

Panther 21 trial set to begin

By Rod Such

After a 10-month imprisonment which began last April, the Black Panthers in New York who have come to be known as the Panther 21 will go to trial Feb. 2 in Manhattan supreme court.

It is the first major political trial to take place in New York within a decade and its implications—more and more apparent since the nationwide police attacks against the Black Panther party—are finally being seen in the context of massive governmental repression against the Panthers.

Most of the Panther 21 were arrested and imprisoned April 2 when a 12-count indictment was handed down in a district court. They are charged with conspiracy to firebomb five Manhattan department stores, blow up sections of the New Haven commuter railroad, attack a number of police precincts and bomb the Bronx Botanical Gardens.

Much of February will be taken up with pre-trial motions. The trial is expected to last into April and possibly longer, according to Gerald Lefcourt, one of three Panther attorneys. Lefcourt indicated that the Panther defense will center on the government's attempt "to wipe out the Black Panther party."

The pre-trial motions will seek to determine if there was any electronic surveillance or illegal wiretapping of the Panthers, whether any evidence was gathered from illegal searches and seizures and whether an admission obtained from one of the defendants, Joan Bird, was made voluntarily.

The 20-year-old woman has been in jail since Jan. 17 last year when she was arrested for conspiracy to murder two policemen, a charge later included in the overall indictment of the Panther 21. When Joan Bird appeared in court the next day, after being detained for 24 hours without counsel, she was still bleeding from one eye and had other injuries to her forehead, stomach and legs. She later filed an affidavit which gave more details of the beating she received that night in the 34th police precinct. The district attorney's office announced on May 13 that they had a "confession" from Miss Bird.

Panther attorneys last week sought to have state supreme court justice John M. Murtagh removed as trial judge in the case in a petition that challenged the constitutionality of a procedure whereby the district attorney selects the judge. The petition, resulting in an order directing Murtagh to show cause why he should not be removed, is still being argued. The ACLU intends to file a friend-of-the-court brief supporting the challenge.

Murtagh's conduct in the numerous arraignments, bail hearings and other motions involving the Panthers is also a basis for his removal, Lefcourt argued. The lawyer charged that Murtagh "has violated arraignment procedures so he may have complete control over the entire case." On one occasion Murtagh suddenly appeared in court and replaced a justice already sitting on the bench. When questioned by Sanford Katz, another Panther attorney, Murtagh said he was authorized to preside, but a later check with the confidential clerk of the appellate division showed there was no "authorization of any kind," Katz said.

Court complicity difficult to hide

The complicity of the courts in the repression directed against the Panthers has been difficult to hide, despite various legal masks available to the courts. With bail at \$100,000 for most of the Panthers, an obvious contradiction was apparent between their treatment and the \$20,000 bail set for two white persons, Jane Alpert and David Hughey, who are accused of bombings that actually occurred.

The Panthers' attorneys have had 20 bail hearings brought before 35 different judges since April and are now waiting to hear if the U.S. supreme court will rule on their appeal, which argues that the Panthers have been denied their constitutional rights under the 5th, 6th, 8th and 14th Amendments due to excessive and exorbitant bail.

On Nov. 17, the district attorney's office added 18 more counts to the original 12-count indictment and named one more defendant. "It is an obvious strategy to charge as much as they

can with as many defendants as possible to give the impression that they really have a strong case," Lefcourt said last week of the new indictment. In fact, of the 18 additional counts, 17 are simply gun possession charges and another charges that the Panthers plotted to bomb switching control rooms in the New York subway system.

Originally separated from each other in six different detention jails throughout the city, 13 of the Panther 21 are now in the Queens House of Detention, two are in the Manhattan Women's House of Detention and one, Lee Berry, is in the Bellevue Hospital prison ward where he is listed in serious condition. They are still kept in maximum security cells, isolated from other prisoners, but are no longer subject to 24-hour lockup.

Of the remaining Panthers named in the indictment, two are currently in a Newark jail on robbery charges and three have not been captured. Bail for Fred Richardson, the 22nd defendant who was expelled from the Panther party last year, was set at \$25,000.

One Panther unable to appear

It is certain that one of the Panthers will not be able to appear at the early stages of the trial. Lee Berry, who became an epileptic as a result of wounds received in Vietnam, was an in-patient at the Brooklyn VA hospital at the time of his arrest. Before he was taken to Bellevue hospital, Berry was jailed in the Tombs in Manhattan where medication for his epilepsy was completely withheld for three months. In that time he suffered several seizures including two grand mals. In July he was beaten severely by a guard and placed in solitary for five days. Berry, under heavy sedation, had failed to stand at attention when the guard was making a head-count check.

Marva Berry, his wife, was unable to learn precisely why her husband's condition was steadily growing worse when he was first transferred to Bellevue. "The doctors started telling me more after there were demonstrations outside the hospital," she said. "He had a blood clot which was spreading and apparently, it was caused by an injury."

There were other instances of brutality in the jails. Iris Moore, the wife of Richard Moore (Analye Dharuba), described last week how her husband was placed in solitary on two occasions while he was in the New York House of Detention: "The first time he refused to stand up for count, so they put him solitary for 10 days. The second time a guard assaulted him and he defended himself so they put him in solitary for two weeks. One meal a day."

On the day the Panther 21 were arrested, Manhattan district attorney Frank Hogan convened a press conference where he made a dramatic attempt to describe how his office had foiled the Panther's "terroristic" bomb plot just one day before the Panthers were supposed to have acted.

In the midst of the Easter shopping season, the prospect of bombs in five department stores undoubtedly alarmed the public and Hogan kept those fears alive by leaking stories to the media in the days after the indictment was announced which alleged that the Panthers were aided by Cuba, that they had stolen funds from a city poverty organization and that the Panther 21 were connected with a murder in New Haven, Conn.

The press accounts and the nature of the indictment, itself, substantially distorted the Panther's program and political philosophy. The party refuted the charges, noting they "would not blow up railway stations and department stores simply because some of our own poor people would be killed and we know this is completely wrong when it comes to organizing the people . . ."

Activities of the New York 21

The Panther 21 represented the leadership of the Panther chapters in New York and nearly all of them were active when the party was first organized here in July and August of 1968.

"You have to recognize that we were involved in the school crisis and rent strikes at that time, we were relating to the community and the power structure has to bust people who relate to the community," Zayd Shakur, the Panther's deputy minister of information here, told the Guardian last week. "Historically, it's nothing new. It's a means the power structure always uses to destroy any type of organization in Harlem."

"The department stores are just symbols of oppression," Shakur said. "Blowing up Gimbels and railroad facilities is not relating to the problem. We don't want vengeance at the expense of our own people."

Shakur explained that the arrests came as the Panthers began to establish their presence in the black community. One of the earliest police attacks on the Panthers, when off-duty policemen clubbed several Panthers and Panther supporters in a Brooklyn courthouse, occurred during the New York school strike, an issue the Panthers actively organized around.

Shakur gave additional reasons to refute the indictment's charges. "The job of the vanguard party is to educate the people," he said. "We educate by example, not rhetoric; so when the pigs cut the welfare clothing allowance to \$100, we go out and get free clothing for the people." Shakur said part of that education involves explaining that the "people who control the means of production" are the ones who stand in the way of oppressed people's liberation. They are the "perpetrators of oppression," not their symbols.

From the beginning, the Panthers in New York were infiltrated by agent provocateurs, Shakur said. "Malcolm X used to say that every time six people got together in Harlem, one of them was a police agent. We know this plot was hatched in Hogan's office."

The Panthers also maintain that they expect no justice from the courts, which they describe as a "facade," part of the same oppressive racist system. At best, they look forward to the trial only to find out what kind of "evidence" the DA will present. "The only concrete thing we've seen so far is a lead pipe which the DA said could be used as a bomb," Marva Berry said.

The backgrounds of the Panther 21 do not conjure up visions of mad bombers. Afeni Shakur was a teacher's assistant at PS 129

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at the time of her arrest. Joan Bird was a nursing student at Bronx Community College. Curtis Powell holds a Ph.D. in biochemistry and was employed as a research biochemist at Columbia Presbyterian Medical Center involved in cancer research. Richard Moore was an artist. They are typical of the other Panthers.

Six are married and have children. Marva Berry gave birth six days before her husband's arrest. Four are under 21 years of age. In addition, Lee Berry and Lonnie Epps are never mentioned directly in the government's 30-count indictment.

The Feb. 2 trial date will be the focus for a renewed attempt to mobilize support for the Panther 21. A rally at the Manhattan Criminal Courts building, 100 Centre St., is planned for that day and a defense fund benefit with jazz and rock groups will take place at the Hotel Diplomat in Manhattan in the evening.

Sure of not finding any justice in the courts, the Panthers feel that they must show people why there cannot be any "redress of grievances in Babylon." They intend to bring people from the black communities into the courtroom to expose the trial.

In the meantime, some 20 New York clergymen from mostly Episcopal and Presbyterian churches are attempting to raise the more than \$1 million bail imposed on the Panther 21 before the trial begins. In some cases, the clergymen have put up their church buildings as collateral.