

# NEW YORK THREE FREEDOM CAMPAIGN

2170 BROADWAY, Suite 2234  
New York, NY 10024

## THE CASE OF THE NEW YORK THREE



NUH WASHINGTON



HERMAN BELL



JALIL BOTTOM

### WHY ARE THESE MEN THREE OF THE LONGEST HELD POLITICAL PRISONERS IN THE UNITED STATES?

On May 21, 1971, two New York City policemen, Waverly Jones and Joseph Piagentini, were killed at a Harlem housing project. On August 28th, Albert Nuh Washington and Anthony Jalil Bottom were arrested in San Francisco and charged with these police killings. In 1973, Herman Bell was also charged with this crime, along with Gabriel and Francisco Torres (who later had the charges dropped against them).

The government mounted a massive campaign, code-named NEWKILL, to characterize the five as "wanton copkillers," "terrorists," and "Black hate-mongers." Then-FBI Director Hoover worked directly with then-President Nixon on this NEWKILL operation. Like many other leaders of the Black Liberation Movement serving life terms in the nation's prisons -- Sundiata Acoli, Geronimo ji Jaga Pratt, and Dhoruba Bin Wahad (released March 22, 1990 after 19 years imprisonment), they were targets of the government's secret counterintelligence program, COINTELPRO, aimed at destroying political dissent in the Black communities "by any means necessary." Since the 1975 break-in by political activists into the FBI office in Media, PA, uncovering COINTELPRO, many thousands of documents have been discovered revealing this covert warfare against the people of this country by their public officials. The NY3 have received thousands of pages of documents through Freedom of Information Act (FOIA) requests detailing the subversive and terrorist tactics that were used by the government to ensure their illegal conviction.

The New York 3 have specific proof of perjury, intimidation, bribery and torturing of witnesses, concealment and falsification of evidence, and serious judicial and prosecutorial misconduct during their trial. Recovered FBI documents reveal the government's clandestine campaign, in conjunction with law enforcement officials across the country, to "disrupt, misdirect, discredit and otherwise neutralize" the 1960's Civil Rights Movement by "violent and devious means, including arrest and imprisonment on false charges."

The FBI's counterintelligence program was designed to cut the Black Liberation Movement off at the head by neutralizing Black leadership in this country. If given a fair trial, it will be proven that these men were convicted not because they were guilty of the murders of two police officers, but because they struggled for the liberation of Africans and other oppressed peoples here in America. They firmly believed in the right to self-determination and self-defense, and because of their beliefs have spent nearly 20 years in prison thus far. Public awareness and support is essential to have NY3's COINTELPRO convictions overturned.

#### **DENIAL OF FAIR TRIAL**

In the winter of 1974, the NY3 were first tried for the New York City police killings. In the following spring, the prosecution was unable to convince the jury of their guilt, and the trial ended in a hung jury. At the second trial, before a different judge and through the employment of COINTELPRO tactics to deny them a fair trial, all three were found guilty and sentenced to terms of 25 years to life in prison. The small portion of the FBI files which the NY3 have been able to recover through FOIA, together with the testimony at their trials and some inadvertent slips in a book by the chief prosecutor in this case, Robert Tannenbaum, show that the second verdict was the result of pervasive misconduct on the part of the police, the district attorney's office, and the judge.

**FACT \*** The prosecution concealed an FBI ballistics report which indicated that the gun found in Jalil's possession and introduced against him as a murder weapon was not the one 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 scene of the crime and the bodies of the victims. However, the prosecution had a NYPD ballistics expert falsely testify that his tests, showing that the bullets did match, were the only tests ever done on Jalil's gun. Although prosecutor Tannenbaum claimed he never saw or heard about the FBI ballistics report, FBI documents reveal he not only heard about this report before the trial, but personally assured the FBI he would conceal it from the court and the defense.

**FACT \*** Apart from Jalil's possession of a gun that supposedly had been used in the killing, the government's case against him 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 and tortured with an electric cattleprod and needles to his testicles while being interrogated about this case 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, however, Scott confided to trial judge Edward Greenfield that his statements to the police were lies designed to placate them and stop his 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, while NYPD detectives who had been present when Scott was tortured 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 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 they would lose custody of their children if they refused to say what the prosecution wanted them to say in court.

**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 prosecutor Tannenbaum had -- with Judge Greenfield'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 lawyers for the NY3 from informing the jury about the suspect or the perjury and cover-up.

**FACT \*** There is no evidence linking Nuh (who had nearly been acquitted in the first trial) to these crimes other than his political beliefs and associations. Judge Greenfield hid the inadequacy of the prosecution's case against Nuh by acting throughout his instructions to the jury as if all the manipulated evidence applied equally to all three defendants.

**FACT \*** Judge Greenfield, immediately prior to charging the jury, prodded the prosecution into asking for a charge on conspiracy by 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 charged in the indictment with conspiracy, Judge Greenfield proceeded to charge the jury utilizing a conspiracy charge as if they were -- using the language of conspiracy, despite the fact that there was no evidence present to support a conspiracy charge.

**FACT \*** Judge Greenfield barred defense attorneys from asking 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 would have explained why the defendants had been armed), and denied the defense access to records of the payments that the prosecutor had made to its witnesses.

**FACT \*** When a juror reported receiving threatening phone calls, Judge Greenfield refused to declare a mistrial or even ask if other jurors had similar experiences. Nothing was left to chance; by calling and threatening this juror, he was left with the erroneous impression that friends of the NY3 made the threatening call, and he voted to convict.

**DENIAL OF IMPARTIAL POST-TRIAL  
REVIEWS OF CONVICTION**

**FACT \*** All three 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.

**FACT \*** When the Three sought review by the highest court of the state, they were first told that they had raised significant issues which merit serious consideration. Then they were informed, again without any written opinion or other explanation, that their case would not be heard.

**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 Judge Greenfield 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 for 14 months on a motion for retrial. He refused to take any testimony or even to 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 Judge Greenfield 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 trial and withheld from the defense. By 1984, Greenfield 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, Greenfield 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.

**COINTELPRO USES THE MEDIA:  
CBS DOCU-DRAMA  
"BADGE OF THE ASSASSIN"**

In November 1985, the CBS network aired a docu-drama titled "Badge of the Assassin," based on a book of the same title written by the prosecutor in the case of the New York Three. The primetime TV-movie, which used the real names of the NY3, was challenged in court by the NY3's attorney to prevent its airing because of its inaccurate, untruthful, and negatively slanted characterizations. CBS refused to make any accommodations to allow a disclaimer or present fair presentation of the case. The docu-drama's purpose, beyond making money for the network, producers, cast (Yaphet Koto and James Woods) and prosecutor Tannenbaum (who has made millions of dollars in his exploitation of this case), was to criminalize the real political issues surrounding the case. The Three were characterized in this TV-movie as savage, cold-blooded, callous idiots -- the antithesis of who they really are: political activists whose lives have always been dedicated to uplifting Black people and improving the quality of life for African-American communities. This docu-drama, which still airs from time to time on television nationwide and which is readily available for rent as a video, served to continue the COINTELPRO policy of using the media to discredit political activists in hopes of making it difficult to organize support for the NY3. What was presented to the public in the docu-drama completely ignored the pervasive misconduct in the case by law enforcement officials -- the FBI and NYPD, the district attorney's office, and the trial judge.

The docu-drama, in all its inaccuracies, is the only movie ever made which depicted the existence of the Black Liberation Army in a nationally televised program. While it sought to vilify, discredit, and criminalize the NY3, it also inadvertently pointed out the importance of this case politically. It indicates to what lengths the government will go to prevent the truth of prosecutorial and judicial misconduct from being known publicly, and to discredit Black leadership in this country. It further serves as an informative lesson of how closely CBS will work with the government to repress the political freedoms of individuals and organizations.

THE NY3 HAVE MADE THEIR OWN VIDEO to set the record straight and allow the public to view these political leaders as the warm, caring, altruistic men they really are, and to expose COINTELPRO's secret war against Black and progressive people across the nation. This video documents the beginnings of the Black Panther Party for Self-defense, explaining that the BPP was organized to protect people in Black communities from police brutality, and to provide programs for the people's basic needs which should have been, but were not, provided by the government. This video is entitled "CBS vs. THE NEW YORK 3" and is available through writing the New York Three Freedom Campaign at the above letterhead address.

## WORK TO FREE THE NEW YORK THREE

Anthony Jalil Bottom, Herman Bell, and Albert Nuh Washington -- then in their late teens and early to mid-twenties -- are among many political prisoners isolated behind U.S. prison walls today who became active in the Black Liberation Movement struggles of the 1960s. They took on political work that seemed necessary to defend and advance their communities and build a more just world. Their criminal convictions were the results of their political involvement, and of the government's efforts to destroy the movement they were a part of -- and in particular to eliminate the movement's leadership. Their continued imprisonment and the obstruction of their efforts to obtain a new trial protects those whose misconduct must be exposed, and helps to maintain the credibility of life imprisonment as a deterrent to those who would once again dare to challenge fundamentally racist government policies, practices, and institutions.

Now these three men seek the opportunity to rejoin their families, reclaim some significant degree of control over their lives, and pursue their social ideals in these very different times. Each would seek, in his own way, to contribute to the ongoing struggle for human dignity and freedom.

During the last two decades, dedicated, humane, progressive people who cared enough to act on their beliefs have been locked away in prison on dubious, contrived, and illegally manipulated evidence. As in the words of an FBI COINTELPRO directive that urged Black militants be "arrested on every possible charge until they could no longer make bail . . . the purpose of counter-intelligence action is to disrupt the BPP, and it is immaterial whether facts exist to substantiate the charge." Yet, the only public official ever convicted of COINTELPRO crimes, Richard Nixon, has been pardoned and praised.

Nuh, Herman, and Jalil have sacrificed their lives to work towards the improvement of the condition of oppressed people. They remain in prison, cut off from their families, children, and communities, because of shaky and contrived evidence which has never been seriously re-examined, because of illegal, terrorist tactics used by the government to secure their conviction. These Brothers make up some of the over 100 political prisoners in the United States whose cases were addressed before the United Nations Committee on Human Rights at the Geneva Convention in Switzerland during the week of February 13th, 1989.

To advocate and support only the release of political activists in other countries -- such as Nelson Mandela -- and not to support the political prisoners behind bars in our own country is to lend support to the COINTELPRO terrorists who have murdered our political leaders or have trapped them in the jails and prisons in this country. And these prisons and what goes on inside them differ very little from the prisons of South Africa.

The sentences meted out for political prisoners in this country differ very little from those imposed on political activists in South Africa. Herman has spent the last 17 years in prison, Nuh and Jalil have spent the last 19 years in prison, and none will go before the parole board until after the year 2000. Think about the kind of time people do for non-political murder convictions, for crimes they actually committed which are much more heinous; many of these people are out on the streets after 7, 10, 12 years. While the New York Three, and other political prisoners like them, such as Geronimo ji Jaga Pratt, have been imprisoned for almost 20 years, with no end in sight.

It is our constitutional right to support our political leaders who have been removed from our communities by use of illegal, covert government tactics. It is our responsibility to see that justice is done, to see that these men, who care so much for every member of our communities, are finally set free.

Right now the New York Three's effort to have their 1975 conviction overturned is in the federal courts and will soon to be addressed once again at the state appellate level. They need your support to conduct their legal work which could ensure their release.

PLEASE SEND YOUR CONTRIBUTIONS to the New York 3 by making your check or money order payable to: **IFCO** (ear-marked NY3 Freedom Campaign, e.g., in the memo portion of your check), and mail to:

New York Three Freedom Campaign  
2170 Broadway, Suite 2234  
New York, NY 10024

**FREE THE NEW YORK THREE!!!**