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Updates for October 4th

15 Sept - FBI Withholding Extradition Video in Joseph Dibbee Case

Joseph Dibbee pleaded guilty this year to helping burn down an Oregon horse meat factory in 1997, but he says the FBI is withholding evidence that could affect his soon-to-be-decided sentence. Please read the following with a critical eye.

MORE:

by Conrad Wilson (*Oregon Public Broadcasting*)

Joseph Dibbee, a former international fugitive who pleaded guilty to the 1997 arson of a Central Oregon abattoir that sold wild horse meat to Europe, says the U.S. government is withholding information about his extradition. In an affidavit, he indicated a special agent with the Federal Bureau of Investigation lied when the agent said the U.S. government did not videotape the incident.

FBI Special Agent Timothy Suttles stated in his declaration, filed in federal court on July 14, that he was present in Havana to arrest Dibbee but said there “were no videos taken by the United State Government.”

That differs significantly from a declaration Dibbee, formerly associated with the Earth and Animal Liberation Fronts, filed in federal court last week stating that a representative with the U.S. government “was videotaping the rendition using a small silver Sony digital camera from the moment” they arrived.

The FBI declined to comment on the court filings, citing the open federal case. A spokesperson for Oregon’s U.S. Attorney’s Office, which is prosecuting Dibbee, also declined to comment.

“I have every reason to believe based on my experience and circumstances that what the agent said isn’t true,” said Matt Schindler, Dibbee’s criminal defense attorney. “We’re just going to pop in there like it’s a weekend in Palm Springs and there’s no paperwork, no documentation, no communication, nothing.”

After more than a decade of eluding U.S. authorities by living in Syria and Russia, Dibbee was detained in Cuba in August 2018. He told *OPB* in a 2021 interview that Cuban authorities tortured him during the roughly eight days he was in their custody. For the last two years, Dibbee and his attorney Matt Schindler, have pressed for more information about the circumstances leading up to Dibbee’s arrest and whether the FBI or other federal law enforcement agencies had a hand in his capture or in the treatment he’s alleged while in Cuba.

Dibbee was first indicted, along with other supporters of the Earth Liberation Front and Animal Liberation Front, by a federal grand jury in 2006. Between 1995 and 2001, some affiliated with the two organizations were responsible for property destruction in five western states, totaling more than \$45 million. The U.S. Department of Justice has called the arsons domestic terrorism and described the movement to Congress in 2004 as one of the greatest extremist threats facing the country.

In April, Dibbee pleaded guilty to federal charges, including arson. He faced charges in Washington, Oregon and California.

In June, Dibbee filed another discovery request, asking federal prosecutors, again, for communications between the U.S. government and Cuba about his detention and extradition, among other records. Dibbee also asked for any video taken by U.S. government personnel in Havana.

“The government does not plan to produce additional information in response to this request,” writes Assistant U.S. Attorney Quinn Harrington in a July court filing. Harrington added that while the U.S. State Department and the Department of Justice’s Office of International Affairs were involved in getting Dibee from Cuba, the communications were largely logistical and not central to the prosecution teams’ case against Dibee.

“[Dibee’s] speculation that the United States could have been aware of alleged mistreatment by Cuban authorities is nothing but conjecture and is not grounds to compel a fishing expedition,” Harrington stated. “The attached declaration shows that the FBI has no knowledge of any alleged mistreatment.”

In a sworn statement filed in July, Suttles stated that Dibee was evaluated in Havana by an FBI SWAT medic to determine whether he could fly “and to determine whether Mr. Dibee experienced any mistreatment while in custody.” He said other than Dibee’s own claims of torture he was “unaware of any mistreatment suffered by Mr. Dibee while in custody in Cuba.”

Suttles states that while he went to Havana to arrest Dibee, the U.S. government did not record any video.

“I do remember that there were Cuban Nationals with video cameras,” his declaration reads. “The FBI does not have access to the Cuban recordings.”

Dibee recalls a tall, muscular American with tattoos recording the event on a silver Sony digital camera.

“During this entire time both the Americans and Cuban were videotaping,” Dibee stated in his court filing. “On numerous occasions, I witnessed Agent Suttles intentionally step out of the frame while the other American taped the proceedings or panned across the room.”

Dibee stated that after about 30 minutes, one of the men told him “‘we can do this the easy way or the hard way’ implying more torture ... or drugs would be used if I resisted” getting onto the jet.

From Havana, the aircraft took Dibee directly to Portland. He was arraigned in federal court in 2018.

A hearing is scheduled for Sept. 21 to determine whether the government has to turn over more information. Dibee’s sentencing is set for Nov. 1.

Schindler, Dibee’s attorney, noted he’s represented clients in cases where federal law enforcement has turned over “terabytes” of video surveillance.

“You’re telling me they don’t have two and half minutes of video from picking up one of the most wanted fugitives on earth? Come on.”

September 23rd - Judge denies eco-saboteur Joseph Dibee’s request for more government documents before November sentencing

by Maxine Bernstein (*The Oregonian*)

As eco-saboteur Joseph Dibee awaits sentencing, his lawyer urged a judge to order the government to produce any videos of his arrest in Havana, Cuba, any communications between the U.S. and Cuban governments about Dibee or any money paid to Cuba that helped with the handover of the fugitive.

Dibee, 54, was set to be sentenced next week based on a negotiated plea agreement reached in April, but the sentencing has been postponed until Nov. 1 due to the latest dispute over sharing of evidence.

Dibee, a fugitive for 12 years who was finally tracked down in Cuba in August 2018, pleaded guilty to two counts of conspiracy to commit arson and one count of arson in a string of attacks that destroyed or damaged environmental targets in Oregon and California more than two decades ago. He was held in Cuba based on an Interpol notice reporting U.S. arrest warrants and turned over to FBI agents.

After an hourlong hearing by phone, U.S. District Judge Ann Aiken denied most of the requests by Dabee and his lawyers relying on the prosecution's responses that either the sought-after evidence didn't exist, was already turned over to the lawyer or wasn't relevant to sentencing.

"I generally sentence people similarly situated. If I were you, I'd spend more time on those arguments than some of these issues that are far afield," Aiken told Dabee's lawyer, Matthew Schindler.

The judge said she recognized from the start that the primitive compilation of the immense amount of evidence and how prosecutors shared it with defense lawyers without indexing or a way to electronically search the material would mean the case "was going to take an enormous amount of time and cost a fortune." The U.S. Attorney's Office didn't have a tally of the full cost Wednesday.

Federal investigators said Dabee was part of the largest group of eco-saboteurs ever taken down by the FBI. They called themselves "The Family" -- more than a dozen people who committed crimes in the name of the Earth Liberation Front and Animal Liberation Front -- and caused an estimated \$40 million in damage from 1996 to 2005.

Assistant U.S. Attorney Quinn Harrington has said the government will recommend a sentence of seven years and three months in prison for Dabee. Schindler is expected to argue for time served.

Schindler said he wanted to know if the United States paid Cuba to help facilitate Cuba's handover of Dabee to the FBI.

"I think Mr. Dabee deserves to know how much the United States paid for this. What did they concede to get this accommodation, because I know you can't fly into Cuba like that," Schindler said. "Somehow this needs to happen in a place where we have no relations, and I think it's fair to ask why."

Harrington said he shared Cuban paperwork written in Spanish and translated into English on how Cuba was acting according to Interpol reciprocity principles.

Dabee was stopped and held in Havana based on an Interpol red notice that informed Cuban authorities he was a U.S. fugitive, Harrington said. Cuba is a member of Interpol, an international police organization, although Cuba doesn't always comply with its rules, he said.

Schindler said he also wanted to know how much the government paid any cooperating co-defendants in the case to help prosecute Dabee or if there were warrantless interceptions of communications between Dabee and his alleged co-conspirators.

"Because the universe of information the Court can consider when exercising sentencing discretion is vast, the materiality of the discovery Mr. Dabee seeks should be apparent," Schindler wrote to the court. "If the United States was aware that Mr. Dabee, a United States citizen, was being tortured by the Cuban government to further its investigation into Mr. Dabee, that could affect the Court's sentencing discretion."

Harrington said Schindler's requests were based on "mere conjecture" and argued that Schindler was "fishing for possible arguments" to make at Dabee's sentencing.

"It is not enough to say that information is 'obviously material' or that it 'could' affect the sentencing," Harrington responded in a court filing. "He must explain why and how. He has not done so. He has offered no more than conclusory statements of mere speculation."

The FBI has no knowledge of any alleged mistreatment of Dabee in Cuban custody and the United States made no payments to Cuba regarding Dabee's arrest, according to Harrington.

Prosecutors won't be calling any alleged co-conspirators at Dibee's sentencing and he's not entitled to learn how much money was paid, if anything, to the cooperating co-defendants or informants in the case, Harrington said. Schindler said in court he heard one cooperator may have received \$100,000 from the government.

Harrington also said there was no warrantless interception of calls or other communications between Dibee or his alleged accomplices.

Regarding the requests about the U.S. government's contact with Cuba, those communications are under the authority of the U.S. Department of State and Office of International Affairs, Harrington noted. Dibee isn't entitled to communications between a foreign government and "non-prosecution" government officials, he argued.

U.S. personnel didn't take any video of Dibee when they took him into custody in Havana, Harrington said, despite Dibee's declaration that he saw a federal agent with a video camera. Prosecutors have no access to any video that may have been taken by Cuban officials, as Dibee also has alleged, Harrington said.

The FBI brought a SWAT medic to exam Dibee before he was flown out of Cuba to make sure he was healthy to fly and to document any injuries he may have suffered while detained in Cuba. Other than insect bites, there were none, Harrington said.

The prosecutor also rejected Schindler's request for the FBI's Ten Most Wanted List, saying Dibee was never on it. He noted, however, that Dibee did at one time appear on a separate FBI terrorism most wanted list. The last remaining fugitive in this case, Josephine Josephine Sunshine Overaker, remains on that list.

Dibee pleaded guilty to engaging in a conspiracy to set fire to government buildings and destroy other property, driven by "ideology, and as part of 'direct actions,'" from October 1996 through December 2005, according to Harrington.

Dibee also pleaded guilty to arson tied to a fire he helped set at the Cavel West Inc. meatpacking plant in Redmond, Oregon, on July 1, 1997, and to conspiracy to commit arson in a fire at the U.S. Bureau of Land Management's wild horse corrals near Litchfield, California, on Oct. 15, 2001.

The buildings at Cavel West were destroyed, with the loss estimated to exceed the insured value of \$1.2 million, according to court records. The fire was designed to end the processing of meat from wild horses slaughtered by the plant.

He was stopped in Cuba in 2018, traveling with a Syrian passport. Dibee has said in court previously that he was flying from El Salvador back to Russia through Havana using a Syrian passport when he was detained and turned over to the FBI.

15 Sept - US civil rights groups file complaint against 'death by incarceration' to UN
The filing urges UN special rapporteurs to declare life sentences, including without parole, a violation of incarcerated people's rights.

MORE:

by Edwin Rios (*The Guardian*)

The moment Terrell Carter learned the death sentence he received decades ago would end, he was filled with extreme happiness and intense sorrow.

Carter had spent 30 years of his life in prison without parole for second-degree murder he committed in Pennsylvania, one of six states in the US where there is no possibility of parole when sentenced to life. In

July, after Governor Tom Wolf commuted his sentence, Carter, now 53, regained his freedom after a nearly three-year process petitioning with the state board of pardons. Still, he said he felt “survivor’s guilt”.

“It shows me the other guys who were just as deserving as I was couldn’t make it not because they are not worthy but because the process is super arbitrary,” Carter told the *Guardian* from a halfway house just a month after his release. “The system doesn’t allow room for a person to seek redemption.”

A coalition of civil and human rights organizations on Thursday filed a complaint urging United Nations special rapporteurs to declare the United States’ longstanding practice of subjecting people to life sentences, including without possible release, “cruel, racially discriminatory” and “an arbitrary deprivation of liberty” that violates incarcerated people’s rights.

They argued that “death by incarceration” – a term describing life sentences without parole coined by Carter and other members of the Right to Redemption Committee, a group of incarcerated people seeking the abolition of the practice – amounted to torture. In their complaint, the civil rights organizations asked the international watchdogs to pressure the United States, who leads the world in sentencing people to life imprisonment, to abolish the extreme practice altogether. They proposed instead to impose maximum sentencing laws that would eliminate the practice of “virtual life” sentences – those longer than a person’s remaining years of life expectancy, often more than 50 years.

“Death by incarceration is the devastating consequence of a cruel and racially discriminatory criminal legal system that is designed not to address harm, violence, and its root causes, but to satisfy the political pressure to be tough on crime,” the complaint noted.

Dozens of testimonies from incarcerated people sentenced to life detail the horrific toll so-called “death by incarceration” has not just on their physical, mental and emotional wellbeing but also the lasting impact separation has on their family members. Carlos Ruiz Paz, who is serving a life sentence in California, wrote in a testimonial that a life sentence without parole signaled a person was “irreparably damaged without hope of redemption”, adding: “Extreme sentences affect the kids who grow up without us and the parents that will die without us at their side.”

The complaint noted that the United States’ use of virtual life sentences increased exponentially since the 1970s, particularly after the supreme court abolished the death penalty in 1972, prompting states to strengthen life sentencing laws for offenders. Even after the supreme court reversed course in 1976, extreme sentencing practices continued. By the 1980s and 90s, as the federal government incentivized states to impose harsher sentencing practices in an effort to curtail perceived rises in crime, more and more people were imprisoned for longer.

The toll of that suffering has disproportionately upended the lives of Black and brown people who have been subjected to over-policing throughout time, exposing them to the US carceral system and led to escalating mass incarceration. Organizers argue that that violates international human rights law prohibiting racial discrimination. “This systemic deprivation of resources, including education, healthcare and other social support and services, is coupled with the entry of more police and prisons in these communities and exposure to the criminal legal system,” the complaint noted.

The US is the only country that sentences children under 18 to life without parole, a practice that the United Nations has already singled out. And the US accounted for more than 80% of people worldwide serving life sentences without parole.

“We are the world leader in life imprisonment,” said Kara Gotsch, deputy director of the Sentencing Project, one of the organizations involved in the UN complaint. “We’re just continuing to warehouse people, expose them to dangerous conditions in prisons that are not built for old people, quite frankly. And it’s not serving the public interest or our moral interest is to incarcerate elderly people, until they die, because they’re not a threat to public safety.”

Black people accounted for 12% of the US population in 2020 yet made up 46% of all incarcerated people serving life or virtual life sentences, according to the Sentencing Project. What's more, people of color account for more than two-thirds of those incarcerated serving life sentences in the US. For Latino Americans, the disparity is smaller but still stark, particularly at the state level: in California, where a third of its prison population serves a life sentence, nearly 40% of those serving life sentences are Latino and a third are Black. Though women account for just 3% of the US prison population serving life sentences, the number of women serving such sentences grew 32% faster than men in the past decade.

When Rose Marie Dinkins reflects on the past five decades in SCI Muncy in Pennsylvania, she sees how the US criminal justice system doesn't allow mercy for change. Dinkins, a Black mother of four, was 24 when, in 1972, she was sentenced to life in prison for first and second degree murder during a robbery. Her children, then toddlers, are now adults with children and grandchildren. Dinkins recounted how she had great-grandchildren she had never seen.

Dinkins saw how "the American justice system values some lives more than others", pointing to how Derek Chauvin, the Minneapolis police officer convicted of murdering George Floyd, will be eligible for parole.

"These discriminatory sentencing practices have gone on for far too long," she added. "No one deserves to die in prison who has made the effort to change for the better."

Bret Grote, legal director of the Abolitionist Law Center, one of the organizations submitting the complaint, told the *Guardian* that pressure from the United Nations and the international community could bolster the ongoing movement.

He and others pointed to the impact past condemnations by the UN of solitary confinement practices and imprisonment of youth on life sentences have had on influencing legislative change. The complaint to the UN arises ahead of a case in Pennsylvania challenging the state's life sentences without parole statute for people convicted of a felony that led to someone's death, even if the person who received the sentence had no direct connection to the death.

By the time Carter first entered prison at 23, he had struggled with drugs and saw himself growing up in a society "that taught me that my Blackness was a curse". "It destroyed my self-esteem," he told the *Guardian*. Over time, after years of self-reflection work, he believed he could get a second chance, even as he was relegated to what he saw as a death sentence. He turned to writing, publishing three novels and co-authoring a Northwestern Law Review article with Rachel Lopez entitled *Redeeming Justice* that makes the case for rehabilitation and redemption from imprisonment.

He eventually helped form the Right to Redemption Committee, which was established in 2011 and advocates for abolishing life without parole in Pennsylvania and beyond, and they wanted to file a petition to the United Nations calling for "death by incarceration" to be classified as a human rights violation. Now that he's out of prison, he hopes to facilitate writing workshops and create "redemption hubs" for formerly incarcerated people to contribute back to society after release.

His release by commutation is a rarity in the US, especially for Black people seeking pardon: a 2011 study of pardons under former presidents George W Bush and Barack Obama found that white applicants had a 12% chance of acceptance while Black applicants had between 2 and 4% chance. And in Pennsylvania alone, Governor Tom Wolf commuted 53 life sentences over seven years, a far cry from the just six between 1995 and 2015.

"The idea of redemption should be something that the state facilitates as opposed to hindering. They hinder the idea of atonement by imprisoning people but also confining people in the worst expression of themselves for the rest of their lives, even though that's not who they are," Carter told the *Guardian*. "That's a gross violation of human rights."

20 Sept - Leonard Peltier's Statement to Walk To Justice

Leonard Peltier's letter to the walkers for the "Walk to Justice"

MORE:

I greet you this morning with an overwhelming feeling of love and thankfulness for the walk you are about to take on my behalf. I appreciate the organizers and the Spiritual leaders who are giving their time and energy to make sure you are safe physically and spiritually. I am humbled that you are doing this for me, because I know there are many issues affecting Native people that deserve National and worldwide attention. MMIW, water and resource protection, the land back movement, and of course basic human rights are on my mind.

In my mind, I can picture the route you are walking and will be with you in prayer and mindfulness all of the way. Eau Claire is a very beautiful area and I remember my brother Red Crow performing at the college many times. At Madison, please offer tobacco for the Ho Chunk and Meskwaki Nations who called that area home over 12,000 years ago.

Chicago has the 3rd largest urban Native American population with more than 65,000 brothers and sisters. Potawatomi, Miami and Illinois Nations were among the tribes forced to cede lands to the U.S. government in the early 1800s. Please acknowledge our ancestors, as I know you will, as you walk softly on the land holding their footprints.

I look forward to being with all of you. I look forward to being part of the voice for our people. We can never forget the great sacrifices made on our behalf, but we can move forward with one mind, to create a better world, not only for our people, but for all mankind. Let us be of one mind as we begin this journey.

September 27th - Singer-Songwriter Keith Secola Talks Leonard

We're letting you know first that Season 2, Episode 8, of "LEONARD: Political Prisoner" drops September 29 on all major podcast platforms: leonard.buzzsprout.com/1176053/11395191-ndn-kars

In this chapter we talk indigenous rights with the Native Music Hall of Fame's Keith Secola who plays a couple tunes on his acoustic guitar for Leonard, including a very special version of his anthem "NDN Kars," the number one most requested song on tribal radio since 1992.

September 29th - Walk to Freedom for Leonard Peltier Halfway to Washington

by Darren Thompson (*Native News Online*)

Volunteers demanding the freedom of Leonard Peltier have trekked 500 miles over the last four weeks in a protest walk organized by the American Indian Movement (AIM) Grand Governing Council.

Peltier (Turtle Mountain Band of Chippewa Indians), 78, was convicted of aiding and abetting in the murder of two Federal Bureau of Investigation agents on the Pine Ridge Indian Reservation on June 26, 1975. He has spent the last 46 years in federal prison.

AIM hopes the walk will raise awareness for Peltier's plight and apply some pressure on President Joe Biden to grant executive clemency to Peltier.

"The walk and prayer for Elder Peltier has been heartfelt, heavy and healing," Walk to Justice organizer Rachel Thunder told *Native News Online*. "Our walkers are out every day at 5 a.m. to make sure the 20-plus miles are covered to get this message to Washington D.C., to free Leonard Peltier."

Leonard Peltier's Walk to Justice started on Sept. 1 in Minneapolis — the birthplace of AIM — and will finish in Washington, D.C. on Nov. 14. It has since been through Wisconsin, northeastern Illinois, and is currently in northern Indiana. The walkers will travel a total distance of 1,100 miles.

"As AIM, we are asking for justice," Thunder said. "Justice for Leonard Peltier and justice for our people as the original people of Turtle Island."

Since 1993, many, including former U.S. Attorney James Reynolds—Peltier's former prosecutor—have urged executive clemency for Peltier. Former U.S. Attorney General Ramsey Clark said of Leonard Peltier, "he should have never been in there in the first place—never."

"While Leonard Peltier is in prison, we all are," Clark said in a statement in 1997.

Peltier has admitted to having been present during the incident that left FBI agents Jack Coler and Ronald Williams dead, but has always denied killing the agents as alleged by prosecutors at his trial. His co-defendants Dino Butler and Robert Robideau were charged with two counts of murder and were acquitted under claims of self-defense.

Peltier was arrested in Canada in 1976. He was eventually extradited on a false statement made by Myrtle Poor Bear, who later admitted she had been coerced by the FBI. Additionally, she later revealed that she was not present on the reservation during the fatal shootings. Poor Bear was not a witness at trial.

Since his conviction in 1977, Peltier has gained international support from Nelson Mandela, Bishop Desmond Tutu, Rev. Jesse Jackson, Secretary Debra Haaland, Amnesty International, the National Congress of American Indians, the Democratic National Committee, and thousands of activists.

Since 1993, many jurists have urged for executive clemency.

Former Attorney General Clark said of Peltier in 1997, "He should have never been in there in the first place—never ... while Leonard Peltier is in prison, we all are."

'Time for people to wake up'

Since the walk began last month, the Democratic National Committee unanimously passed a resolution asking President Biden to grant Peltier executive clemency.

The walk has also created visibility for Peltier's plight and gained momentum with rallies along the Walk to Justice route in the Wisconsin cities of Eau Claire and Madison, as well as Chicago.

"We are thankful for all of the support coming in from around the world," Thunder said. "It's time for the people to wake up. Leonard Peltier's injustice is an injustice against all human beings. This is a human rights issue, not just a native issue."

21 Sept - Antifa on trial: How one case could redefine the murky left-wing movement

As always, read this corporate news article with a critical eye, including the headline. The takeaway is that a grip of folks are facing serious charges for standing up to fascists.

MORE:

by Will Carless (USA TODAY)

On Jan. 9, 2021, three days after the insurrection at the U.S. Capitol, a mob of white supremacists, Proud Boys and other supporters of President Donald Trump descended on the neighborhood of Pacific Beach in San Diego.

Wearing body armor and carrying wooden sticks and flagpoles, the group marched through town holding up Nazi salutes, snarling at locals in the beachfront bars, and shouting the same chant that had been used on the streets of the capital days before: "F--- Antifa!"

Waiting to meet the mob was a horde of black-clad self-proclaimed anti-fascists or Antifa, who had organized to “protect” Pacific Beach from these outside provocateurs. As the two groups clashed, despite the efforts of dozens of police officers, brawls broke out. Supporters on both sides plus bystanders of all stripes had their phones up, ready to record the action on video.

Anti-fascists, dressed head-to-toe in black, pepper sprayed Trump supporters in the face, gleefully shouting “Proud Boy killa!” Another group of counterprotesters confronted and attacked a Trump supporter who then drew a knife on them. In an alleyway, away from the main crowd, a group of assorted right-wing extremists surrounded a young man in a George Floyd T-shirt, sucker-punching him and smashing his nose.

In the months that followed, video was reviewed, warrants were issued and homes were searched. And almost a year later, a criminal case emerged, one that now stands to have an impact far beyond San Diego. Experts say it could be a landmark prosecution that changes how American law enforcement tackles the much-misunderstood movement known as Antifa.

San Diego County District Attorney Summer Stephan announced a raft of felony charges for the activities on Jan. 9, after an investigation of “multiple allegations of violent criminal conduct,” “video evidence analysis” and searches and arrests across two counties.

And every person charged was from the Antifa side. No Trump supporter had been charged or arrested.

Since then, prosecutors have added charges against more people identified by prosecutors as Antifa, for a total of 11 defendants.

Stephan’s office claims the Antifa side was “overwhelmingly” responsible for the violence. But experts familiar with the case say it was an extraordinary decision to not charge anyone in the far-right group that actually targeted the community, especially given the videos that exist showing them engaging in violence. The question is less about whether the Antifa charges are warranted and more about whether this is a case of selective prosecution, they said.

Only prosecuting one side of a melee raises serious questions about Stephan’s political motives, said Patrick Cotter, a former Chicago federal prosecutor who has practiced criminal law for 40 years.

“When you’ve got a situation where there’s two organized groups who both decided to fight each other, and only one side gets charged and the other side gets to walk, it’s idiotic,” Cotter said. “It’s an insult to the public’s intelligence to suggest that that’s a legitimate prosecution. It’s not. It’s selective prosecution.”

A *USA TODAY* investigation revealed the victims in the DA’s case include people identified by activists as white supremacist agitators notorious for spurring fights in neighborhoods where they’re not welcome. At least one has a criminal record and has long been involved with neo-Nazi groups.

The victims also include other Trump supporters, some of whom remain unidentified by the district attorney. Local anti-fascist activists say they have identified several other white supremacists who were present at the rally.

But the first-of-its kind Antifa prosecution could also have implications far beyond the parties to the case.

Influential far-right commentators and conspiracy theorists like Alex Jones and Tucker Carlson and conservative politicians all the way up to former President Donald Trump have long claimed Antifa is not just a disparate social movement but an organized, shadowy army hell-bent on destroying America.

That's a caricature of Antifa that Stephan herself has previously embraced. She sparked controversy during her election campaign in 2018 when she paid for a website strewn with images of black-clad protesters that shared far-right antisemitic extremist conspiracy theories about billionaire philanthropist George Soros.

If the case against the San Diego 11 succeeds, it could open the doors to conservative prosecutors around the country to target a progressive social movement that has been ill-defined and misunderstood for years, experts said.

"It could be used as ammunition by people who are opposed to Antifa, or what they think of as Antifa," said Mark Pitcavage, a senior research fellow at the Anti-Defamation League's Center on Extremism. "And it might also inspire other conservative prosecutors in different places to try similar prosecutions, thinking 'We might be able to replicate that success.'"

'Making a presence and inciting some kind of retaliation'

When San Diego Deputy District Attorney Hopkins set the scene for the 19 grand jurors gathered to hear the Antifa case in a downtown San Diego court building in May, he described the planned Pacific Beach event as "A conservative demonstration. A flag waving. A patriot march," according to court records.

But Mike Brown, who has lived in the Pacific Beach area for 30 years, said he didn't see much patriotism on display on Jan. 9, 2021.

A history teacher and surfer, Brown said he was riding his bike in Pacific Beach when he was shocked to see the crowds of far-right and far-left protesters in the largely peaceful neighborhood. The pro-Trump group were not your average political crowd, Brown said.

"These guys weren't just Trump supporters, a lot of them were Proud Boys – you know, wearing the black and the yellow," Brown said. Those outfits can be seen in some of the videos. "I don't know where they were from, but what pissed me off about it all was that they came into our community and disrupted business, took over the streets, created a lot of tension for a whole afternoon and it wasn't even a local grassroots movement."

What Pacific Beach witnessed that day was a typical incursion into a mostly liberal neighborhood by far-right agitators who wanted to cause trouble, said Brian Levin, director of the Center for the Study of Hate and Extremism at California State University, San Bernardino.

Far-right extremists have long used the same tactics, Levin said: Arranging a hostile display of force in a neighborhood that they know will oppose them, then stirring up violence from anyone who confronts them.

"The history of these paramilitary groups on the far-right is really about two things: making a presence and inciting retaliation, and then using that as an excuse to significantly escalate violence," Levin said.

San Diego Police Department logs from the day describe the same chaos seen in the videos. The logs describe people in "Antifa gear" chasing and fighting with others wearing "Trump gear." At 4:31 p.m. the police log reads, "Protest being hijacked by Proud Boys. Very anti-police and refusing to comply."

The indictment against the Antifa defendants lists 11 incidents in which prosecutors allege they committed crimes ranging from illegal use of pepper spray to punching, kicking and striking their opponents with a baseball bat.

Antifa activists, holding a banner reading "Antifascist Action" and chanting "racists go home" can also be seen in videos on YouTube attacking people marching on the pro-Trump side. In numerous altercations, black-clad counterprotesters chase people down the street, hit them with flagpoles and skateboards and

spray pepper spray in their faces. Antifa activists also faced off against San Diego Police officers, who used less-than-lethal force against them.

But apparent assaults committed by the other side were also caught on camera.

Brown said he witnessed the attack by far-right extremists on the man and his female companion in an alley. He said a group had broken off from the main protest and assaulted the man, who was wearing a shirt with George Floyd's image on it and the slogan "No Justice, No Peace," on the back. The attack was unprovoked, Brown said.

"One guy comes up and just totally sucker punches him and takes him to the ground and then they move on," he said.

Brown's account is backed up by a video taken by Amie Zamudio, a local homeless activist, who can be heard pleading with the aggressors to leave their victims alone. Zamudio told *USA TODAY* she was concerned the man might be homeless because he was walking barefoot, and when she approached him, she saw the pro-Trump aggressors attack him without any provocation.

Brown and Zamudio both said they have never been contacted or interviewed by the District Attorney's office or investigators with the San Diego Police Department. The man seen in that attack has not been publicly identified, and it's unclear if anyone has filed a police report about the incident.

In another incident, a group of black-clad activists chase three men down the street. One of the men turns and advances before them holding a knife in his right hand.

And another video shows one of the Trump supporters picking up a smoke canister and throwing it towards the anti-fascists as at least a dozen San Diego police officers look on.

Levin and others familiar with the case said given the wide array of violence from both groups, it's hard to understand why only one side of the altercation is facing charges.

"I am not excusing, in any way, possible criminal conduct on the left," he said. "But when we look at the array of antagonists that showed up, and their record of criminality and violence, it causes a particular question in the public's mind: What kind of fair-handed investigation was done by authorities and what evidence was reviewed?"

Cotter, the former federal prosecutor, said there's a simple answer to those questions: politics.

"This is about votes," he said. "It's about politics. It's about some prosecutor trying to burnish their brand, looking at voters, and saying 'Who can I prosecute that will give me the most votes?' and, 'If I prosecuted these other guys, would that give me votes or cost me votes?'"

The San Diego District Attorney's Office did not agree to an interview with *USA TODAY*, but provided a statement including:

"When evidence and facts support criminal charges, we will file them, as we did in July 2020 with a white supremacy group that attacked Black Lives Matter peaceful protesters and when we charged a white supremacist with murder and a hate crimes allegation for killing an innocent Jewish woman at the Chabad of Poway synagogue in April 2019. We obtained convictions in both cases."

Prosecutors want victims' names hidden

In an unusual legal twist, the prosecutors of the San Diego case asked the superior court judge overseeing it to grant a protective order forbidding the defense attorneys from copying or sharing any documents that identify the alleged victims of the attacks by Antifa with anyone outside the legal team.

That means even if they're asked, the defense attorneys can't provide documents identifying who the alleged victims are, even to their clients.

The move, usually reserved for cases involving organized crime like the mafia or gang cases, is designed to protect witnesses and victims from being further targeted by their aggressors. In this case, the prosecutors argued, the victim's names needed to be kept secret because they might be targeted by Antifa's network of online sleuths, who might "doxx" them – a slang term for publishing personal information about someone on the internet, for the purpose of intimidating or encouraging others to target them.

The timing of the protective order was unusual, too.

The names of several of the victims have already been shared by Antifa-affiliated social media accounts multiple times. Indeed, in making their case to the judge that the names should be kept secret, prosecutors presented a screenshot of a local anti-fascist Twitter account sharing the names of several people *USA TODAY* confirmed are among the victims attacked by Antifa. That screenshot remains in publicly available court records.

A *USA TODAY* investigation found that people named in that tweet have histories of associating with white supremacist organizations and local racist groups in the San Diego area. They include two people from San Diego who have been identified by activists marching in several pro-Trump rallies wearing shirts emblazoned with the logo of American Guard, which the ADL describes as "Hard core white supremacists" and which grew out of two other racist organizations.

Almost all of the victims referred to in court documents only by their initials have long been well-known to local anti-fascists. Indeed, that's why they were targeted with violence in the first place, three local anti-fascist sources told *USA TODAY*.

USA TODAY confirmed the names publicly announced by the Antifa Twitter account @SDAgainstFash with one of the defense attorneys on the case.

Antifa both 'a real thing' and a boogeyman

Perhaps more than any other extremist group in America, Antifa has been hard for academics and experts to pin down.

Unlike the Ku Klux Klan, which has a defined leadership structure, or the Proud Boys, which has a clear membership process, Antifa typically eschews any sort of organizational architecture. There's no central leadership, no set membership process, and no real prerequisites for being an anti-fascist other than simply acting like one.

Plus, anti-fascist activists constantly engage in a semantic dance, employing the rejoinder "If you're not anti-fascist, then you're fascist," defying easy answers about whether anyone is a movement member.

This vagueness has led to a concerted effort by far-right-wing commentators, conspiracy theorists and pundits to discredit Antifa whenever possible. In the absence of a clear definition of the group, Antifa is often portrayed, even on mainstream channels like Fox News, as a highly organized, malevolent force with massive numbers and a clearly defined goal: To sow chaos and disorder on America's streets.

Anti-fascists certainly do communicate with each other, said Mark Bray, a lecturer in history at Rutgers University and author of "Antifa: The Anti-Fascist Handbook." Anti-fascists in certain regions occasionally hold meetings, but the movement is still far from the regulated force that has been depicted.

“As it's become something more well known, it's become a real thing, but it's also become a boogeyman,” Bray said. “A very common phrase in right-wing circles is ‘BLM-slash-Antifa, which is, I think, essentially, their way of saying violent black leftists and violent white leftists.”

Stephan’s 2018 campaign website appeared to endorse this perception of Antifa. The website, which disappeared after negative media attention, claimed that left-wing philanthropist George Soros funded “anti-law enforcement candidates over experienced prosecutors, trying to tip the balance to the criminals.”

In 2020, Stephan again made headlines after her office charged Black Lives Matter activist Denzel Draughn with eight felonies after Draughn pepper-sprayed SDPD officers he said were attacking a fellow protester. Draughn was acquitted of all the charges at trial.

Dawn Perlmutter, the main expert witness who will testify about Antifa for prosecutors, also has a history of writing for right-wing websites. Perlmutter is an academic who teaches police departments about symbology and extremist movements, but she is also an adjunct professor of osteopathic medicine.

In one article, she described the Black Lives Matter racial justice movement as an “anti-police hate fest.” She decried pro-BLM protestors as “self-loathing affluent white middle-aged women attempting to show how woke they are.” Perlmutter acknowledged to *USA TODAY* that she wrote the stories.

The San Diego prosecution aims to prove that the black-clad people who committed violence on Jan. 9, 2021, in Pacific Beach weren’t just fired up by a common philosophy or hatred of Trump, or animosity towards authority. By charging the defendants with conspiracy, the prosecutors want to make the case that they acted more like a gang, with a unified goal, common symbols and shared tactics.

From a strictly legal perspective, that could have a significant impact on the defendants who are charged with conspiracy, because the charge could effectively double their sentences for other crimes.

But cases like this aren’t just about the individual outcomes for the San Diego 11, said Cotter, the former federal prosecutor. In a country supercharged by political division, animosity and violence, prosecutions like this are often as much about sending a message out into the world as they are about bringing justice to people who may well have committed crimes, he said.

“If a prosecutor anywhere is successful prosecuting any kind of unusual new kind of case, other prosecutors pay attention,” Cotter said.

He compared the Antifa case to the widespread prosecution of American labor organizers in the early 20th Century. Until unionization was protected by Congress, the movement was a soft target for conservative lawmakers obsessed with targeting progressive causes, Cotter said.

“Prosecutors are politicians looking for ways to build their brand,” he said. “If it’s politically to their advantage to be seen prosecuting these kinds of cases, whether it’s Antifa or Hells Angels, or Mexican drug cartels, then other prosecutors pay attention and say, OK, well maybe there’s a blueprint there.”

One of the San Diego 11 remains in custody. He and the other 10 defendants face a trial that has been continually delayed but will likely start in the spring.

The trial will be closely watched not just by anti-fascists across the country, but also by conservative pundits, politicians and prosecutors who will finally see whether their perception of Antifa as America’s dark, mysterious underbelly really stands up in court.

21 Sept - Certain Days 2023 calendar is now available for pre-order!

We are happy to announce that sales for the 2023 Certain Days: Freedom for Political Prisoners Calendar (their 22nd edition) have begun!

MORE:

How to order the *Certain Days* calendar:

- U.S via Burning Books: burningbooks.com/products/certain-days-the-2023-freedom-for-political-prisoners-calendar
- Canada (1-9 copies) via Left Wing Books: leftwingbooks.net
- Canada (bulk. 10+ copies): certaindays.org/order
- Prisoner copies (\$8 & only for people in prison and jail): certaindays.org/order/prisoners

The *Certain Days: Freedom for Political Prisoners Calendar* is a joint fundraising and educational project between outside organizers across North America and political prisoner Xinachtli (s/n Alvaro Luna Hernandez) in Texas. We were happy to welcome founding members Herman Bell and Robert Seth Hayes (Rest in Power) home from prison in 2018, and founding member David Gilbert home from prison in 2021. We work from an anti-imperialist, anti-racist, anti-capitalist, feminist, queer- & trans-liberationist position.

This year features art and writings by Zola, Jeff Monaghan and Andy Crosby, Killjoy, Noelle Hanrahan, Juan Hernandez, Dan Baker, Antiprodukt, Upping the Anti, Katy Slininger, David Gilbert, Paul Lacombe, Garrett Felber, Oso Blanco, Mark Tilsen, Terra Poirier, Steve McCain, Lawrence Jenkins, Ed Mead, Windigo Army, Dio Cramer, Scott Parkin, Seize the Mean and Cindy Barukh Milstein.

Proceeds from the *Certain Days* 2022 calendar were divided amongst Release Aging People in Prison (RAPP), Mutulu Shakur legal support, Sundiata Acoli release fund, Palestinian Youth Movement, Burning Books expansion, Puget Sound Prisoner Support, Coalition to Decarcerate Illinois, Appalachians Against pipelines, Community Resource Initiative- CA, P4W Memorial Collective Prisoners' Justice Day healing circle, Wet'suwet'en Solidarity Fund 2022, Cascadia Forest Defenders and NorCal Resist. Proceeds from the 2023 calendar will go to some of the same grassroots groups and more.

25 Sept - The Integrity of Marius Mason

This week, Kite Line shared the second part of a recorded discussion hosted by the Civil Liberties Defense Center (CLDC). Listen at wfhb.org/news/september-23-2022-the-integrity-of-marius-mason

MORE:

CLDC has been at the forefront of anti-repression legal work for decades now, working on many of the Green Scare cases, in which the FBI infamously hounded and smashed radical environmental organizing between 2000 and 2008.

In this discussion, Chava and Lauren speak with Letha, a long-time supporter for Marius Mason, who is the last remaining Green Scare prisoner. Marius is a former Bloomington resident whose public organizing and clandestine acts of sabotage in the 1990s presaged many of the ecological concerns which have now become global issues as we face climate catastrophe. Marius was harshly sentenced – to almost 23 years in prison – for acts of sabotage against logging, highway construction, water privatization schemes, and corporate genetic engineering. He came out as a trans man while inside and is being held at the federal prison in Connecticut. You can find out more about how to support Marius at supportmariusmason.org

25 Sept - Running Down the Walls 2022: A Reportback

Running Down the Walls 2022 felt like a homecoming. Those of us in NYC ABC got to catch up with long-time comrades and meet new folks, many of whom have taken on amazing projects.

MORE:

We shared food, heard statements from some of the political prisoners taking part from behind the walls, and raised much-needed funds for the Anarchist Black Cross Federation Warchest Program and Roots

Unbound. But that's not why you're reading this, right? You're more interested in the tedium of logistics. How the day came together. What protocols we adhered to for safety under the reality of an ongoing global plague. Right? RIGHT?!? No? Well, we get it. Organizing is rarely glamorous, and the hard work of supporting political prisoners is not romantic—in more cases than not, we don't "win." We have aging comrades dying behind these walls and it's not benign neglect by the state, but rather the continuation of a war against oppressed folks they picked centuries ago. We see folks targeted for resistance to capitalism and the logic of "resource extraction," whether the resources they plunder are the earth and everything living on it, or the labor we're forced to sell just to survive.

It would be easy to see the escalating repression, throw our hands up, and walk away. But where does that leave those with whom we share affinity and are either locked up, or facing it as a likely reality? Nowhere good, that's for certain. So, we keep it moving, figuratively and literally. Which brings us back to this report back.

The day started like many other RDTW days, with the juggling of finding parking, locking down the spot we use for gathering before and after the event, and getting set up. We scheduled the event this year to coordinate with others across the country, later in the year than typical, which left us concerned over potential bad weather (READ: hurricane season). But the nefarious cabal of weather controllers couldn't hold down the popular will to enjoy a day in the park, so we enjoyed great weather. Once set up and ready, we waited for folks to arrive and arrive they did. Crews and individuals showed up early and we had a big crowd well before the 2:00pm event start time. "Wait, you started on time this year?" you might ask. Well, no. Anarchy time is a strange companion, after all. However, by shortly after 2, we took a group photo and made our way to the starting line. From there, we explained to those who showed up for a 5k with no context (surprisingly there were a few, thanks to promotion on a local runner's forum), what Running Down the Walls is, who it benefits, and the route of the 5k. And then they were off!

Some took the 5k seriously and asked for their lap time, but most folks showed up for a good time and camaraderie regardless of how they took part in the event. In the end, everyone enjoyed themselves and after eventually cooling down and hydrating, we heard from Roots Unbound and from imprisoned comrades, the latter by way of pre-written statements they wrote for the event. All told, we had over 80 folks show up throughout the day and raised over what we set as this year's goal. In the middle of all of it, we were able to talk with a lot of passersby, give away a lot of literature, and get the word out about political prisoners in the so-called USA.

That's what's up and that's how we get down (the walls).

September 27th - Hundreds Take Part in Running Down the Walls Events, Raising Thousands for Political Prisoners

via It's Going Down

In early September, various Anarchist Black Cross chapters held the annual Running Down the Walls 5K events. Since 1999, prisoners and supporters throughout North America have participated in Running Down the Walls (RDTW) often running or walking simultaneously in many cities and prisons at once. This is a non-competitive 5K run/jog/walk/roll in order to raise awareness and funds for political prisoners. Over the years, we have raised thousands of dollars and lots of awareness around the struggle to free political prisoners. Below is the run-down of Running Down the Walls 2022. Feel free to donate at abcf.net/warchest-program

Chicago, Illinois (September 10th)

#RunningDownTheWalls went down in Chicago 2022, surrounding Cook County Jail for a day of solidarity actions in support of political prisoners and the movement to #FreeThemAll. We marched in the streets around that abysmal dump with chants and cheers, making contact with people inside on all sides of the jail. Then, we did it again, jogging the 5K! Shout out to all the bands who put on an epic generator show outside the jail, sharing music with the people inside! Appreciations to @rpsolidarity for providing food and refreshments.

RDTW raised funds for both the ABCF Warchest and Midwest Books to Prisoners. We read statements prepared for the event by imprisoned comrades Oso Blanco and Dan Baker, and we signed cards for political prisoners supported by the program.

Philadelphia, Pennsylvania (September 11th)

A little drizzle didn't stop the people from coming out for Running Down the Walls 2022 in Philadelphia on September 11th. A group of about 150 came together in FDR park, along with 50 or so participating remotely – inside and outside prisons – to raise funds and strengthen solidarity with political prisoners. This year, proceeds were split between the ABCF Warchest and the Philly chapter of the Malcolm X Grassroots Movement. Together we raised \$11,607, with \$5,803.50 going to each.

Richmond, Virginia (September 17th)

James River Anarchist Black Cross held our first ever Running Down the Walls on September 17th. It was a sunny and pleasant Saturday in Chimborazo Park. Before the run/walk/roll, Jihad Abdulmumit, former political prisoner and current chair of the Jericho Movement, spoke on the importance of the Warchest and how he appreciated the cash when he was locked up. After the 5k we had a potluck, raffled off a bunch of books and t-shirts, and chilled out in the park for a few hours.

Overall, we had 25+ people participate and raised over \$500 which we split between our local work and ABCF Warchest. We hope to raise even more next year!

Hamilton, Ontario (September 17th)

September 17th was a beautiful and sunny day to run down the walls in Hamilton, Ontario, Canada (the traditional territories of the Erie, Neutral, Huron-Wendat, Haudenosaunee and Mississaugas).

We gathered at Bayfront Park for a 5k run, walk and roll. As we started our run, we read the inspirational words of Eric King, Oso Blanco and Dan Baker.

Thanks to our generous supporters, we raised over \$1,000 to donate to the ABCF Warchest and locally, Barton Prisoner Solidarity Project.

Austin, Texas (September 17th)

Re-cap coming soon.

Lowell, Massachusetts (September 18th)

Before our run we mentioned the recent visit by Philly ABC with Toby Shone in the UK. We gave solidarity shout outs to Oso Blanco, Eric King, and Dan Baker. We reminded people of the many Black liberation prisoners who have been sitting behind bars for 50 plus years and getting a lack of support.

We had about 12 people run. We hope to establish a RDTW committee next year to make organizing more effective in the eastern Massachusetts region.

Los Angeles, California (September 18th)

On September 18th, the Los Angeles chapter of the ABCF joined in with other cities across North America in the annual Running Down the Walls. With the origins of the annual run rooted in the hills above Los Angeles (first run being in Griffith Park in 1999), we returned to the hills, this time being in Elysian Park. As tradition, we began the run with a reading of several statements from our comrades behind the walls with statements from Oso Blanco, Eric King, and Xinachtli.

Afterwards, we spoke on the tradition of the run and the fact that across the North America people were coming together as one in support and solidarity for political prisoners. We highlighted that this event also helped to fund the ABCF Warchest and the explained how the Warchest helps support political prisoners through monthly stipends and emergency assistance. Just last year alone, the Warchest disbursed \$30,000

to comrades in needs. It is because of the support from folks on the outside that we can do this type of mutual aid.

When the run began, the path overlooked the Dodger's Stadium along with the city's beautiful scenic skyline. Southern California suffered weeks of scorching and record-breaking temperatures, but it seemed the heat wave broke just for our event. Instead of the heat, we were gifted with mild temperatures, overcast skies, and a perfect breeze to cool off those participating in the event.

While the number of participants were smaller than normal, we attribute that to the last couple runs being organized as remote runs due to the pandemic. However, with our online campaign and the funds that have come in on the day of and post run, we have raised over \$3,000 for the ABCF Warchest. We know that these funds are desperately needed and will go to good use.

Pomona, California (September 18th)

ABCF-OC is happy to report that our second annual Pushing Down the Walls event was a terrific success. This year's event was held at the Por Siempre art space in so-called Pomona.

Through a combination of online/virtual fundraising, sales of books from PM Press, prints from N.O. Bonzo, zines from our comrades at Brittlebush Distro, patches, custom t-shirts, pins, and stickers, burpee sponsorships, and cash donations from attendees the day-of, we were able to raise a total of \$2,209.95. Of that total, \$200 was donated to the surviving family and loved ones of Chilean water protector, Macarena Valdes, who was murdered by the Chilean State for her role in defending sacred Mapuche land from the encroachment of RP Global, a multi-national energy corporation headquartered in Austria. An additional \$250 in funds were also raised through the sale of custom t-shirts and postcard sets featuring original artwork from our friend and comrade, Oso Blanco. These funds will be deducted and donated in accordance with his wishes.

Along with the burpee marathon, the event featured live music, DJ's, a statement from supporters of Macarena Valdes and statements from our incarcerated comrades Sean Swain, Oso Blanco, and Dan Baker, and amazing food and drinks from a local taqueria. We want to offer our sincerest thanks to the vendors, musicians, artists, organizations and individuals whose commitment and participation helped make this year happen. We look forward to next year's event and are stoked to keep building, building it bigger through continued dialogue and collaboration, and—above all—to keep doing more to keep on supporting our imprisoned comrades.

Portland, Oregon (September 18th)

A big thank you to everyone who came out to make #RDTW2022 in PDX a success — we raised at least \$1,250 for the ABCF Warchest! Your solidarity is appreciated and necessary for working towards a world without prisons.

27 Sept - Jails Boss Urged Man's Release in Apparent Bid to Limit Rikers Death Toll

Louis A. Molina, New York City's jail commissioner, told his senior staff to ensure that a dying man was "off the department's count."

MORE:

by Jan Ransom (*New York Times*)

After learning that a man held at the Rikers Island jail complex had suffered cardiac arrest and was on the brink of death, Louis A. Molina, the commissioner of the New York City Department of Correction, issued a directive to his subordinates.

"Make sure we do what we can," Mr. Molina wrote on Thursday in an email obtained by *The New York Times*, to ensure the man was "off the Department's count."

Hours later, after the man, Elmore Robert Pondexter, was granted a so-called compassionate release from detention, he was taken off life support and died at Bellevue Hospital. Because he had been freed, the Correction Department did not count his death as having occurred in its custody, issuing no news release and providing no notice to the city's Board of Correction, a jails oversight panel.

Mr. Molina does not have the authority to free people from custody on his own, and how much weight his directive carried in the ultimate decision to release Mr. Pondexter was not clear. But the direct involvement of the city's top jail official appeared to show the lengths to which Mr. Molina was willing to go to keep the death figures down.

And although other jail officials have not counted deaths that occurred after ailing detainees were freed, Mr. Molina issued his instruction while under intense pressure to show improvements on Rikers Island — or risk a federal takeover of the city's troubled jail system.

In a statement late Monday night, Danielle De Souza, a Correction Department spokeswoman, denied that Mr. Molina emailed his subordinates out of concern for the department's death numbers, calling that interpretation "incorrect and offensive."

"Let's be clear — the department strongly supports compassionate release only because it allows for family members to spend time with the individual when they need the most care and support, and never to influence departmental statistics," Ms. De Souza said. "The language used by Commissioner Molina in that email is technical in nature — removing someone off the department's 'count' allows for them to spend time with their family with maximum privacy."

Still, four city officials who viewed Mr. Molina's email last week said they all read it as an instruction from the commissioner to ensure Mr. Pondexter was not counted as having died in custody. The officials spoke on condition of anonymity because they were not authorized to discuss internal city dealings.

Across the United States, many criminal justice systems make a practice of occasionally releasing people who are elderly, incapacitated or gravely ill, and lawyers for those incarcerated in New York City jails often seek compassionate release on behalf of ailing clients.

Indeed, after Mr. Pondexter, 59, was stricken on Rikers Island last week, his attorney pressed for him to be freed so that he could die surrounded by family. Only after his death did those family members realize that the practice could be used to avoid accountability.

"At first we were happy he died with dignity, and we knew he wouldn't die a prisoner," said Aquandra Morris, 43, one of Mr. Pondexter's three children. "But, then I thought about it — something is not right. They are trying to relinquish their responsibility."

Ms. De Souza said on Monday that the Correction Department extends its "deepest condolences" to Mr. Pondexter's loved ones.

Over the past two years, as the city's jail system has reeled from a staffing crisis that caused breakdowns in the basic supervision and care of detainees, it has been harshly criticized for its seeming inability to safeguard jail workers and detainees alike. As a judge in recent months has weighed whether to appoint an outside official to oversee the jails, the number of deaths in the system has been an important metric.

At an unrelated news conference on Tuesday, Mayor Eric Adams defended Mr. Molina, saying the commissioner was trying to show compassion to Mr. Pondexter and his family.

"If we get it from under the Department of Correction, then we can treat that family in a humane way," Mr. Adams said, describing Mr. Molina's thinking. "That's what he was saying. They're able to come visit their loved one without him being shackled to the bed, without correction officers standing around them. That

shouldn't be the last image that a family member sees if you know someone is about to transition. It was very thoughtful for him to do it."

Aside from Mr. Pondexter, the Correction Department under the Adams administration has freed at least one other incarcerated person before he died — Antonio Bradley, 28, who had tried to hang himself in June while unsupervised in a pen at the Bronx courthouse.

Mr. Bradley's death, too, went unrecorded in the Correction Department's official count of in-custody deaths. Sixteen people have died this year after being held in the jail system, as many as died in all of 2021.

Incarcerated people have also been released from city jails after suffering serious injuries, including under former Mayor Bill de Blasio's administration. In March, *The Times* reported that Mr. de Blasio's Correction Department had freed two men who were grievously injured in separate jail house fights. One was paralyzed from the neck down and the other spent six weeks in a coma, and neither man's injury was properly documented in jail records.

On at least one other occasion in the past year, Mr. Molina stepped in personally to advocate for releasing an incarcerated man after the detainee fell seriously ill while in the Correction Department's custody.

Walter Turner, 42, had been held on Rikers Island on gun and drug charges for about a week when he began complaining of severe stomach pain in late April. Given only Tylenol by jail medical staff, he visited the jail clinic about six days later, and a doctor noted that his heart rate was elevated and his stomach was swollen and tender, according to jail records and Mr. Turner's mother, Roslyn Greene-Turner. He was taken to Elmhurst Hospital that evening, where testing showed he was septic and in need of immediate surgery.

On the operating table, Mr. Turner went into cardiac arrest and suffered a decrease in brain function, according to his lawyer, Patrick Watts, Ms. Greene-Turner and records obtained by *The Times*. After many surgeries, doctors concluded he would never regain "meaningful consciousness," jail records show.

As Ms. Greene-Turner was still absorbing that news, Mr. Molina arrived at the hospital and promised to see the charges against Mr. Turner dropped and to "get him out of custody," she said. But Ms. Greene-Turner initially refused, concerned it would mean the jail system would escape scrutiny for what she considered lapses in her son's care — and that she would be saddled with the resulting medical bills.

Soon after, another city official reached out about granting Mr. Turner a compassionate release, she said, but again she declined. Only after she realized that Mr. Turner could not be transferred to a long-term care center while he was still incarcerated, and her family's access to him was restricted to not even allowing a pastor to visit, did she relent, she said. She added that she believed the restrictions were meant to pressure her into giving her consent.

Ms. De Souza, the Correction Department spokeswoman, said Ms. Greene-Turner was mistaken in that belief. "The department's treatment of those in its custody is never influenced by whether a family accepts compassionate release or not," Ms. De Souza said.

In June, Mr. Turner was transferred to a nursing facility in the Bronx.

"I wanted them to be accountable," said Ms. Greene-Turner, 75. "They put him in the hospital."

In a statement on Tuesday, the board that oversees the Correction Department said that the department failed to notify board members about the cases of Mr. Pondexter and Mr. Turner despite legal requirements that it do so. The Correction Board also said it would investigate whether the department pressured Mr. Turner's mother to sign off on his release.

"Compassionate release from jail for people in custody is an important tool for achieving justice, fairness, and death with dignity," the statement said, adding that the cases reported by *The Times* "have raised concerns about proper reporting and transparency."

Unlike during past administrations, the Correction Department under Mr. Molina has taken a special interest in whether people in custody have fallen ill and might be at risk of dying, and thus are eligible for compassionate release, according to people familiar with the matter. Officials even check in periodically with medical staff for updates, the people said.

In the days before he was released, Mr. Pondexter, who had been held on Rikers Island since April 2020 on charges of rape and related offenses, complained to his sister and daughter that he was having chest pains and difficulty breathing, they said.

Mr. Pondexter, who had been housed in one of Rikers Island's most heavily staffed intensive-care psychiatric housing areas, collapsed at about 5 a.m. on Sept. 18, shortly after leaving his cell, according to jail records and two people with knowledge of the incident. A still image taken from a video shows Mr. Pondexter, clad in beige institutional clothing, sprawled on the gray tile floor at the base of a stairway.

At the hospital, tests revealed no urgent problems, one of the people said, but the next day, Mr. Pondexter went into cardiac arrest and, though his heartbeat was restored, he did not regain consciousness.

Days later, doctors determined he was brain-dead, the people said. His lawyers with the Legal Aid Society began pressing for his release, and Brooklyn prosecutors and state parole officials — who had issued a violation hold — eventually consented to it.

Just before 11 a.m. on Thursday, Mr. Molina was made aware that the release could be delayed, department emails show. Mr. Molina responded by urging his staff to keep Mr. Pondexter off the department's count.

Mr. Pondexter was taken off life support at Bellevue Hospital that afternoon. In a statement, the Legal Aid Society, the largest public defender organization in NYC, said the department's actions and a lack of transparency supported the argument that the judge should appoint an independent official over the jails.

"Mayor Adams and Commissioner Molina have demonstrated that they will not or cannot keep people safe in the New York City jails," the statement said. "We expect the department to be accountable for their actions in Mr. Pondexter's final hours. To date, the department has failed to demonstrate accountability for the death toll, but instead rests in obfuscation and delay."

In response to questions about Mr. Pondexter from the Board of Correction on Friday, Mr. Molina replied that the detainee was no longer in city custody, according to an email obtained by *The Times*.

"I have not been notified of his current health status as he is no longer under the Department's custodial care," Mr. Molina said.

28 Sept - Claustrophobia

We are pleased to publish the following by Virgin Island III political prisoner Hanif Shabazz Bey

MORE:

I exist in a claustrophobic environment
So, when I depart my cell I have entered the claustrophobic state of mind
but when I return to my cell (9 by 12 feet)
I am free from the "Claustrophobic Apathy"
In the cell "inclusion", "diversity" and "equality" reign,
and everything in the cell receives its respect

Outside the cell everything is subject to limitation,
while in the cell you can chart your own place of travel
So, I would speculate that a little bit of “isolation” can cure a whole of claustrophobia

4 Oct - Free Mutulu NOW - Petition Drop & Other Ways To Support His Survival

Even if you're far from DC, there are other ways you can support Dr. Shakur where you are. We must rally to save the life of this community healer and struggler for all of us! Scroll down to #3, 4 & 5 below.

MORE:

Thank you for your continued support to free Dr. Mutulu Shakur, father, grandfather, healer, human rights organizer, and revolutionary political prisoner, who has been incarcerated for 36 years. We come to you again with an urgent call to action:

On Friday, October 7th, at 12PM EST the Malcolm X Grassroots Movement, the #FreeMutuluNOW campaign, and supporters of Dr. Shakur will deliver over 60,000 petition signatures to the U.S. Parole Commission and the U.S. Department of Justice calling for the immediate compassionate release of elder Dr. Mutulu Shakur. The petition delivery will take place a week ahead of the upcoming parole hearing for the dying 72-year-old acupuncturist activist, who has stage three bone marrow cancer and been given less than 3 months to live.

8 Oct - Free Leonard Peltier Event

WHAT: Public Event

WHEN: 1:00pm, Saturday, October 8th

WHERE: People's Forum - 320 West 37th Street, NYC

COST: FREE

MORE:

With Dan Battaglia, International Leonard Peltier Defense Committee Secretary;
Lenny Foster, former director of the Navajo Nation Corrections Project and Leonard's spiritual advisor;
Kevin Sharp, Leonard Peltier's Lead Attorney. Cultural warriors to be announced. Contact nycjericho@gmail.com for details. Livestream link: youtu.be/Me1MiqRECfA

Sponsored by: ILPDC, NYC Free Peltier, NYC Jericho Movement, The ProLibertad Freedom Campaign, Certain Days Calendar Committee, NYC ABC, New Abolitionist Movement

8 Oct - Defend/Defund

WHAT: Exhibition Opening

WHEN: 3:00pm, Saturday, October 8th

WHERE: Interference Archive - 314 7th Street, Brooklyn

COST: FREE

MORE:

Defend/Defund looks at resistance to policing and police brutality in the 20th and 21st centuries in the United States. This exhibition focuses on the work of Black organizers and the families of victims of police violence who have fought the often-brutal occupation of their communities. It also looks at allies and co-conspirators in the movement including Indigenous, Asian American, Latinx, and queer organizers. Click this link to read more on our website

9 Oct - Copaganda and the Press

WHAT: Presentation/Discussion

WHEN: 6:30pm, Sunday, October 9th

WHERE: Interference Archive - 314 7th Street, Brooklyn

COST: FREE

MORE:

RSVP to attend: interferencearchive.org/event/copaganda-and-the-press

Join us for a talk with civil rights lawyer Alec Karakatsanis about how the mainstream press normalizes and obscures police violence and how the media perpetuates a false narrative linking cops to public safety. Why are there so many stories about crimes by the poor and so few about harm caused by the wealthy? Why do most stories about crime simply quote the perspective of cops and prosecutors?

15 Oct - MACC Care Assembly

WHAT: Assembly

WHEN: 5:00pm, Saturday, October 15th

WHERE: Tompkins Square Park - East 10th Street, NYC

COST: FREE

MORE:

The Care Assembly is a space for requesting and offering mutual aid, which includes some political education and training of some kind. Someone will prepare some information and hold space for sharing knowledge about a topic and someone will be leading community & self-defense fight training.

SCHEDULE

5-5:45pm: Facilitation Training!

5:45-6:30pm: Facilitation Role Play Exercise

6:30-7pm: Food and Care exchange

7-8 pm: Fight Training