

The New York Three
History and Case Background
February 2002

On May 21, 1971, two New York City police officers were fatally shot. This shooting occurred within the context of two major national trends: the growth of black revolutionary groups such as the Black Panther Party for Self-Defense and, later, its armed wing, the Black Liberation Army; and at the same time, the FBI operation under Director J. Edgar Hoover, with the cooperation of the Nixon administration, to destroy the leaders and memberships of both mainstream civil rights and militant black organizations. This counterintelligence operation, called COINTELPRO, targeted black leaders by infiltrating the Black Liberation Movement, framing members of the movements for crimes, and even murdering them, in order to get them off the streets and out of contact with the community. The shooting of these two police officers also came immediately after the infamous trial of the "Panther 21," a case in New York against 21 members of the BPP charged with planning "terrorist" acts. After nearly a two year trial all 21 defendants were acquitted.

On May 26, 1971, only 5 days after the crime FBI Director Hoover was called to the White House, and in a secret meeting with President Richard Nixon, John Erlichman, the Domestic Advisor to the President, as well as members of the Watergate plumbers. They discussed this case and established the FBI would solve the crime under the code name NEWKILL, or New York killings. It is believed that in this meeting, the FBI and White House conspired to frame Black Panthers for the killings.

Furthermore, on May 19, 1971, only three days before the shooting, two other NYPD officers were injured. Dhoruba bin Wahad (formerly Richard Moore), was convicted in that case and served 19 years in prison for attempted murder. At the time of his arrest, Dhoruba was a ranking member of the Black Panther Party and a target of COINTELPRO. Eventually, in 1990, he was released due to a successful appeal based on information found in COINTELPRO documents, which detailed how evidence was manufactured and testimony perjured. Similar evidence has not been allowed as evidence in the case of the New York 3.

Three months after the killings, on August 28, 1971, Jalil Abdul Muntaqim (Anthony Bottom) and Albert Nuh Washington were arrested in San Francisco during an armed confrontation with police. Their arrests came only one week after the assassination of BPP Field Marshall, George Jackson. They were later charged with the New York killings. Nearly two years later, Herman Bell was arrested in New Orleans. Also arrested and charged in the case were Gabriel and Francisco Torres although charges the two brothers were acquitted due to lack of evidence.

The first trial, then against the New York 5 (including the Torres brothers), ended in a mistrial. In that trial only one vote was cast to convict Nuh Washington. The Torres brother were acquitted in the second trial. But at the end of a second trial, in 1975, the New York Three—Nuh, Jalil, and Herman—were convicted of first degree murder, weapons possession, and conspiracy.

The hung jury in the first trial was largely due to the jury's doubt that a fingerprint near the scene of the crime belonged to Herman Bell. In order to ensure that this piece of tampered evidence would uphold in the second trial, the FBI was brought in to back up the findings of the NYPD. What wasn't presented to the jury was that the FBI and the NYPD had different stories as to whether the fingerprint matched Bell or not. The

defense argued that the print-had actually been lifted from Jalil's San Francisco apartment by the FBI. This is only one example of how the NYPD and FBI worked together to ensure a conviction in the second trial.

All three members of the New York Three were specifically named in COINTELPRO documents as members of the black liberation movement who had to be "neutralized." These documents, and the media smear campaign enacted by the FBI and the White House, claimed that these community and human rights activists were "terrorists". This domestic program of political repression was revealed by a 1976 congressional committee, the Church Commission, to have utilized extra-legal methods to neutralize social justice movements, including surveillance, beatings, torture, harassment, instigating violent feuds between rival individuals and organizations, coercion and intimidation of witnesses, isolating and badjacketing influential leaders, as well as outright murder. In fact, a major reason that many BPP and BLA members were forced to go underground and arm themselves was the deadly FBI-instigated split in the party between factions led by Eldridge Cleaver and Huey P. Newton.

Despite the media perception that the BPP were "terrorists," the main activities conducted by the New York Three and other members of the BPP were running programs designed to serve the community, such as the Free Breakfast program for children; health care programs, such as sickle-cell anemia testing and lead poisoning prevention; legal and political education; and anti-drug activities.

The BPP helped tenants fight slumlords and demanded traffic lights and speed bumps on streets where it was unsafe for children to play. It is also true that the BPP were an armed group. The decision to arm BPP members stemmed from the need for a solution to the massive police violence that plagued the communities where the BPP operated. At the time, in communities like Oakland, CA, black youth were being blatantly murdered by police on a regular basis. They patrolled the community, ensuring that the police followed proper search and arrest procedures. They studied the law and informed community members about their rights. The guns involved in the BPP were only for Self Defense. It was for these acts that they were targeted, not for illegal activity. Furthermore, the BPP and the BLA actively fought drug dealers in the community. They viewed both the police and the drug dealers as enemies of the community. They chose to address this problem "by any means necessary."

Clearly, the NY3 and other political prisoners are imprisoned not because of crimes they actually committed, but for their political activity and J. Edgar Hoover's racist and personal war against members of the black liberation and civil rights movement.

The New York Three continue to fight for their freedom and maintain their innocence. Herman and Jalil are now two of the longest held political prisoners in the US. Each member of the NY3 has served almost 30 years. On April 28, 2000, Albert Nuh Washington passed away after a long, painful battle with liver cancer. Jalil and Herman are currently serving their sentences.

Facts of the Case of the NY3

Below are the shocking facts of the case of the New York 3. This case is a most egregious example of the failure and manipulation of the court system and democracy in the US, a clear picture of the activities of J. Edgar Hoover's FBI and subsequent results of their COINTELPRO operation to "neutralize" and destroy the Black Panther Party.

Evidence Used Against Herman Bell: Testimony of Ruben Scott, fingerprint found on car near the crime scene

Evidence Used Against Jalil Anthony Bottom: A gun in his possession at the time of his arrest, testimony of two women who knew the NY3, identification by uncertain eyewitness to the crime

Evidence Used Against Albert Nuh Washington: association with the Black Panther Party and his two co-defendants

These facts dispute the case of the prosecution and the above listed evidence:

Fact: The prosecution concealed an FBI ballistics report indicating that the gun found in Jalil's possession at the time of his arrest, which was introduced against him as the murder weapon, was not the gun used in the killings. The FBI lab found that bullets from a test firing of the gun taken from Jalil did not match the bullets the police had recovered from the crime scene and the victims' bodies. It has been learned that the NYPD ballistics expert committed perjury with the prosecution's knowledge and that the prosecutor withheld the FBI ballistics report from the defense. Essentially, Jalil is in prison on false evidence of having used a weapon that the FBI itself proved was not the murder weapon.

Fact: Apart from Jalil's alleged possession of the murder weapon, the prosecution's case rested mainly on dubious identification by eyewitnesses. At a pretrial lineup, one such witness had "thought" Jalil "might be" one of the killers, while four others said he "definitely was not."

Fact: Herman's friend and co-worker, Ruben Scott, was beaten unconscious by New Orleans police. Scott was tortured with an electric cattleprod and needles to his testicles while being interrogated by NYPD detectives who later promised he would not have to serve any time on a pending murder charge if he testified against the NY3.

- Scott proceeded to fabricate a series of conversations and events that seriously incriminated Herman.
- At his first opportunity for what he thought was a private conversation with an impartial official, Scott confided to the trial judge, Edward Greenfield, that his statements to the police were lies designed to placate them and stop the torture.
- Instead of taking steps to protect Scott, the judge returned him to police custody and immediately notified only the prosecution of this conversation, and that Scott was wavering in his testimony.

- Judge Greenfield withheld this information from the defense for 5 1/2 crucial weeks. Meanwhile, the NYPD detectives who had been present during Scott's torture in New Orleans had the opportunity to persuade him to testify as planned.
- Since the trial, Scott has sworn that what he told the judge was true, and that he lied on the witness stand because he feared for his life.

Fact: Two women who were friends of the NY3 were jailed for nearly a year and a half and separated from their young children. They were repeatedly threatened by the prosecution and told that they would lose custody of their children if they refused to say what the prosecution wanted them to say in court. These women were eventually given monetary rewards for their testimony and had other criminal charges against them dismissed. When one of them was asked while testifying whether a deal was made for her testimony, she said no and the prosecution failed to correct her perjury.

Fact: The FBI and police were unable to explain a series of irregularities which cast doubt on their claim that Herman's fingerprints were on a car parked near the scene of the crime. In the process, two police witnesses insisted that another print from the same car could not be identified. Late in the trial, however, the defense learned that the prosecutor had, with the trial judge's permission, secretly altered the evidence to hide the fact that he and the police knew all along that this print belonged to a potential suspect whose existence was being concealed from the defense. The judge barred NY3 lawyers from informing the jury about the suspect or the perjury and cover-up.

Fact: There is no evidence linking Nuh (now deceased) to these crimes other than his political beliefs and associations. The trial judge hid the inadequacy of the prosecution's case against Nuh through his instructions to the jury, charging that all the evidence applied equally to the defendants.

Fact: Albert Nuh Washington was allowed to refuse legal council, even though Judge Greenfield never ordered the required procedure to ensure Nuh's competence to represent himself. If Nuh had been ensured proper legal council, his case probably would have been dismissed due to lack of evidence.

Fact: The trial judge, immediately prior to charging the jury, prodded the prosecution into asking for a charge on conspiracy saying "Don't you mean that you want a conspiracy charge too?" At which time the prosecution said, "Oh yeah, I want to charge conspiracy too." Even though the NY3 were not indicted with conspiracy, the trial judge charged the jury, utilizing a conspiracy charge, as if the NY3 had been indicted on that charge, despite the fact that there was no evidence presented to support a conspiracy charge.

Fact: The trial judge barred defense attorneys from asking the FBI and police witnesses about their agencies' policy of lying to discredit Black militants and get them convicted on false charges. He improperly limited other cross-examinations, ruled out testimony about violent splits in the Black Panther Party (which could have explained why the defendants had been armed), and denied the defense access to records of payments that the prosecution had made to witnesses.

Fact: When a juror reported receiving threatening phone calls, the trial judge refused to declare a mistrial or even ask if other jurors had similar experiences. Nothing was left to chance; the juror was left with the erroneous impression that friends of the NY3 made the threatening call, and voted to convict.

Fact: On May 26, 1971, 5 days after the crime, then FBI Director, J. Edgar Hoover, was called to the White House, and in a secret meeting with President Richard Nixon, accompanied by John Erlichman, the Domestic Advisor to the President and members of the Watergate plumbers covert operatives. They discussed this case and established the FBI would solve the crime under the code name NEWKILL. Tape recordings of this meeting are being withheld from the defense by the National Archives of the Nixon Library.

Fact: The FBI discovered that a drug dealer had admitted to having the cops killed, stating that the intended targets were NYC Housing Authority cops who were dealing drugs. This information was withheld from the defense by the prosecution and the FBI to ensure the defense would not learn of NEWKILL.

Fact: The FBI learned that the bullets used in the shooting were reloads made by Stephen Tilden, who resided in the Bronx. This information was in the possession of the prosecution and withheld from the defense.

Fact: The NYPD arrested a prostitute who claimed she knew who committed this crime; this witness was never brought to the attention of the defense.

Fact: Ruben Scott's post-trial admission—that he had lied for fear of his life after being tortured by law enforcement officials—should have been sufficient basis for a new trial. But the trial judge tried to suppress the entire matter (including allegations by Scott that pointed to the judge's own misconduct in suppressing Scott's appeal to the judge) by taking no action on a motion for retrial for 14 months. Judge Greenfield refused to take any testimony or even hold a hearing, and finally denied the motion in an opinion which simply repeated the prosecution's distortions of fact and misstatements of law. The appellate court affirmed without any hearing or explanation.

Fact: In 1983, the NY3 again submitted a petition to the trial judge to obtain a new trial based upon exculpatory FBI documentation that had been discovered via the Freedom of Information Act (FOIA). This information had been in the possession of the prosecutor during the trial and had been withheld from the defense. By 1984, the trial judge failed to respond to the motion before him, and in December a motion to disqualify him from continuing to preside was filed because of evidence of the judge's own personal misconduct in the case, which makes him an interested party and likely witness. By October 1985, the trial judge denied both the motion for a new trial and the motion to disqualify himself. Four months later, the appellate court reaffirmed the lower court's decision without a hearing.

Fact: Four months after the 1983 petition for a new trial was filed with the court, all ballistics evidence from the case was removed from the evidence locker and destroyed, preventing the weapon from being retested.

Fact: All convictions were upheld on appeal without any written opinion or other explanation from the court. Such a procedure is virtually unprecedented in a case like

this, which involves a severe sentence and substantial legal issues. When the NY3 sought review by the state's highest court, they were told that they had raised significant issues which merit serious consideration. But they were later informed, again without any written opinion or other explanation, that their case would not be heard.

Fact: In 1992, the NY3 had an evidentiary hearing in the Federal District Court, reviewing the issue of perjured testimony by NYPD ballistics expert and prosecutorial misconduct in withholding exculpatory materials pertaining to the extent of FBI/White House involvement in the case under NEWKILL. The decision of the federal district court judge was that NYPD did in fact commit perjury, but that the perjury was "harmless error."

Fact: The Court of Appeals—2nd Circuit and US Supreme Court refused to hear the appeal of the district court ruling.

Fact: Three stories have been published in three different books, "Target Blue" by Robert Daly, "Chief" by Albert Seedman, and "Badge of the Assassins" by Robert Tannenbaum. None tells the truth.

Fact: Badge of the Assassin was also made into a movie and was run as recently as February 2001 on BET. It has even been run in Brazil. This movie was undoubtedly part of the FBI's media campaign to criminalize political prisoners. In response to this factually inaccurate film. Paper Tiger Television produced a documentary, CBS v. the New York 3 in 1988.

Fact: Assistant District Attorney Robert Tannenbaum has significantly profited from his conviction of the New York 3. Aside from his book and movie, he was rewarded with a highly desired appointment to the 1976 congressional inquiry into John F. Kennedy's assassination. Later Tannenbaum moved to California where he practiced private law and eventually became the Mayor of Beverly Hills.

Anthony Jalil Bottom and Herman Bell have no more legal appeals. Their only outlets for freedom are clemency or parole.

Jalil Abdul Muntaqim

(formerly Anthony Bottom)

Jalil was 19 years old when he was arrested. He is a former member of the Black Panther Party and the Black Liberation Army. For the last 30 years, Jalil has been a political prisoner, and one of the New York Three (NY3), in retaliation for his activism in the 1960s and early 1970s.

Jalil was born October 18, 1951, in Oakland, CA. His early years were spent in San Francisco. Jalil attended high school in San Jose, CA, where he earned a scholarship to an advanced high school math and science program. He also received a summer scholarship for a San Jose State College math and engineering course. Jalil participated in NAACP youth organizing during the civil rights movement. In high school, he became a leading member of the Black Student Union, often touring in "speak-outs" with the BSU Chairman of San Jose State and City College.

After the assassination of Dr. King, Jalil began to believe a more militant response to racism and injustice was necessary. He began to look towards the Black Panther Party for Self-Defense for leadership. After moving back to San Francisco from San Jose, he was recruited into the BPP by old elementary school friends who had since become Panthers.

Two months shy of his 20th birthday, Jalil was captured along with Albert "Nuh" Washington in a midnight shoot-out with San Francisco police. When Jalil was arrested, he was a high school graduate and employed as a social worker.

While in San Quentin prison in California in 1976 before being moved to New York, Jalil launched the National Prisoners Campaign to Petition the United Nations to recognize the existence of political prisoners in the United States. Progressives nationwide joined this effort, and the petition was submitted in Geneva, Switzerland. This led to Lennox Hinds and the National Conference of Black Lawyers having the UN International Commission of Jurists tour U.S. prisons and speak with specific political prisoners. The International Commission of Jurists then reported that political prisoners did in fact exist in the United States.

Jalil put out the call for the Jericho March on Washington in Spring 1998, which was answered by over 6,000 supporters demanding recognition of and amnesty for U.S. political prisoners. The Jericho Amnesty Movement (JAM) aims to gain the recognition by the U.S. government and the United Nations that political prisoners exist in this country, and that on the basis of international law, they should be granted amnesty because of the political nature of their cases.

Since in New York prisons, Jalil wrote and submitted a legislative bill for prisoners with life sentences to receive good time off their minimum sentences. This bill was introduced to the NYS Assembly Committee on Corrections. Jalil has filed numerous lawsuits on behalf of prisoners.

Jalil has received awards of appreciation from Jaycee's, NAACP, and Project Build for his active participation and leadership. After many years of being denied the opportunity

to attend college, Jalil graduated from SUNY-New Paltz with a BS in Psychology and a BA in Sociology in 1994. He would like to pursue his Masters degree, but has not been allowed by DOCS.

During his imprisonment, Jalil has become a father and a grandfather. He states, "I came to prison an expectant father and will leave prison a grandfather." He will appear before the New York State Parole Board in 2002.

Jalil has worked as an educator of other inmates and practices organizing and advocacy whenever possible to ensure the most adequate, humane treatment for all people. He has been repeatedly punished for these activities, through physical abuse, formal discipline, and numerous prison transfers. Jalil is presently working to develop a National Prisoners Afrikan Studies Project (NPASP), a new non-profit organization dedicated to educating prisoners.

Write a Letter for Jalil!

Jalil will be going before the parole board in July 2002, and the Center for Community Alternatives (CCA) is currently working with Jalil to develop a Parole Release Plan to be submitted to the New York State Board of Parole within the next few months.

One way *you* can help is to write a letter explaining why Jalil should be released, and sending it to the Center for Community Alternatives, so that it could be included in his parole packet.

To be most effective we suggest that your letter address some, not necessarily all, the following issues:

1. If you do know Jalil, explain in what capacity, and for how long
2. Point out some of the qualities, and describe some of the qualities that Jalil has demonstrated that the parole board would appreciate:
 1. Compassion
 2. Devoted family member
 3. Teaching and mentoring others
 4. Non-violent
 5. Conflict resolution
 6. Helpful to others
 7. Participation in positive activities and programs
 8. Explain in your view there is a reasonable probability that, if released, he will live and remain at liberty without violating the law
 9. Explain why his release is compatible with the welfare of society
 10. Explain why his release will not deprecate the seriousness of the crime for which he was convicted as to undermine respect for the law

All letters should be addressed as follows:

“To Whom It May Concern” OR

“Dear Parole Commissioners”

Your letters should be mailed to:

Royce L. Hawkins, JD
Mitigation/Sentencing Specialist
Center for Community Alternatives
115 East Jefferson Street, Suite 300
Syracuse, NY 13202

Your letters should be sent to Royce as soon as possible to allow him time to review them all with Jalil, and put them together in the parole plan.

Thank you for your help and cooperation. If you have any questions or suggestions, please contact Royce Hawkins at (315) 422-5638, ext. 220.

Jalil and Herman can be contacted at:

A. Jalil Bottom 77A4283, Auburn Correctional Facility, PO Box 618, 135 State Street,
Auburn, NY 13024

Herman Bell 79C0262, Clinton Correctional Facility, PO Box 2001, Dannemora, NY
12929

Hardcopies of this document can be ordered from:

Solidarity, 2035 Boul. St-Laurent, Montreal, Quebec, Canada, H2X 2T3

This document can be downloaded from:

<http://www.kersplebedeb.com/mystuff/profiles/ny3a.pdf>

<http://www.tao.ca/~solidarity/texts/ny3/ny3A.pdf>