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Updates for September 11<sup>th</sup>

## **22 Aug - Recent Arrests Under New Anti-Protest Law Spotlight Risks That Off-Duty Cops Pose to Pipeline Opponents**

*Over the weekend of August 18th, four opponents of the Bayou Bridge pipeline and an independent journalist covering their activities were arrested and charged under Louisiana House Bill 727, which makes trespassing on “critical infrastructure” facilities — a category that explicitly includes oil pipelines — a felony punishable by up to five years in prison, a fine of \$1,000, or both.*

### **MORE:**

by Alleen Brown and Will Parrish (*The Intercept*)

A total of eight people have now been charged under the law since it took effect on August 1.

HB 727 is one of numerous anti-protest laws that states have considered or enacted in the wake of the mass mobilization against the Dakota Access pipeline, which drew tens of thousands of people to gather near the Standing Rock Sioux reservation in 2016 and 2017. The arrests also expose the blurred line between private security and public law enforcement that has become typical in the policing of anti-pipeline struggles.

On August 9, the first three arrests under the law were carried out by probation and parole officers with Louisiana’s Department of Public Safety and Corrections moonlighting as security guards for Bayou Bridge pipeline parent company Energy Transfer Partners. Ken Pastorick, communications director for the Louisiana Department of Public Safety and Corrections, told *The Intercept* that the department’s director authorized the officers to work on behalf of the Bayou Bridge pipeline as a form of “extra-duty employment.” “They have the ability to enforce the law in Louisiana even when off-duty and working extra-duty security details,” he said.

Given the complex land ownership and public access rules that govern the bayou, handing discretionary arrest powers to a private company is particularly controversial. The off-duties’ involvement deepened concerns by pipeline opponents that law enforcement favored the interests of the pipeline company over the first amendment rights of concerned citizens to protest, and the rights of landowners who never granted permission to the company to build at all.

“ETP tells these Pinkerton men of the Bayou what to do, and what they are in fact doing is criminalizing water protectors,” said Cherri Foytlin, a Louisiana resident and member of the Indigenous women’s advisory council for the anti-Bayou Bridge camp known as L’eau Est La Vie (Water Is Life). “They are using the cops as a tool in that process.”

### **New Rules**

The Louisiana law was introduced just as construction of the Bayou Bridge pipeline was getting underway, and critics say it was designed to support the interests of the oil and gas industry. The new bill is similar to a model policy promoted by the right-wing American Legislative Exchange Council, and was drafted in conjunction with the Louisiana Mid-Continent Oil and Gas Association. The bill’s supporters included Energy Transfer Partners, TransCanada, Enbridge, and Philipps 66 — all energy companies involved in the construction of contested pipelines.

The Bayou Bridge pipeline would connect the Dakota Access pipeline to refineries and export terminals in St. James, Louisiana, traversing 11 parishes and crossing the Atchafalaya Basin — the largest wetland in the United States, and an area of particular ecological importance. Like the Dakota Access pipeline, the

Bayou Bridge project has faced intense opposition. Crawfish producers and environmental justice groups have pursued legal strategies and direct-action campaigns to stop the project.

Prior to the law's enactment, trespassing on critical infrastructure was considered a misdemeanor, and the definition of critical infrastructure did not explicitly include pipeline routes. Although the penalties exacted by the new bill are significant, the law is less draconian than an earlier version that Louisiana's House passed last spring, which would have allowed prosecutors to punish groups for "conspiring" to trespass on critical infrastructure sites. Environmental and civil society groups were not able to stop the bill's passage entirely, but their advocacy helped defeat the conspiracy section and secure language stating that the bill should not be used to prevent lawful assembly or peaceful protests.

Bill Quigley, a Loyola University School of Law professor and attorney for Bayou Bridge opponents, is hopeful that a future constitutional challenge to the Louisiana law could stop states still considering similar legislation, like Pennsylvania, from moving forward. If prosecution of the arrestees moves ahead, attorneys may use the criminal cases as a springboard to argue that HB 727 is overly vague and broad, and infringes on free expression.

Their prosecution "may well be the test case to see if that law is constitutional or not," said Quigley. "That would have implications not just in Louisiana, but all over the country."

### **Private Security, Public Waterways**

The struggle against the Bayou Bridge pipeline has been shaped by both the unique physical terrain of the Atchafalaya Swamp and Louisiana's distinct legal landscape. For two weeks prior to the first arrests under the new law, pipeline opponents paddled in the public waters transected by the pipeline easement, prompting workers to halt construction. Under Louisiana's Civil Code, navigable waters are open to the public even if they contain a pipeline easement.

But on August 9, shortly after the law went into effect, Cindy Spoon says that she and another activist, who prefers to remain anonymous to avoid retaliation, were arrested while canoeing outside the borders of the pipeline easement. According to Spoon, armed guards wearing Department of Public Safety and Corrections polo shirts used the force of the air from their boat's propellers to blow the canoe out of the main waterway and into a nearby inlet, which is part of the easement. Spoon said the officers then reached down and yanked the two women from their boat by the wrists, placing them in handcuffs.

According to records provided by the St. Martin's Parish Sheriff's Office, the activists were arrested under the security guards' authority as probation and parole officers. The security guards also arrested a third Bayou Bridge pipeline opponent who was kayaking nearby. The protesters were charged with unauthorized entry of a critical infrastructure facility and resisting arrest. They were released later that day.

Pam Spees, a senior staff attorney for the Center for Constitutional Rights who is representing groups opposed to the Bayou Bridge project, said the situation raises important concerns about whose interests are being protected. "If there is a financial interest on the part of state employees to serve these private companies, who's looking out for normal, everyday citizens and residents and landowners and others who want to protest?"

In an interview with The Intercept, Pastorick estimated that roughly 50 state probation and parole officers had gained outside employment with the security company Hub Enterprises, which was hired by Energy Transfer Partners to guard the Bayou Bridge pipeline during construction. But he said that as of August 13, department personnel were no longer working for Hub. He was not aware of the reason behind the shift.

Hub Enterprises, headquartered in Lafayette, Louisiana, brands itself as “among the largest security companies in the southern United States.” A spokesperson referred inquiries to an email address for Energy Transfer Partners media relations.

“It is not safe for people who are not specially trained and are not wearing the appropriate protective clothing to be on or around an active construction site, which includes our right-of-ways,” Energy Transfer Partners spokesperson Vicki Granado wrote in a statement to The Intercept. “Any entry on our right-of-way by those not associated with our project is trespassing. These situations are dealt with by local law enforcement. We are thankful for the work they do to ensure everyone’s safety. Beyond that we don’t discuss specifics related to our security.”

“Regarding recent laws that have been past [sic] relative trespassing on right-of-ways, we support any actions that will help to ensure the safety of our country’s infrastructure,” she said.

### **Shifting Tactics in Response to HB 727**

On August 1, the morning that Louisiana’s critical infrastructure bill went into effect, St. Martin’s Parish sheriff’s deputies steered their boat 45 minutes into the swamp to the remote Hog Island, where members of L’eau Est La Vie had set up platforms called “tree-sits” in the tops of trees. One officer walked to the base of the trees and announced into a bullhorn: If anyone was occupying the tree-sits, they were now committing a felony and must come down immediately.

Unbeknownst to the deputy, he was calling up to empty platforms. Aware that the bill was about to take effect, the tree-sitters had already abandoned their perches. But they hadn’t abandoned their fight.

As a strategy for getting around the bill, the pipeline opponents had set up a wood platform suspended in midair by ropes tied to surrounding trees called a “skypod.” One of the trees supporting the skypod was on the pipeline construction path. But the skypod itself was not, and thus was theoretically not subject to prosecution under HB 727.

The new strategy didn’t thwart law enforcement this weekend, however, when a skypod was pulled down, leaving the occupant dangling from a tree by a rope. The skypod had been anchored so that continued work on the pipeline could break the structure’s support line, effectively halting pipeline construction until she was removed. When the pipeline opponent lowered herself to the ground, she was tased and arrested, according to Foytlin, a member of the L’eau Est La Vie camp.

The legality of ETP’s construction activity there is questionable. Theda Larson-Wright, who owns the land where the skypod was attached, told The Intercept that she had granted L’eau Est La Vie permission to be on the property. Not all of the 38-acre tract’s hundreds of owners have granted Energy Transfer Partners permission to build, nor has the company gained access via eminent domain. Legal filings indicate that the company only began the eminent domain process after it started construction. ETP spokesperson Granado told The Intercept that the expropriation process is underway, and that more than 800 people have rights to the land. Another landowner, Peter Aaslestad, has a pending legal case demanding that ETP stop construction.

Yet, on Saturday and Sunday, according to Foytlin, sheriff’s deputies arrived claiming to have affidavits from additional owners of the property asking that the pipeline opponents be removed. They searched the L’eau Set La Vie camp and confiscated property, including a drone used to monitor construction activities.

Three other pipeline opponents and one independent journalist embedded with the group, Karen Savage, were arrested and charged under the new law for refusing to leave. But Savage disputes trespassing in a critical infrastructure construction zone. “I took great pains to avoid going on the easement,” said Savage. “If I was a reporter for CNN or ABC or one of the big media outlets, there would be all kinds of attention on this. As freelancers or folks that report on movements, we’re pigeonholed.”

A sixth water protector was also arrested under other charges. The sheriff’s office did not respond to a request for comment.

### **“A Little Bit of Everybody” Is Working for the Pipeline**

The controversial practice of pipeline security officers working closely with local police is common well beyond Louisiana. Leaked internal situation reports written by the private security company TigerSwan for Energy Transfer Partners, and published by The Intercept last year, described extensive coordination between local sheriff’s departments and the ex-Special Forces military members employed by the company. At the peak of the DAPL protests, as the law enforcement crackdown became increasingly violent, TigerSwan regularly shared intelligence with the local sheriffs’ departments, framing those who objected to the project as dangerous and naming individuals of interest.

Another company that worked security during DAPL construction, Leighton Security Services, hired officers from numerous North Dakota sheriff’s departments, records show. Leighton faced controversy when one of its guards, who was a military veteran rather than an off-duty cop, waved a gun at pipeline opponents.

Today, Leighton continues to work security for pipeline projects that have attracted local opposition, hiring primarily local law enforcement officers. Among the controversial projects for which the security company has obtained contracts are the Atlantic Coast natural gas pipeline, the Mountain Valley natural gas pipeline, and Pennsylvania’s Mariner East 2 pipeline, which is owned by Energy Transfer Partners via its subsidiary Sunoco. Both the Atlantic Coast and Mountain Valley pipelines pass through West Virginia and Virginia; the Atlantic Coast pipeline also runs through North Carolina.

Leighton Security President Kevin Mayberry said that he almost exclusively hires off-duty public service officers selected from the county where the company is working. Although Mayberry advises his guards to defer their arrest powers to on-duty law enforcement if possible, Mayberry conceded that the off-duties’ ability to detain people is the key reason he hires them. “They have jurisdiction there — that’s the No. 1 thing,” Mayberry said.

To guard the Mariner East 2 pipeline, Mayberry said Leighton has hired local sheriff’s deputies, police officers, and constables. On the Atlantic Coast and Mountain Valley pipelines, he said, “There’s some game wardens out there, there’s some local sheriffs out there, there’s local PD guys out there — we got a little bit of everybody.”

### **September 5<sup>th</sup> - Water Protectors Brutally Arrested at Site of Energy Transfer Partners’ Illegal Construction**

*via Earth First! Journal*

On September 5th, four water protectors were brutally arrested in the Atchafalaya Basin while attempting to halt the illegal construction of Energy Transfer Partners’ Bayou Bridge Pipeline, considered the terminus of the Dakota Access Pipeline.

“I’ve been asked to protect this piece of land and I intend to do it.” said Cherri Foytlin, L’eau est la Vie camp council member.

Water Protectors contend that there is no easement agreement between ETP and Theda Wright, rendering all construction on Wright’s land illegal. They demand that ETP cease illegal construction of the pipeline, end the attacks on Water Protectors, create and implement an effective an evacuation route for those directly affected by their pipeline, and release those arrested today. Water Protectors will remain on Wright’s property indefinitely.

This comes on the heels of the August 20th arrests of four water protectors and a journalist, who were charged with felony interference with critical infrastructure, which carries a maximum sentence of 10 years in prison. Deputies tased and arrested a water protector, denying them food, water, and medical attention. Water Protectors were previously arrested on Wright’s property, despite her permission to stay there.

The Bayou Bridge Pipeline is 162 miles from southeast Texas to St. James, LA where it will transport crude oil from the Bakken Oil fields of North Dakota to international markets. September 3rd was the two-year anniversary of the violent use of attack dogs on the predominantly Indigenous Water Protectors at Standing Rock.

### **29 Aug - On Appeal, Convictions Upheld of Misdemeanor Charges Against Two Water Protectors Arrested at a Prayer Walk Almost Two Years Ago**

*“Flawed ruling that ignores the total lack of evidence presented by the State” says Freshet Collective defense attorney about yesterday’s North Dakota Supreme Court Opinion.*

#### **MORE:**

Five judges serving on the appeal panel for the North Dakota Supreme Court upheld convictions for Water Protectors Mary Redway and Alex Simon who were among 150 Water Protectors taken into custody in a mass arrest on October 22, 2016. Redway and Simon, who were arrested while walking in an open field, appealed their convictions arguing that there was insufficient evidence to support the disorderly conduct convictions and that their alleged activity was constitutionally protected and should have been excluded from evidence. Simon also argued the evidence was insufficient to support his conviction for physical obstruction of a government function. The Supreme Court upheld the convictions of Redway and Simon in which the only evidence against either was that they were photographed at a protest. No individualized actions of either were described by any live witness. This is an ominous ruling for anyone who wishes to gather and express frustration with government or corporate action.

Sam Saylor, the Freshet Collective volunteer attorney who argued the appeal, strongly disagrees with yesterday’s Court Opinion, and provided this statement:

“I think it misunderstands First Amendment law and substantive criminal law. A few absurd results can be derived from the holding. The Court appears to say that police officers can interrupt a First Amendment assembly and protest even on privately held land (when the protestors have permission to be there) when the First Amendment activity is annoying no one but the officers themselves. Moreover, the source of the annoyance can be as basic as disobeying an order to stop protesting. What this means in practice is that if an officer gives an order to a First Amendment protestor, and the protestor declines the order, the officer can arrest the person and the person is guilty of disorderly conduct because declining to follow that order (even if the order is incorrect or without basis) is annoying to the officer. Police should never be authorized to instruct a protest on private land to turn around and go back to the highway, when no criminal activity

has occurred and they only have vague fears of potential problems in the future. This opinion condones exactly that officer behavior.”

In the court’s 10-page August 28, 2018 Opinion, Justice Tufte wrote:

“At trial, the State introduced into evidence a photograph of Simon and other protesters with arms linked when law enforcement officers were arresting individuals grouped together at the third skirmish line. There were no similar photographs of any of the other defendants in this case engaged in this activity.”

Saylor says that the Court is criminalizing Alex’s linking of arms, even though there is no evidence where, when, and for how long his arms were linked with others. He wrote:

“Linking of arms is clearly expressive conduct, used to communicate solidarity and unity. Individuals have linked arms in assemblies as varied as the civil rights marches, gay rights marches, all the way up through the 2017 inauguration day protests and the March for our Lives gun control marches. What’s more, there was no testimony about Alex linking his arms, though there were two photos showing him linking arms. The Court appears to sanction the convictions of people at protest gatherings who are merely photographed linking arms.”

Redway and Simon have been the only Water Protectors jailed for First Amendment activity in the state cases emanating from NoDAPL resistance at Standing Rock. Upon hearing of yesterday’s Opinion, Simon said:

“It saddens me to know that our case can be used to incriminate people who are exercising their right to peaceably assemble. We did nothing wrong.”

Mary Redway is concerned that the Court’s Opinion can have a chilling effect on people choosing to exercise their right to protest.

“I am also concerned about being part of the legal narrative,” she said, “that this case can serve as a precedent in future First Amendment rights cases as well as legislation.”

### **30 Aug - Mumia Abu-Jamal lawyers granted 60-day continuance**

*Remember to critically read all corporate media, including the following.*

#### **MORE:**

by John N. Mitchell (*Philadelphia Tribune*)

Lawyers arguing for another appeal in the case of former death-row inmate Mumia Abu-Jamal were granted a 60-day continuance due to a late piece of evidence presented earlier this week by the prosecution.

Abu-Jamal attorney Judith Ritter argued successfully that a May 5, 1988, letter from the office of then District Attorney Ron Castille to a state representative discussing death penalty cases warranted the continuance to allow an extended period of discovery to allow the search for more evidence that may link Castille to the new document.

Ritter argued the letter demonstrated Castille's bias in seeking the death penalty against defendants convicted of killing police officers.

"This demonstrates a possible link that Ron Castille was involved in seeking capital executions and that he was specifically tracking capital cases involving police officers," Ritter argued before Judge Leon Tucker

in Common Pleas Court. "It (the letter) indicates his bias, and it's on those grounds that we're seeking a continuance."

Abu-Jamal's lawyers are seeking to re-appeal his conviction in the 1981 shooting death of Philadelphia police officer Daniel Faulkner.

Castille was the district attorney when Abu-Jamal was convicted. As a member of the state Supreme Court, he twice refused to recuse himself for two separate Abu-Jamal appeals.

As a prosecutor, Castille prevailed in getting the Pennsylvania Supreme Court to uphold Abu-Jamal's conviction and death sentence in 1989.

Then as a Pennsylvania Supreme Court Justice, Castille agreed with the arguments he had made as district attorney.

In two separate failed attempts to appeal — in 1998 and again in 2012 — Castille supported his position as district attorney to deny Abu-Jamal's lawyers' efforts.

Earlier this year, Tucker ordered Philadelphia District Attorney Larry Krasner's office to search for any record of Castille's "personal involvement" in the Abu-Jamal case.

Krasner's office announced that additional evidence was not found, prompting Tucker to extend the discovery period again.

Before announcing his decision of the latest extension, Tucker appeared annoyed that the latest piece of evidence had not been turned over to Abu-Jamal's defense.

"There needs to be a thorough search of all the records in all units," Tucker said. "It is troubling that the letter was not produced until Monday. If this letter was addressed from Mr. Castille, that would make a big difference."

Daniel Faulkner's widow, Maureen, flew in from California for the hearing. She thanked Krasner's office for its support.

Standing next to Faulkner in the blazing heat alongside the Juanita Kidd Stout Center for Criminal Justice was Philadelphia Fraternal Order of Police President John McNesby. He and other FOP members accompanied Maureen Faulkner into the courtroom.

"When does it end for Maureen? Danny was assassinated — it's been proving over and over again. This is a fishing expedition," McNesby said. "Maureen is flying back and forth across the country and we are here to support her. We'll continue to fight. We'll be here for every hearing that takes place.

"But where is the closure for the family? When does it end? And after Oct. 29, we might as well get another date because they'll find something else."

Abu-Jamal's petition is based on a 2016 U.S. Supreme Court decision, *Williams vs. Pennsylvania*.

The Supreme Court held that a prosecutor involved in seeking the death penalty for a defendant should recuse himself if asked to judge an appeal in the capital case.

## 30 Aug - Fact-Checking The Prison Strike: Marshall Project Reveals Bias Against Prisoner-Led Resistance

*Even media that positions itself as sympathetic or authoritative is trod ding out a tired trope.*

### MORE:

by Kevin Gosztola and Brian Sonenstein (*Shadowproof*)

One of the primary differences between this year's prison strike for basic human rights and dignity and the one that took place in 2016 is the level of media attention it has attracted.

Far more journalists are paying attention this year, but rather than examine the message of the strike seriously, several outlets—especially those claiming to specialize in these issues—are more concerned with interrogating the messengers. It is as if the prison strike might be a stunt by conniving prisoners and backed by clueless activists—both which want to see their names splashed all over the internet.

A quintessential example of this came from the Marshall Project, a nonprofit news organization that was founded by former hedge fund manager Neil Barsky in 2014. The organization prides itself on being a credible and reliable source of information on everything from prisons to police and the courts. According to their website, they “[seek] to create and sustain a sense of national urgency about the U.S. criminal justice system.”

The Marshall Project managed to get out in front of other mainstream reporting on the prison strike, establishing themselves as an expert source for interviews and insights on the action. Reporting fellow, Nicole Lewis, was invited on popular national media platforms to discuss her piece, “What’s Really Happening With The Prison Strike?”

But Lewis’s article is littered with prejudice and innuendo that casts doubt on the legitimacy and trustworthiness of strikers and their outside supporters. It includes the perspectives of activists, but plays into biases against incarcerated people by suggesting they might not be telling the truth about their struggle for human rights.

The article from the Marshall Project appears to be a fact check of the prison strike. “Some outlets simply reported unchecked information put out by the outside strike organizers,” Lewis writes. But the only “unchecked information” Lewis seems to highlight is the number of prisons participating. She also does not really specify which outlets published “unchecked information” (although New York Magazine is highlighted).

Outlets in which organizers were quoted are named without directly accusing the outlets of publishing “unchecked information.” She insinuates that the New York Magazine published a false estimate of the number of participants in the 2016 strike. She goes on to suggest 2018 strike numbers show the strike will not be more “robust” than the previous strike, but there is no way she can possibly know how many prisoners are striking currently

Lewis clearly believes organizers are exaggerating the extent of the strike. Yet, by focusing on this aspect, she ignores the demands and the conditions that fueled the latest round of resistance.

To the degree that participation truly matters, this frame makes little sense. During the 2016 strike, reports about many actions in September not only were not verified but did not make it out of facilities for at least a month. Journalists most likely will not have a firm grasp on how many prisoners or facilities participated or what participation looked like for several months.

That is because prisons are opaque—an issue that should have been addressed immediately but Lewis only addressed vaguely and briefly at the end of her piece.

Reporters cannot show up at facilities, go inside, and interview prisoners. Prisoners cannot simply call or write reporters to tell them what is going on (not that journalists like Lewis would trust them if they did.) Even organizers with connections (let alone journalists who don't have any) are working through people in isolation over clandestine communication networks that delay the spread of news.

During a press call last week, organizers made clear their estimates for participation were what they “expected.” There is a clear difference between “expected” participation and what is unfolding currently in prisons.

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The premise of the article was amplified by Lewis and her editors, who included a subheading that rhetorically asked, “So was the strike simply a PR stunt?”

Given the intense risk prisoners face for even discussing organizing, and efforts by prisons to undermine that organizing, why would prisoners lie about engaging in resistance? They certainly are not doing it to become celebrities. They only are willing to speak under pseudonyms. Does the Marshall Project mean to suggest readers should beware of organizers who may try to con them into caring about prison conditions?

Organizers have also made clear that prisoners may engage in acts individually and participate in different ways, such as boycotts, which would make their protest less visible. Other actions, such as hunger strikes, can be harder to confirm due to prison policies that recognize them only after meals are refused for a certain number of days.

On the flipside, prison officials have incentives to deny the existence of efforts to call attention to conditions. They do not want their bosses to think they have lost control of facilities. They do not want to embolden resistance. They are fighting an insurgency that they must control.

The flawed analysis may be part of the Marshall Project's effort to compensate for not having previously developed sources involved in prison resistance, who can provide firsthand accounts of the action. They could have taken the time to file requests and do the reporting necessary to verify strike reports before declaring they were exaggerated.

Notably, the piece from Lewis is one of two prison strike reports the Marshall Project has published this year. The other piece provides a platform to a former prison warden for his unadulterated view on the strike, asking many questions that would have been better posed to actual prisoners.

One Marshall Project reader, Auburn Sandstrom, wrote to the publication to express her disappointment in Lewis's piece. President Carroll Bogert responded.

“I'm curious who you think has done a better job investigating the prison strike than we have,” Bogert stated. “I saw a lot of pieces claiming that this was the biggest prison strike in decades, but not very many seemed to have made contact with people who are currently incarcerated or have firsthand knowledge of what's happening on the inside.”

Only one prisoner was quoted by the Marshall Project in their article. If they talked to other prisoners, who took risks speaking to them, they did not use their words.

Bogert continued, “Journalism is hard. You can call a prison and ask the authorities if there’s a strike. They’ll almost invariably tell you nothing is happening. Of course, you don’t take them at their word. If you can reach an incarcerated person on a contraband cell phone, which is not easy and highly risky for them, they might tell you the exact opposite.”

“But a lot of incarcerated people might have reason to exaggerate what is really going on,” Bogert contended. “How can you check their information with a second source? Very, very difficult.”

For a publication with supposedly intimate knowledge of the realities of the United States legal system, and which claims to support “criminal justice reform,” this is not only a baffling assertion but a glaring admission of bias from the person who leads the organization.

Reporters must check their information before they publish. But they reveal their prejudice when they point to incarceration as an indicator of trustworthiness.

Bogert insisted characterizing the strike as potentially a PR stunt “wasn’t intended to demean the organizers but rather to measure their success on their own terms.”

“The Marshall Project exists to make the criminal justice more fair, effective, transparent and humane, using journalism. We believe in criminal justice reform. But we also believe that reformers are best served by accurate and verified information. Our prison strike story was an attempt to provide that, not to cheer the strike from the press room.”

“I can understand you might feel frustrated at where we draw the line between advocacy and journalism and again, I’m genuinely pleased that you took the time to write,” Bogert added.

Nobody expects journalists to “cheer the strike from the newsroom,” but they do expect journalism that portrays prisoners struggle for human rights in the world’s largest incarcerator without the glib condescension that pervades the Marshall Project’s coverage.

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Scott Simon interviewed Lewis on NPR about the prison strike, even though the outlet had published virtually no original reporting on the strike. He seemed to be primarily concerned with why anyone should care about it.

The interview started with Simon suggesting “a lot of people listening” think prisoners are lucky not to be starved to death by the government. (Note: “A lot of people listening” is like “some people say,” a convenient way to conceal one’s own perspective.)

In response, Lewis said the organizers spoke of “what they’re calling a stigma against them,” as though there’s some kind of a debate as to whether incarceration is a mark of disgrace in the U.S. The irony, of course, is how stigma underlies NPR and Marshall Project’s reporting.

**SIMON:** Yeah. I’m sure I don’t have to tell you that a lot of people listening to this might not have any sympathy whatsoever to prisoners. They feel they’ve, you know, often hurt somebody, and they’ve been convicted. And they’re lucky to get three meals a day, however they taste.

**LEWIS:** That’s right. And I would say, a lot of the inmates that I’ve spoken to, or a lot of the organizers that I’ve spoken to, as well as some of the incarcerated organizers, recognize that there’s – what they’re calling a stigma against them. They recognize that until people have a bit more sympathy or empathy or at least a better understanding of the kinds of inhumane conditions they say they’re facing that nothing will

change for them – that what they really need is a populace that can go out and vote and make concerted efforts towards the kinds of criminal justice reforms that they’re asking for.

**SIMON:** Well – but how do you contend, again, with the idea among taxpayers that a prisoner is lucky to get whatever he or she receives.

The perceptions of “taxpayers” are then considered briefly before shifting to the problems guards have restoring order after violent prison uprisings. They neglect to discuss the prison labor, facility conditions, and lack of opportunity that led to the strike’s announcement.

“Do prisoners really blame guards for not stopping them from committing violence?” Simon asks.

Simon fails to understand that prisoners believe conditions imposed by prisons foment tensions and encourage violence, which corrections officials not only fail to prevent but often intentionally create and refuse to prevent. This is how South Carolina prisoners view the incident at Lee Correctional Institution that led to the call for this action. What Simon is suggesting is that prison violence is not systemic, but the product of prisoners being naturally violent.

In response, Lewis goes along with Simon’s tropes about “violent criminals.” She suggests there are more people in prison for nonviolent offenses than violent offenses. For such ardent fact checkers, they seem to have missed this one. Only in the smaller federal prison system do nonviolent prisoners make up a more substantial portion of inmates. In the much larger state system, just over half of all people sentenced are there for violent offenses.

Nevertheless, the imagined distinction between Prisoners Guilty Of Violent Crimes and Prisoners Guilty Of Nonviolent Crimes implies those incarcerated for nonviolent offenses are okay to speak up for and save. Those convicted of violent offenses, on the other hand, do not deserve advocates.

“So what do you say to those people who are behind bars who don’t want to harm anyone feeling as though they’re unsafe and that the general public has no idea what’s actually happening?” she asks.

Over-policing, coerced plea deals, wrongful convictions, over-sentencing, and over-charging don’t seem to register for either journalist in this conversation. And regardless, human rights are supposed to be available to everyone (that’s why they’re human rights) so it should be beside the point. It should be easy for a “criminal justice reform” outlet to say no one deserves to suffer abuse and neglect in prisons that consistently dehumanize people.

The interview concludes by finally getting around to the 10 demands—the entire point of the action that brought Lewis on NPR in the first place:

**SIMON:** Do the strikers have a goal?

**LEWIS:** I think so. I mean, they’ve published a list of 10 demands that have been circulating around. The top two are an immediate change to the kinds of, you know, inhumane conditions that they’re facing, as well as to be paid the prevailing wage in whatever state that they’re incarcerated. And then the rest of the goals are sort of a mix of criminal justice reform issues that we’ve seen sort of percolate around the country.

The flippancy attitude to prisoner demands is obnoxious, however, it represents the disconnect from the daily experiences of the prisoners. If journalists took prisoners seriously instead of desperately searching for reasons to doubt them, they might have a better understanding of the story.

*Correction: The Marshall Project communications and development manager, Andrew Epstein, requested multiple corrections. Only one is reasonable. We incorrectly suggested the Marshall Project did not talk to prisoners. The organization contacted at least one prisoner, Swift Justice, from whom they published only five words: "It went big real quick." We regret the error.*

**Clarification:** A section that the Marshall Project took issue with relating to whether the organization accused outlets of publishing "unchecked information" was updated, and we stand by what was previously written.

### **30 Aug - Certain Days 2019 calendars have Arrived!**

*We are happy to announce that the 2019 Certain Days calendar is now available!*

#### **MORE:**

Order now, calendars started to ship September 10th. You can order in the United States, Canada and Internationally at [certaindays.org/order](http://certaindays.org/order)

Certain Days 2019: Health/Care

The Certain Days: Freedom for Political Prisoners Calendar is a joint fundraising and educational project between outside organizers in Montreal, Hamilton, New York and Baltimore, in partnership with a political prisoner being held in maximum-security prison in New York State, David Gilbert. Co-founders Robert Seth Hayes and Herman Bell were released from prison in 2018.

Your group can buy 10 or more for the rate of \$10 each and then sell them for \$15, keeping the difference for your organization. Many campaigns, infoshops and projects do this as a way of raising funds and spreading awareness about political prisoners. Use the discount code "BULK" to get 10 or more calendars for \$10 each.

This year's theme is "Health/Care," and features art and writings by David Gilbert, Bec Young, RISE: Radical Indigenous Survivance and Empowerment, Aviva Stahl, Debbie, Mike and Chuck Africa, Roger Peet, Addameer, Leah Jo Carnine, Suzy Subways, Farha Najah, Ashanti Alston, Alec Dunn, Barbara Zeller, Hikaru Ikeda, Giselle Dias, Micah Bazant, Alisha Walker, Fernando Marti, Sins Invalid, Tom Manning, Dave George, Laura Whitehorn, Frizz Kid, Abolitionist Law Center, Cindy Milstein, and more.

The proceeds from Certain Days 2019 will be divided among these groups: Addameer Prisoner Support and Human Rights Association (Palestine), Release Aging People in Prison (RAPP) and other groups in need.

### **30 Aug - Update on Mason Neck: Wrongly Imprisoned Water Protector**

*Mason is a loved member of the Sicangu Lakota Tribe and Oceti Sakowin Camp.*

#### **MORE:**

He is a pipe carrier, father, grandson, artist, organizer, and tireless advocate for his Sicangu Nation. He has been wrongly imprisoned since March, still awaiting trial after being profiled. He is asking that folks pray for and with him, send him letters, songs, and books on animals, drawing, or Lakota language/history.

He sent a message to those who have shown him support:

*"I want to thank everyone who took precious time out of their day to write me sharing the encouraging words, art, books, songs, culture, with all the Love, prayers & support. With the little you do, you help me in a major way. You have done a good deed & I am very thankful. May God bless you in every way that is needed. My spirits are high as the eagles in the sky. You didn't only help me, you've helped my daughters as well because they need me to be strong. It's also my love for my family & friends that gets me through when times get hard, especially being away for so long. I continue to pray for the people & all of Unci Maka. As a sundancer, although I couldn't be at sundance this year, being on the frontline for this nation is an everyday thing. I have all my Love to give so this fight goes on & my spirit is to ostrong to let up. If you can write me support letters for the judge to read, Polamiya Pelo!!! Oyate Nunkte wacin yelo!"*

Ways to help:

1. If you know Mason, write a character reference letter and email it to freemase@protonmail.com

2. Send Letters and paperback books:

Mason Neck

3100 East Highway 34

Pierre, South Dakota 57501

3. Reach out to freemase@protonmail.com for any questions or aid you have available.

If you write to him, please be conscious that the prison will monitor everything! Hold your loved ones tight. Free red fawn! Free Orlando Watley! Free Leonard Peltier! And free all those wrongly imprisoned.

### **30 Aug - An Interview with Walter Bond**

*While Walter has not been publishing as much public writing, this interview gives a good sense of where he's at and how he is thinking.*

**MORE:**

**Joe Jordan:** So you're bi-sexual, do you identify as Queer as well?

**Walter Bond:** I don't have any problem with the title 'Queer', but I guess I use the antiquated term 'Bi' mainly for two reasons. First, just to be specific and second because it took me decades to really come to terms with my bisexuality, so it feels as though I've earned it. There were many years I struggled and tried to be straight and there were just as many years where I struggled and tried to stay gay. Always on either side of the fence were people, both straight and gay, who well meaning or not tried to influence me to pick a side. And that just did not work for me.

For example, I worked for years in Denver for a gay-owned and operated company that specializes in adult products. I was even in a couple of gay adult videos myself. But if my employers (a bunch of misogynistic old queens) would have found out that I dated women I would have been stuck at the lowest levels of the job if not politicked out of the company all together. And of course, to many straight men any type of homosexuality just marks you as "gay," for good and always.

**J."g"J.:** When did you realize you were Bi?

**WB:** Before I hit puberty. Somewhere around 10 years old.

**J."g"J.:** What circumstances lead to you coming out?

**WB:** I came out in 7th grade and it was basically because I wanted to be honest with my friends and the world around me and quite honestly, to try and find a boy that I could have a relationship with, which I did. At the time I felt a lot of turmoil about my sexuality and I thought that maybe being out about it would alleviate that. I wish I could say it did, but it took me many years of wrestling with the closet before I made peace with myself.

**J.”g”J.:** What has it been like being Bi in prison?

**WB:** It hasn’t been like anything, I haven’t been laid since 2010, ha ha ha! I mean prison is a place with way higher rates of disease than the streets and no availability to condoms. I can wait a couple more years until I get out but then...you’re all gonna get it ;p

**J.”g”J.:** Do you have any advice for queer youth in prison or on the streets?

**WB:** Whether incarcerated or in the world my advice is just be yourself, don’t put labels on it and don’t ever feel like you can’t change. Changes in tastes, including sexual, can happen from time to time, roll with it.

**J.”g”J.:** What drew you to anarchism?

**WB:** Well, back in 7th grade me and a couple friends started a little group called A.S.C.C. (anti-statist counter culture). We mainly made these hand made collage style flyers with little anarchist quips and one liners and we would pass them out to all the places and people we hated. I guess my initial attraction to anarchism was through punk music back in the day.

**J.”g”J.:** Have your politics regarding anarchism changed over the years?

**WB:** Yes, hugely! Actually during this last 8 years of incarceration I have been reading and studying and have grown in my ideas and general intelligence so much that I am sometimes embarrassed at how I did not question certain idiotic ideas I have held in the past.

For example, the ridiculous and fucking idiotic ideology of so-called ‘vegan hardline,’ with all it’s hyper-masculine religious proto-fascist bullshit! I became enamored with the band Vegan Reich back in the 90s and allowed myself to get taken in by the hardcore and unapologetic stance that they embodied. Unfortunately, this warped much of my thought when it came to Animal Rights and Straight Edge.

But in the end I was chasing a ghost. Nobody can be so brutally self-disciplined, internally and externally, as to be able to actually live your life without masturbating, eating only raw fruitarian diets and beating up anyone (or everyone) that has ‘unclean’ thoughts or actions. It wasn’t until years later I learned that this is all just another form of the old fascist 3rd position crap that infiltrates and syncetisizes already existing movements.

**J.”g”J.:** Do you identify as part of the left?

**WB:** I have no problem with anarchisms long history on the left as libertarian socialism, anarcho-syndicalism, anarcho-communism, etc. Let me start there. I think some of the most intense and insurrectionary forms of anarchism took root in these classical times in the movement and I think to left anarchism’s credit it has a more serious body politic of theoretic and practical organization.

These things, while maybe appearing to be dry or irrelevant today are still, I feel, very important. For Anarchism to be serious it needs to have answers about how we will live and organize whole societies of millions of people. This means workers, teachers, care for the elderly and sick. It does us no good in the real world to tell someone who has a real need for care “don’t worry we’ll use our spontaneity when the time comes.” The classical anarchists, the red anarchists of yesteryear, while being fixated on socialism and it’s terminologies were serious thinkers and this is important.

That said, what I do not support is those today that out of the sake of nostalgia and safety want to simply recreate and act out the same regressive movements of the past. This is not the late 1800’s anymore, the picket line has been crossed, the unions sold out, communism betrayed and is largely irrelevant, and capitalism high jacks everything it touches from punk rock to feminism, to veganism to...you name it.

Post-left anarchism has a lot more to say and do with what is relevant to the struggles of today but it needs to become a lot more serious in its thought.

For instance when I read the words of Sacco and Vanzetti I am reminded that being the radical of the radical socialists and ferociously anarchist at the same time, need not be mutually exclusive. So, to get back to your question, yes I identify with the left, but I do so only as an Anarchist. And, I might add, one who has 5 arsons on his record and is doing this interview from a CMU counter-terrorism prison unit and not from a book circle in some cozy manicured squat.

**J.”g”J.:** What are your feelings on sometimes “violent” expressions of what is technically “anarchism” (Nihilism, Eco-extremeism, Etc.)?

**WB:** I am not a pacifist and I never have been. If I had it my way we would live in a peaceful world, I wish that. But we don’t. My experience with many so-called pacifists is that they are authoritarian in nature and practice. The whole movement must obey their high and mighty moral bullshit or else they will be the first ones to snitch you off to the cops or feds. I don’t worry about the violence of anarchists, it is incredibly rare. I worry about the extreme violence that the state wields against the general population physically, psychologically, emotionally and mentally with impunity and malcontent and on a staggering institutional level.

**J.”g”J.:** So the Islam/Abdul Haqq thing, could you take us through the on-again off-again relationship you had with it?

**WB:** I became interested in Islam about a year before my arrest in 2009. Many of the people involved with the original hardline movement followed its founder Sean Muttaqi from the band Vegan Reich into Islam; this was where my interest began. When I first arrived in the CMU at Marion I was shocked to find that most of the unit was Arab Muslims with so-called terrorist cases. I figured this was a ‘sign’ and that what better opportunity would I have to learn than in that place and at that time.

So I became a Muslim, I studied, I practiced and I did my best to be a faithful servant of the religious teachings. But at the end of the day I just suck at being religious! I started to feel as if everything, even the 5 daily prayers which are supposed to be a joy to a true believer, were just another obligation in a world of obligations that began to feel stifling to me.

Also, I am no good with orthodoxy of any sort. I like to come to my own conclusions. To believe just because I am told did not work when my dear old mother was trying to advise me as a child, let alone now as an adult. So I tried, then I got frustrated and left Islam, then I tried again, still thinking I might not have given it an honest effort. But no, I am not a Muslim, I am not a believer of any sort. It’s not in my nature and I felt like I was suffocating or drowning when I tried.

**J.”g”J.:** Did you take anything away from it, now that you are back to the dude we know and love?

**WB:** I learned some Arabic and I now have a personal understanding of what religious adherence means. I never had that before, having been raised in an irreligious home.

**J.”g”J.:** What is your relationship to spirituality now?

**WB:** None, I am an atheist, unequivocally. Actually, I’m a real nasty materialist. If it doesn’t have matter, then it don’t matter. It may seem odd to some but fully embracing atheism has had a very positive affect on my life. After my foray into religion I made the promise to myself to just try to figure out what’s real and do away with all the yearnings to wish things were the way I wanted them to be. Now, I think ultimately what is ‘real’ or ‘true’ is often imperceivable by us because we are biologically limited by our own perspectives. But just the striving and adjusting ourselves to what is, makes a huge difference.

Today I don't have to be right, I don't have to feel that I have stumbled upon information that is infallible. This means I can learn more, and more quickly because I am not standing in my own way refusing to admit apprehension or mistakes. And now I carry this critical atheist attitude over into other areas of my life, this calm resolve to internalize what is really going on outside of my own wants and conceptions, and here comes the hard part, with the earnestness to accept realities over my biases. Applying this to hard questions and difficulties in my personal life has not taken the sting out of hard times but it has made it infinitely easier to accept and get over those difficulties. I only have to pay the emotional price once.

**J.”g”J.:** What are your plans for your ‘re-entry’ life?

**WB:** Well, I still have a couple of years to go, but as it stands now, I plan on going to New York City. What I will do for work at the moment I have no idea. So at some point probably around this time next year I will start trying from my prison cell in Indiana to job hunt in NYC. I had tried for years to transfer to a prison closer to the east coast so that I could at least start getting visits from people closer to where I will be touching down and thereby build my social network up. But no, the bureau of prisons is not concerned with me being close to family and friends. However, at the end of the day I will be just fine. I have the best group of friends a person could want and if there is one thing I know how to do it's get started again.

**J.”g”J.:** What kind of support do you think you'll need?

**WB:** Honestly, I don't know. The first thing I know I'm gonna have to deal with is the shock of being out. I will have been in prison over a decade upon release and most of that time has been in CMU units which are tiny segregation units. The last time I was on a regular prison yard it felt overwhelmingly large for the first few weeks. So when I get out I'm gonna need to adjust, I'm going to need to keep good people around me I'm gonna need help getting back into the swing of things. And of course money, you can't do anything in America without that.

**J.”g”J.:** If You could spend a week with anyone in hxstory, living or dead, who would it be and why?

**WB:** Hmm, from history...I would have to go with Helen Keller because I don't think there is any other historical figure I could learn more from in a week than her.

**J.”g”J.:** If there's one persxn in the world right now you could wish out of existence, who would it be and why?

**WB:** Steven Pinker. There is not one thing about that guy that I can stand. From his irrational sense of optimism to his ivory tower writings from his ivy league university!...I even hate his hair!

**J.”g”J.:** What is your favorite animal or the animal you most closely identify with?

**WB:** The wolf is definitely my power animal. Even here in the prison nobody calls me Walter, they all call me Wolf. My mother used to raise wolves so this affinity of mine really started with her.

**J.”g”J.:** Do you think there is any hope for the future?

**WB:** Absolutely! As long as there is resistance to tyranny, then there is hope my friend.

Thanks so much for the great questions, Joe! I really enjoyed the opportunity to elaborate on some of these topics both personal and political. And thanks so much for your support and friendship through these years of incarceration. Lots of people come and go which is the natural course of things, but it makes the ones that stick around so much more memorable and special. Until next time, take care and I'll do the same.

### **1 Sept - Urgent Call for Action to Protect Pennsylvania State Prisoners**

*A state-wide lockdown in all Pennsylvania prisons began on Wednesday August 29.*

**MORE:**

DOC Secretary John Wetzel states this lock-down is INDEFINITE. During this time prisoners are in 24-hour lockdown—meals in their cells, no yard, restricted showers, no visitors, no phone calls, no mail.

This is solitary confinement for every state prisoner, with even more restrictions than being in "the hole." Except for legal mail, no communication is allowed between prisoners and the outside world. This represents a danger to all prisoners.

Wetzel gave the official reason as an emergency response to nearly 30 staffers at eight different prisons were sickened over the past month by synthetic drugs, supposedly by liquids dropped onto letters, book pages and the like. There were no reports of prisoners getting ill or finding these synthetic drugs on incoming mail, on prisoners, or in their cells. This has all the signs of a totally invented "emergency."

We must demand: Immediate End to the Lockdown! Open up Communication—Reinstate Phone Calls, Visits and Mail!

It is at times like this—with no eyes and ears into the prisons and from prisoners-- that the most outspoken as well as the most vulnerable prisoners can be targeted for retribution. We must demand that no injury come to Mumia Abu-Jamal, the MOVE prisoners, Major Tillery or any other PA state prisoner in the course of this lockdown, whether inflicted by prison guards or caused by medical malfeasance.

This lock-down began in the midst of a nationwide prisoners strike. This "emergency" is an excuse for imposing additional draconian measures to the already inhumane and class and race driven conditions of incarceration.

Update from official DOC website, September 1, 2018 while stating the lockdown continues: "effective Saturday, September 1, routine showers and exercise will resume for L5 units; dietary, infirmary, laundry and commissary to include inmate workers for those areas will resume; access to phones, kiosks and showers on general population units will resume using normal sign up procedures; submission of commissary order forms and delivery of commissary to units will resume".

The Department of Corrections intends to use this to impose permanent changes on visitation and mail, per Sec. Wetzel's statement at an August 30, 2018 press conference.

Call or email DOC Secretary John Wetzel: 717.728.2577

**Ra-crpadocsecretary@pa.gov**

**pacontactdoc@pa.gov**

**5 Sept - Important News From Jalil Muntaqim**

*NYC Jericho received a call on September 5, 2018, from Jericho Co-Founder Jalil Muntaqim.*

**MORE:**

Jalil was informed today by Mr. Justiniano, Deputy Supervisor of Programs at Sullivan, that he is not scheduled to appear before the parole board in September.

Jalil does not have any more information at this time. His legal team will be making inquiries to DOCCS in Albany for an explanation of this matter.

As soon as we have any more information, we will update everyone.

## **12 Sept - A Question of Compassion: Parole for People Aging in Prison**

**WHAT:** Panel Discussion

**WHEN:** 5:30-8:00pm, Wednesday, September 12th

**WHERE:** Vera Institute of Justice, 233 Broadway, Floor 12, New York, New York 10279

**COST:** FREE!

### **MORE:**

On Wednesday, September 12th, join Release Aging People in Prison (RAPP) and the Vera Institute of Justice for a special event on parole, medical parole and the release of aging people in prison. There will be a wine and cheese reception held at 5:30pm. The program will begin with a Ted-style talk by RAPP Organizer Jose Saldanda, followed by a panel discussion between members of RAPP, Vera and Rachel Bedard, a Geriatrician who works with older people in prisons and jails. We will discuss the crisis of incarcerated elders, Vera's new report on Compassionate Release in New York, and how everyone can get involved in our work to release older people from prison.

## **16 Sept - Anarchists Care About Books (ACAB): bolo'bolo**

**WHAT:** Book discussion

**WHEN:** 4:00-6:00pm, Sunday, September 16th

**WHERE:** Bluestockings - 172 Allen Street, New York, New York

**COST:** FREE

### **MORE:**

Come discuss bolo'bolo by Hans Widmer, a vision of a utopian-ecological future.

## **21 Sept - Punk Rock Karaoke for Marius Mason and MACC**

**WHAT:** Karaoke Fundraiser

**WHEN:** 8:30pm-1:30am, Friday, September 21st

**WHERE:** Pine Box Rock Shop-12 Grattan Street, Brooklyn, New York 11206

**COST:** \$10 suggested donation | 21+

### **MORE:**

**CATALOG:** [punkrockkaraoke.com/catalog](http://punkrockkaraoke.com/catalog)

Join us for another night of punk rock sing-a-longs for a cause. This time we are teaming up with the Metropolitan Anarchist Coordinating Council - MACC to raise funds for the prison support committee for Marius Mason ([supportmariusmason.org](http://supportmariusmason.org)).

### *About Marius Mason:*

Marius Mason is an anarchist, environmental and animal rights activist currently serving nearly 22 years in federal prison for acts of property damage carried out in defense of the planet. After being threatened with a life sentence in 2009 for these acts of sabotage, he plead guilty to arson charges at a Michigan State University lab researching genetically modified organisms for Monsanto, and admitted to 12 other acts of property damage. No one was physically harmed in these actions. At sentencing the judge applied a so-called "terrorism enhancement," adding almost two years to an already extreme sentence requested by the prosecution. This is the harshest punishment of anyone convicted of environmental sabotage to date.