in the alternative, as well as two counts of simple assault against law enforcement officers and three other misdemeanor crimes: standing on a highway with intent to impede-stop traffic, failure to vacate/ordered to leave, and disorderly conduct-unlawful assembly. Tilsen's felony charges stem from allegedly stealing a shield from a female Air National Guardsman and assaulting her, all felonies in South Dakota.

Native News Online reported that the July 2020 demonstration led to the arrests of twenty adults and one juvenile by the Pennington County Sheriff's Office. In March 2021, Pennington County offered to drop charges against all other individuals arrested for the demonstration near Mount Rushmore if Tilsen pled guilty and participated in a prison diversion program. If he completed the program, his charges would also be dropped.

Pennington County's diversion program is usually available to people with no or little criminal history. Participants usually must stay out of trouble for a year and complete court-mandated tasks to improve their behavior and life, and the charge and arrest will be expunged from a person's record.

"The past few years have been incredibly difficult in many ways – but feeling the support of my community and ancestors along the way has been lifegiving," Tilsen said. "I extend my deepest gratitude to everyone who took action on my behalf, prayed for me in ceremony, and supported my family through the darkest times. This victory belongs to all of you."

After Pennington County Attorney's Office announced it offered a diversion program to Tilsen, it made a statement that it intended to prosecute Tilsen. Tilsen has continued to lead NDN Collective throughout the legal battles created and continuously prolonged by the state of South Dakota, says NDN Collective.

In the past year alone, NDN Collective has opened Rapid City's first Indigenous-led school, granted \$19.4 million to Indigenous people fighting for liberation across Turtle Island, began investing in sustainable housing solutions for Rapid City's unsheltered community, sent a delegation to the United Nations Climate Change Conference, and filed a federal civil rights lawsuit against the Grand Gateway Hotel for systematic racism in Rapid City.

### **14 Dec - What Will It Take to End Torture in U.S. Prisons?**

*On December 14<sup>th</sup>, at least a dozen men incarcerated at Nevada's Ely State Prison entered the 14<sup>th</sup> day of a hunger strike protesting "the continued and extended use of solitary confinement."*

#### **MORE:**

by Jean Casella (Solitary Watch)

They are not the first to take a courageous and desperate stand against solitary confinement using the only means available to them, and they will surely not be the last.

Locked in their cells in a remote mountain town, the Ely hunger strikers know what everyone who has experienced solitary knows: Being deprived of human contact is a form of torture, even if the scars it leaves are invisible to the eye. And this fact means that they are victims of the largest incidence of mass torture in the United States today.

The idea of solitary as torture—a concept absent from the public consciousness just a decade ago—has been steadily gaining ground, propelled by evidence-based information, investigative journalism, and firsthand accounts of life in solitary (pioneered in large part by Solitary Watch).

Perhaps most encouraging of all, a recent poll by Data for Progress found that a bipartisan majority of likely voters supports limiting solitary confinement to brief periods for de-escalation purposes, with even stronger majorities supporting bans on solitary for people with mental illness or physical disabilities, along with other vulnerable groups. Remarkably, nearly two-thirds of all voters favor "rehabilitation and treatment" as a response to misbehavior in prison, rather than the punishment of solitary confinement.

These, in turn, have helped garner attention and condemnation from the UN and other international human rights bodies, and build a growing and determined advocacy movement, with strong leadership from solitary survivors. The first laws sharply limiting solitary confinement, and mandating more humane alternatives, have been passed in New York, New Jersey, and Connecticut, while Colorado and other states have drastically reduced their use of solitary as a matter of policy.

Despite all of this, in a new analysis (to be released in the new year), Solitary Watch found well over 100,000 people are held in solitary confinement daily in federal and state prisons and local jails. Even in states with potentially transformative legislation or policy directives, resistance to change from prison staff

and some local officials has been fierce. And at the national level, the current administration, which made a campaign promise of "ending the practice of solitary confinement, with very limited exceptions," has taken no meaningful action to date.

What is necessary to finally achieve the goal of ending solitary confinement? What will it take to end the most widespread practice of torture currently taking place on American soil?

The new poll shows that when people are made aware of the reality and ubiquity of prolonged solitary confinement—and the availability of alternatives to this torturous punishment—most will oppose it. When they are forced to consider solitary as torture, that opposition becomes stronger. So public awareness and education, while they are constantly growing, remain a challenge.

A second challenge has to do with the fact that prisons are hidden worlds, and the people held in prisons are often viewed as somehow less than full human beings, and thus less deserving of protection of their basic human rights.

Imagine, for a moment, the outrage that would be generated if random Americans were being publicly tortured by the government in the public squares of cities and towns across the country. Something like that level of outrage is needed—is demanded—in response to the use of solitary confinement, even though it happens inside prisons and jails, to people who have been convicted or accused of crimes. That outrage, in turn, needs to translate to political engagement and action.

An advocate once told us that he believes the day will come when the bulk of Americans will look back at solitary confinement the way they do slavery, and other abominations that were once legal and widespread in this country. When that happens, he said, they will ask: "How could we ever have done that to human beings?"

At Solitary Watch, we also believe that day will come. But for the Nevada hunger strikers, and for tens of thousands of others enduring lonely torture in their prison cells, it can't come soon enough.

### **16 Dec - Political prisoner-of-war Mutulu Shakur comes home**

*Family and friends of ailing Black Liberation Army activist Dr. Mutulu Shakur were elated upon reports that he had been released from the "belly of the beast" on Friday, December 16.*

#### **MORE:**

by Mal'akiy 17 Allah (*Amsterdam News*)

After being denied parole nine times and diagnosed with terminal bone marrow cancer, he was granted compassionate release last month after doctors said he only had six months to live.

"Mutulu is deeply grateful for the broad expression of trust and support, and thanks everyone who has helped him over the years," said a statement on [mutulushakur.com](http://mutulushakur.com). "We ask that he have the space and time to be with his family and to continue receiving medical treatment. The continued incarceration of this terminally ill senior serves no real purpose as Mr. Shakur represents absolutely no threat to public safety."

His supporters also released a statement: "Today, the morning of December 16<sup>th</sup>, 2022, Dr. Mutulu Shakur was released from prison on parole! The decision to grant parole is based on federal law guidelines for 'old law' prisoners, finding that Dr. Shakur poses no threat to the community, taking into consideration his exemplary conduct in prison, his medical condition and how much time he has served. Mutulu is now with his family. This victory was secured by the steadfast support of his legal team, family and community comprised of all of you."

Dequi Kioni-Sadiki, U.S. held Political Prisoners' organizer, added: "Welcome home. We want to give him time to enjoy his relative freedom. We want to continue raising funds because he came home with decades

of malnutrition, medical neglect, abuse and torture which has left him with cancer and survivor of COVID. So he needs funds. He's a healer in need of healing."

She reminded people not to forget "the rest of our political prisoners."

Shakur's recent statement reads: "This country is not the same country it was at the time of my conviction, and I have lived long enough to understand the changes the country and I have undergone. I will always care about freedom and equality for Black Americans, marginalized people and the lower classes in this country and abroad. The struggle was never about me, but for the will of the people.

"I cannot undo the violence and tragedy that took place more than 30 years ago. But for several decades while incarcerated I have dedicated myself to being a healer, spreading a message of reconciliation and justice, and playing a positive role in the lives of those I come into contact with, in and out of prison."

Shakur was convicted for allegedly participating in a 1981 Brinks armored truck heist that fetched \$1.6 million and resulted in the deaths of two Nyack cops and a security guard. He was also convicted for assisting Assata Shakur's 1979 exodus from a New Jersey prison. He was sentenced to 60 years, becoming eligible for parole in 2016, with a 2024 mandatory release date.

### **December 22<sup>nd</sup> - Push to fundraise for Dr. Mutulu Shakur's release**

Dr. Mutulu Shakur came home this week! We are thankful to everyone who has contributed to the campaign and fundraising efforts. The outpouring of support has been overwhelming and heart-warming. We want to send a clear message – Mutulu is Welcome Here-by raising \$50,000 this week to help insure he and his family have what they need to bring him home. We can do this Together by donating and asking others to give as well.

Will you donate this week and share the graphics and ask others to give as well?

Links to Family and Friends of Mutulu Shakur and Community Aid and Development can be found at [linktr.ee/FreeMutuluNow](https://linktr.ee/FreeMutuluNow)

### **17 Dec - Ladislav Kuc's Release Is Imminent, And He Needs Support**

*Ladislav Kuc was arrested in Slovakia in 2012 and has been serving a prison sentence ever since.*

#### **MORE:**

He was accused of illegal possession of arms, manufacturing explosives, and terrorism for a bombing in front of a McDonald's on December 28, 2011, in which there were no injuries. During a house search police found materials related to ALF and components for another bomb.

His prison term is nearing the end but his case has not been publicised extensively so not many folks have heard about him, and he still has fines to pay upon release. He is scheduled for release on January 1<sup>st</sup>, 2023!

Our comrades have organised a "welcome home" fundraiser to try and help when he is released and they are in contact with a Slovak solicitor who might be able to help mitigate Ladislav's upcoming fines. If you can afford it, please donate to the crowdfunder for Ladislav, which you can find at [fundrazr.com/027Cec](https://fundrazr.com/027Cec)

All donations will be sent to Ladislav to help him with basic expenses adjusting to life outside of prison and welcome him back with his family and community. A prison sentence doesn't just rob you of your freedom and can seriously impact your health and your finances. Supporting Ladislav right now is ensuring that he is able to find his feet after more than a decade in prison.

Consider chucking a few coins as a winter solstice present and share the fundraiser around as much as you possibly can! Lastly, it would be amazing if you could send one last letter to Ladislav, just to let him know

that people outside are still thinking about him and that he has not been forgotten. Coming out of over a decade of prison can be a real whirlwind of emotions and knowing that people outside have his back will certainly help.

### **19 Dec - Niece of Ed Poindexter seeks his release on medical, compassionate grounds**

*A niece of longtime prisoner Ed Poindexter and a community activist are asking Nebraska's governor-elect, Jim Pillen, to take steps to release Poindexter.*

#### **MORE:**

by Christopher Burbach (*Omaha World-Herald*)

Erica Payne and Preston Love Jr. publicly called Monday for Pillen to convene the Nebraska Board of Pardons to commute Poindexter's life sentence.

Poindexter, 78, has been in prison for more than 50 years after being convicted, along with the late David Rice, of murder in the 1970 death of Omaha Police Officer Larry Minard.

"We are requesting that the new governor would take a fresh look at the Ed Poindexter case and shed the past prejudice against Poindexter, which has endured for years," Love said.

He said Pillen should "show leadership" by bringing Poindexter's case to the Pardons Board immediately, commuting his sentence and "then release him immediately for medical and compassionate reasons."

Pillen will assume the governorship Jan. 5.

Payne, of Omaha, said Poindexter, who has advanced kidney disease and has been diagnosed with Parkinson's, is "not a threat to anyone."

"Open that (prison) bed for somebody we really need to put there, with the overcrowding of the prison and things of that nature," Payne said.

She said she would like to have Poindexter come to live with her and her mother, Adrian Renee Payne, who is Poindexter's sister, or in a nursing home if need be.

A spokesman for Pillen could not immediately be reached Monday for comment.

Rice, who died in prison in 2016, and Poindexter maintained their innocence ever since they were accused of the booby-trap bombing death of Minard.

Their convictions have been called into question multiple times, and many efforts have been made to release them.

In 1974, U.S. District Judge Warren Urbom overturned the men's convictions, ruling that police had illegally searched Rice's home. But their convictions later were reinstated on appeal.

In 1993, the State Board of Parole recommended that Rice's life sentences be commuted by the Pardons Board to a period of years, a necessary step to his becoming eligible for parole. But the Pardons Board rejected the move.

Author Michael Richardson, who worked in North Omaha at the time of the bombing, wrote in a book in 2020 that Poindexter and Rice were framed for the killing by federal and local law enforcement officials.

The book says that the prosecution's star witness, Duane Peak, lied on the stand and that law enforcement planted evidence.

Peak, then 15, testified that he was acting at the direction of Rice and Poindexter when he loaded a suitcase with dynamite, planted it in a vacant North Omaha house and called police to report that a woman there was screaming. But in 2007, a voice expert who analyzed a tape of the phone call said it was “highly probable” that the deep voice on the call was not Peak, who was granted immunity for his testimony.

The Nebraska Supreme Court ultimately rejected a request for a new trial. After Richardson’s book was published, both Gov. Pete Ricketts and Douglas County Attorney Don Kleine rejected requests to reopen the case.

In 2021, Love and other advocates pleaded to members of the Pardons Board for Poindexter’s release. Ricketts, who chairs the board, suggested the group make an application for a compassionate medical release. Ricketts eventually rejected a request to expedite consideration of Poindexter’s case, saying he did not think Poindexter faced an immediate health threat.

Payne and Love said they were moved to renew their request Monday by an article included in a package of pieces by University of Nebraska-Lincoln journalism students published Sunday in The World-Herald. The students examined the newspaper’s coverage of race-related issues.

Payne said Poindexter undergoes dialysis several times a week. She said his legs are blackened and his feet must be bandaged and re-bandaged frequently because of the effects of diabetes.

When Payne recently visited Poindexter, she said, he told her that a piece of his heel had fallen off while his bandages were being changed. The dialysis port in his arm was moving around and the skin around it was blackened, Payne said.

Reached by telephone Monday, Poindexter’s attorney, Timothy Ashford, declined to comment on Poindexter’s condition or any legal efforts that might be underway. Ashford said he supports the group’s endeavors for Poindexter’s release.

“Gov. Pillen should look at the facts and he should listen to everyone in the community and make his decision,” Ashford said. “Justice requires and demands that he grant that compassionate release.”

### **19 Dec - Activists Occupying The Woods to Block ‘Cop City’ Face Terrorism Charges**

*Atlanta police raided treehouse camps where activists are trying stop the construction of a \$90 million police training facility.*

#### **MORE:**

by Ella Fassler (*Vice*)

Last Tuesday, five people who were occupying the South River Forest in Atlanta to halt construction of a \$90 million dollar police training facility were arrested by a joint-task force of local and federal officers. The activists were charged under Georgia’s domestic terrorism law, which carries a minimum of five and a maximum of 35 years in prison, in addition to a slew of other felonies and misdemeanors including aggravated assault, criminal trespassing, and interference with government property.

Activists involved with the loose-knit Defend the Atlanta Forest movement have been occupying the proposed construction site throughout the year, citing environmental impacts, police violence, and a lack of community input on the project. Five people were arrested after SWAT teams swept through the forest, and police also arrested a sixth individual who was filming the raid from inside a car. Another person was arrested and charged under Georgia’s domestic terrorism law the day following the sweep.

Judge Claire Jason denied bond to arrestees, citing arrest warrants claiming that the Defend the Atlanta Forest movement has been classified as a “domestic violent extremist” group by the Department of

Homeland Security (DHS). However, it's unclear whether DHS has actually made this designation. A representative for DHS did not immediately respond to a request for comment.

Activists say the terrorism charges are part of a desperate attempt to repress a movement that is partially responsible for successfully delaying construction of the police training center, known to critics as "Cop City." They also say any characterization of Defend the Atlanta Forest as a violent extremist group is a fundamental misunderstanding of the movement, which isn't centered around any formal organization with a membership or chain of command.

"They haven't successfully divided the movement in other ways," Sara, a forest defender who requested a pseudonym to avoid police retaliation, told *Motherboard*. "There is an effort to pull out a lot of really big scare tactics from an oppressive playbook and disincentivize people and break up the possibility of protest."

The arrests come nearly a year after local residents and activists came together to oppose the construction of Cop City, as well as an airport and sound stage for Shadowbox Studios, a film production company.

Forest defenders argue the projects were approved without input from local residents, and will destroy more than 400 acres of biodiverse habitat, making the city more susceptible to flooding and dangerously hot temperatures in the midst of a climate crisis. Two environmental conservation groups, South River Watershed Alliance and South River Forest Coalition, have also filed lawsuits against Dekalb County, alleging the city illegally swapped public land with Shadowbox Studios for the construction project.

Police reformers and abolitionists describe the facility as a "war base" because of the plan's inclusion of a "mock city" where police will practice military-like maneuvers, which they note are overwhelmingly used against marginalized communities. In November 2021, the activists were joined by tribal members of the Muscogee (Creek) Tribe, who were forcibly removed from the land in 1821.

In a statement, the Georgia Bureau of Investigation (GBI) claimed Tuesday's arrests were made while the agency assisted the Atlanta Police Department and other local, state, and task force members attempted to remove barricades blocking some of the entrances to the training center. Several people threw "rocks at police cars and attacked EMTs outside the neighboring fire stations with rocks," according to GBI.

GBI declined to provide further comment or evidence to support these claims when contacted by *Motherboard*.

The task force appeared to arrive with the intent of extracting people from the proposed construction site, according to the forest defenders. "They mobilized a huge force around the corner of the woods with SWAT teams that carry long arms and swept through the woods looking for people," Sara said. "They used crowd control weapons, shooting pepper balls and tear gas at them in a confined space. People in previous raids have been threatened with guns, with deadly force."

The arrests and terrorism charges were applauded by Georgia Governor Brian Kemp, and Democratic District Attorney Sherry Boston who, in a statement, said she "believes in the right to peacefully protest for what one believes is right and just," however she "draws the line at violence destruction of property, and threatening and causing harm to others."

But Sara said prosecutors and police are projecting their own behavior onto protesters. "The police themselves carry out violent raids on people living in this country and living in Atlanta every single day and there is rampant level of police murder as well that people are rightly resisting," she said. "Anything that meaningfully connects people, that meaningfully poses a challenge to the order of police is something that they're going to characterize as violence and violently repress."

Groups like Community Movement Builders, a local organizing group of Black residents actively opposing the construction projects, point out that the state has a monopoly on violence—meaning it arbitrarily controls when and how force can be legitimately used in order to maintain an unjust social order.

"We cannot allow these young people to spend their lives in prison for doing things we all think was right. We enjoy being peaceful. But we have to understand that what the police and state want is to make sure that they are the only ones who get to use force," Kamau Franklin, an organizer with Community Movement Builders, wrote in a press release provided to *Motherboard*. "They are the ones with the night sticks and the guns and the courts. They are building things like Cop City because they are seeing that people are waking up."

While the forest defenders had previously been arrested by police in Atlanta, they had never been charged with terrorism. However, terrorism charges have long been used against environmental activists.

During the 90s and early 2000s, "eco-terrorism" became the Justice Department's top priority. In what became known as the "Green Scare," police and FBI agents charged members of the Earth Liberation Front (ELF) and Animal Liberation Front (ALF) with terrorism for burning down timber mills, factories that slaughtered animals, and government facilities that confined wild horses. While no one was killed during ELF or ALF activities, new domestic terrorism laws enabled courts to convict and sentence activists to years in prison. More recently, Jessica Reznicek, a climate activist and member of the Catholic Worker Movement, was convicted with a federal terror enhancement for acts of property damage to stop the completion of the Dakota Access Pipeline. Reznicek is currently serving an eight-year sentence.

Several prominent local civil rights attorneys said the terrorism charges against forest defenders endanger First Amendment rights and open the city to lawsuits.

Drago Cepar, Jr, an Atlanta-based civil rights attorney, told *Motherboard* that he has seen the charges against the Atlanta Forest activists escalate from "trespass" and "obstruction" to more serious accusations of terrorism. "It points to the fact that they are trying to scare protesters into not protesting anymore," Cepar told *Motherboard*. "I think it is a very disturbing attack on free speech rights."

The activists say their actions are necessary, and point out that the city of Atlanta did not offer the mostly Black population who lives near the South River Forest any means for halting the project. A poll conducted by Social Insights Research found 98 percent of residents oppose the new training facility in the forest, and 90 percent oppose any new facility being built in Atlanta. Many activists who partake in direct action claim societies don't need rulers to make decisions on their behalf; people are perfectly capable of organizing themselves collectively.

The South River Forest has served as a space for experimenting with such forms of self-organization. Defenders say the generative aspects of the movement are an invigorating force that propels them forward despite state repression.

"The struggle against colonialism, displacement and slavery is necessarily a struggle for better possible futures," said Sara. "This is a fight to defend the life that has been allowed to regenerate in the forest."

### **20 Dec - Illustrated Guide to Political Prisoners v.15.8.1**

*We've finished the latest version of the NYC ABC "Illustrated Guide to Political Prisoners and Prisoners of War" and it's available for viewing (and download) by clicking on the link at [tiny.cc/guide\\_15\\_8\\_1](https://tiny.cc/guide_15_8_1). This update includes updated mini-bios, photos, and address changes for several prisoners. This update includes the release of Mutulu Shakur (parole!).*

### **20 Dec - Water Protector Defense Attorneys Warn of "Breakdown in Separation of Powers"**

*From late 2019 through 2021, at least 115 Water Protectors were arrested in Aitkin County, Minnesota (population 15,800) for their resistance to Enbridge Inc.'s Line 3 tar sands pipeline.*

**MORE:**

by Simon Davis-Cohen (*Truthout*)

Today, 50 defendants continue to face charges, according to Marla Marcum of the Climate Disobedience Center, which has been tracking cases and offering support to defendants. Open cases include seven social media-based prosecutions including of Winona LaDuke, co-founder of the Native advocacy organization Honor the Earth, and Tara Houska, an administrator of the Giniw Collective Facebook Group. These cases, which reference social media activity in charging documents, have produced trumped-up charges ranging from "harassment of law enforcement" for yelling to charges that derive from Minnesota's 2002 Anti-Terrorism Act, which was passed in response to the September 11 attacks.

"When Minnesota and other states passed Anti-Terrorism laws in the wake of 9/11, we were deeply concerned that they would be used to stifle protest and dissent. That's clearly what is happening in this case," Sue Udry, executive director of Defending Rights & Dissent, told *Truthout*. "The fact that a law meant to arm law enforcement and prosecutors with the tools to 'ensure that terrorists who commit atrocities in our state are brought to justice and receive maximum punishment to match their dastardly crimes,' has been deployed against protesters engaged in civil disobedience is dangerous, and disingenuous," she continued.

Other open cases include felony "aiding attempted suicide" charges that defense motions have characterized as a "misinterpretation of the law" by the Aitkin County Attorney's Office, warning that the cases could set broadly harmful precedents for protest rights.

Writing in response to Aitkin County Attorney James Ratz's pursuit of aiding attempted suicide charges against protesters who crawled into a segment of non-functioning pipeline, defense attorney Jordan Kushner argued:

*Under the state's misinterpretation of the law, any protester who climbs and remains in a tree where they are in potential danger of falling down, attaches themselves to a construction vehicle where they could potentially be subject to an accident, sits on a roadway where they could potentially be run over, or engages in any action that places them in potential danger, or helps someone else commit such actions, could be accused of aiding an attempted suicide.*

In total, the remaining 50 defendants face a total of six felonies, 28 gross misdemeanors and 115 misdemeanors, according to a *Truthout* analysis.

**"Cases Have Just Totally Stalled"**

Defense attorneys are now raising alarm about delays in the Water Protector cases in Aitkin. Defense attorney Kira Kelley told *Truthout* that "in the past three months Water Protector cases have just totally stalled." Some defendants have been waiting for hearings since June and July.

A *Truthout* analysis shows that Water Protectors in Aitkin County face a longer court process compared to conventional criminal defendants in the county. The analysis examined all criminal cases filed in Aitkin over the first five months of 2021. During the five-month period, charges were filed against 61 Water Protectors, 38 of which, or 62.3 percent, remain open. This compares to 202 conventional criminal cases, of which only 18, or 8.9 percent, remain open. That means Water Protector cases from January-May 2021 are seven times more likely to remain unresolved, compared to non-Water Protector cases. (This analysis excludes 14 "dormant" cases, including one "dormant" Water Protector case.)

When cases are dragged out, defendants remain in a state of limbo for longer, where they can be stigmatized as criminal defendants by employment, housing and educational institutions. A delayed case extends the time defendants must adhere to bail conditions and be available to appear in court. Bail conditions have barred defendants from attending public hearings about Enbridge-owned infrastructure and

meant that if they got arrested again or entered an "Enbridge Exclusion Zone," their bail could be revoked leading to their incarceration and/or they could be charged with additional crimes.

These revelations exacerbate worries that Water Protectors are not receiving equal due process in the county, given the existence of a scheme that saw the Aitkin County Sheriff's Office receive \$355,393 of direct funding from Enbridge Inc. for things like crowd control materials and time spent policing Water Protectors who opposed the company's pipeline, which was completed in September 2021. Defense attorney motions argue the arrangement amounts to third-party influence on law enforcement, something prohibited by the due process doctrine.

This also follows revelations that the Aitkin County Attorney's Office supported the County Sheriff Daniel Guida's pursuit of criminal charges against defense attorneys who sought to compel Guida to testify under oath about the financial arrangement.

### **Is the Court Letting the Prosecutor Run the Show?**

Prosecutions in the county have stalled, in part due to what defense attorneys describe as a "breakdown in the separation of powers" between the county attorney (executive branch) and the court system (judicial branch).

Defense attorneys told *Truthout* that court clerks and judges in the county have allowed the county attorney to dictate hearing schedules, resulting in significant delays in the cases, according to defense attorneys and court records.

"I have never had a clerk reach out to me from Aitkin to see when I am available," Claire Glenn, an attorney with the Water Protector Legal Collective and the Civil Liberties Defense Center, told *Truthout*, referring to the standard practice that sees courts coordinate equally with defense attorneys and prosecutors when scheduling court dates. "It's bizarre that clerks feel so beholden to the prosecutor, even after months of not receiving a response. The courts' clerks are acting like the prosecutor's secretary rather than an independent arbiter who the prosecutor should be deferring to," Glenn continued.

In one case involving felony and gross misdemeanor charges, court transcripts obtained from the county by *Truthout* show that in November 2022, prosecutors used an unprecedented argument to justify court delays.

In the hearing, assistant prosecutor Sarah Winge told the court that the day's hearing was being canceled due to county attorney Ratz's then-upcoming "contested" election campaign.

The judge had never heard such an argument. "I have been involved in the criminal justice system for about 50 years," said Judge John DeSanto. "The prosecutor's office shall be conducting its duties and obligations regardless of elections."

During the hearing, Glenn expressed concern that "there are so many Water Protector cases that are just languishing at this point."

"We know that [Aitkin County Attorney] Ratz didn't want to litigate these cases when there was an election pending, whatever the reason, and has just refused to respond to the clerks' emails to schedule hearings," Glenn told *Truthout*.

Glenn later told *Truthout* that the clerk informed her in early December that the County Attorney's Office "finally" responded to the court's questions about their schedule. But that doesn't explain why the court clerks (the judicial branch) are not consulting defense attorneys and prosecutors equally. "It's a breakdown in the separation of powers," Kelley told *Truthout*.

Ratz and the Aitkin County court administrator have not responded to email inquiries.

## **Defense Attorneys Intimidated and Sidelined**

Along with "languishing" Water Protector cases and the "breakdown in the separation of powers," defense attorneys are still adjusting to Ratz's complicity in apparent intimidation by Sheriff Guida. A motion by Kelley details how Guida refused a subpoena to testify under oath. That represents a "breakdown in the rule of law," as it's the job of the sheriff to enforce subpoenas. Not only this, Guida and Ratz sought trespassing charges against the attorneys — Kelley and Sandra Freeman — after they tried to serve Guida with the subpoena outside his home.

In a November motion, filed on behalf of Winona LaDuke, Glenn wrote to the court — in response to the prosecutor's pursuit of criminal charges against Water Protector defense attorneys Kelley and Freeman — saying:

*Mr. Ratz's conduct adds a new dimension to the disturbing nature of this entire incident. Mr. Ratz is himself a Minnesota-barred attorney, apparently failed to recognize any problem with Sheriff Guida's misconduct. Not only that, he doubled-down on Sheriff Guida's misconduct by referring Attorneys Kelley and Freeman for prosecution.*

Along with the apparent preferential treatment given to prosecutors when scheduling cases, attorneys representing Water Protectors in Aitkin County are facing the specter of their own criminal prosecution for pursuing subpoenas.

"It is no exaggeration that criminalizing members of the bar who represent the accused simply for doing our jobs heralds a total breakdown of the rule of law," Glenn wrote. Her motion also drew attention to the existence of a "file" about the incident that includes multiple "reports" — which the county attorney has refused to hand over.

The attorneys are dealing with all these dynamics while simultaneously defending Water Protectors from egregious legal theories.

## **Little Prospect for Justice**

During the November 10, 2022, hearing, Judge DeSanto said he would take no further action to speed up the court process — unless the defendant filed a motion for a speedy trial, which would initiate a 90-day countdown for trial.

However, with grossly exaggerated charges hanging over them, heading to trial may be a false choice for the Water Protectors, since defendants want cases dropped, not taken to a trial that risks years in prison.

## **20 Dec - How NSA Whistleblower Reality Winner Came To Support Prison Abolition**

*Reality Winner is an NSA whistleblower who was harshly prosecuted under the Espionage Act, but she is also more than that.*

### **MORE:**

by Kevin Gosztola (*Shadowproof*)

She is an advocate who has used the visibility gained from her case to promote an end to prisons in the United States.

I covered Reality's detention and incarceration as a whistleblower extensively. What she endured further solidified her understanding of how prisons function. Yet according to Winner, she questioned the existence of the US prison system before she was arrested in June 2017.

This is the first time that I have spoken to Reality since she was transferred to Federal Medical Center Carswell in 2018. We discuss her incarceration during the COVID pandemic, rampant sexual abuse in

Bureau of Prisons facilities, and why prison is one of the worst places for a person struggling with drug addiction or substance abuse problems.

Some of what Reality shares in the interview was reported previously by The Dissenter Newsletter, however, her stories from prison are much more detailed than what was described in earlier reports. Watch the interview at [youtu.be/RwkPLQwaTwU](https://youtu.be/RwkPLQwaTwU)

### **20 Dec - Support Mel Broughton, Jailed Last Month**

*Mel Broughton, a dedicated activist from the UK, has been in prison since last month.*

#### **MORE:**

via *UNOFFENSIVE ANIMAL*

He does not wish for his charges to be discussed publicly, but he would love the support and love you folks can show by sending mail to him.

Whilst he had a tumultuous few days at the beginning of his remand, with little to no vegan food and problems with being able to take medication, he has now settled and is doing a lot better. He is working in the library and has actually asked for books, specially about animals and nature.

From Peterborough Prison's website, this is how mail (and books!) are handled:

*"We accept books for prisoners sent directly from friends or family, or via our approved retailers. These are Waterstones, WH Smith and prisons.org.uk – we do not accept books purchased via Amazon. All books are subject to security protocols, must be sent separately, and cannot be accepted as part of a property parcel."*

Magazines, electronics, cash, food parcels and anything directly from Amazon is not permitted.

Of course, you can also send letters! Remember that he is on remand, so you SHOULD NOT discuss any legal matters and certainly you should assume that all mail is monitored by the screws, so do not put yourself (or him) at legal risk by discussing things you really shouldn't!

### **31 Dec - BK/NY - Noise Demo Against the Prison Industrial Complex, In Solidarity with PPs and POWs**

**WHAT:** Noise Demo

**WHEN:** 9:00pm, Saturday, December 31<sup>st</sup>

**WHERE:** Metropolitan Detention Center (MDC, the federal prison in Brooklyn); 29<sup>th</sup> Street between 2<sup>nd</sup> and 3<sup>rd</sup> Avenues, Brooklyn, New York 11232 (D/N/R to 36<sup>th</sup> Street or R to 25<sup>th</sup> Street).

**COST:** FREE

**BRING:** Noisemakers, air horns, drums, anything that is loud!

#### **MORE:**

On the noisiest night of the year in New York City, come help us remind folks locked up that they are not alone. NYC Anarchist Black Cross, in response to an international call for noise demonstrations outside of prisons, is asking folks to join us outside of the Metropolitan Detention Center (MDC) in Sunset Park, Brooklyn. Come, not to appeal to authority, speak truth to power, or any other contrivance, but rather to stand with comrades, at a safe distance, and show direct solidarity to those on the other side of the wall.

The state, writ large, is targeting anarchists all across the United States and abroad. This will be both protest and celebration.