Twitter Thread by Alice Speri



Alice Speri
@alicesperi



I wrote about the charges filed so far in connection to the assault on the Capitol, how they compare to those filed against J20 and BLM protesters, and the problem with things like over-broad conspiracy charges and felony murder.

A few thoughts.

Officials said that they are going to leave “no stone unturned” in the investigation, which they said is likely to last years. DC's acting US Attorney Michael Sherwin called this probe “unprecedented, not only in FBI history, but probably DOJ history.”

https://t.co/GlUkwxodfM

The @FBI said it’s investigating 170 people so far, and that number will likely “grow to the hundreds in the next coming weeks.”

And prosecutors say they’re considering a broad set of charges: from trespassing, to theft of mail, digital devices, and possibly national security information from the Capitol, and up to assault of a law enforcement officer, seditious conspiracy, and felony murder.

According to The Prosecution Project (@ProsecutionThe), 111 people were arrested or charged for actions connected to the Capitol siege as of Thursday — most with relatively minor misdemeanors like unlawful entry and curfew violations. 30 people were facing federal charges.

(After our story was published, the @DOJ announced some more charges: https://t.co/0zeXrnr61Z)

While everyone expects the ultimate charges will be far more severe, many couldn’t help but notice how different these charges are from those faced by protesters arrested during the George Floyd uprising last summer. Here is @vidabjohnson on that.

.@mloadenthal, of @ProsecutionThe, noted that last summer, prosecutors were “bending over backwards” to charge protesters at the federal level over alleged crimes that would have normally been a matter for state courts.

We @theintercept have been covering that a lot.

You can read @MazMHussain here https://t.co/mXhAnXqZGy

@akela_lacy here https://t.co/YS7L36qyCC

@natashalennard here
https://t.co/1HLtws5PMy

and @aaron_con_choco here https://t.co/wAlulm097I

Here are some of the mental gymnastics prosecutors went through last summer in an effort to overcharge protesters. @mloadenthal

After the J20 protests, on Trump's inauguration day, nearly 200 people were arrested, charged en masse with felony rioting — later upgraded to conspiracy, — and threatened with decades in prison.

Prosecutors in that case argued for a far-reaching notion of liability that essentially sought to hold dozens of people criminally responsible for crimes — like smashing the windows of several storefronts — that only a handful of them had carried out.

They lost, badly, and ultimately dropped all remaining cases, but the prosecution upended dozens of people's lives for more than a year and foreshadowed the crackdown on dissent that defined the Trump administration.

(More on the J20 case from @samadlerbell here)
https://t.co/GWo8DVPrNK

But let's get back to January 6. Every attorney I spoke with said a conspiracy case in the Capitol riot would be much more clear-cut than it was in many of the cases in which prosecutors have brought such charges, against protesters like the J20 defendants but not only.

I have written A LOT about how prosecutors are increasingly bringing extremely broad, federal conspiracy cases against gang members. The story of the Bronx 120 is a case in point.

I wrote about it here: https://t.co/AXWzToLT8N

And here:
https://t.co/Es6nLfTiWb

That of the #Bronx120 is a case I have spent a lot of time digging into. It's one of the most outrageous stories I have reported on in years of reporting on outrageous stuff.

Here's more about it and a short film by @stephtangk about @BBOflock's story.

https://t.co/ZdzoKZ2nHx

Now some are really worried about a mass conspiracy prosecution of the Capitol rioters. There is no question severe criminal charges are in order for some, but there is no need to stretch the laws to extend responsibility to more than those people who are actually responsible.

Here's J20 defense attorney Philip Andonian on the problem with that.

And that doesn't even begin to get into the "felony murder" rule – which has sent scores of people to prison for life, and even on death row, over murders they did not personally commit. @vidabjohnson

So where are we at?

Prosecutors now find themselves with the responsibility of ensuring there are consequences for unprecedented criminal conduct and a message that such violence cannot be tolerated, even as it was called for by the President and enabled by elected officials.

But many who pointed to the glaring inequities in law enforcement's response to the Capitol assault as compared to recent protests have also warned against calls for mass prosecutions or expansions of law enforcement resources, civil rights erosions, and domestic terrorism laws.

More from my colleagues @theintercept on that.

https://t.co/ZK0MJWggKz by @AlexEmmons

https://t.co/KSqcVIVRBH by @mazmhussain

https://t.co/oaYwSAh1l4 by @AlleenBrown & @akela_lacy

There is zero question that the surge in far-right and white supremacist extremism in this country is real. The violence is real. And the crimes should be prosecuted.

We @theintercept have written about this threat for years, and we have written about multiple administration's efforts to suppress reports of the threat posed by white supremacist and far-right extremist groups.

I wrote this a week into the Trump administration. And Trump had nothing to do with it. https://t.co/nTehoTrovM

And this is from @rdevro last summer. https://t.co/vS3JNCm5oz

Rather than focusing on the real threat posed by far-right and white supremacist extremism, the @FBI has spent the last several years obsessing over the absolutely fictional "Black Identity Extremism."

https://t.co/MPCyBTnlbZ

More on that here: https://t.co/aO8jXWLqcG

After much criticism over that, the FBI recently collapsed all identity-based and anti-government ideologies under broad umbrella categories, mixing nonexistent extremist groups with others posing tangible threats to public safety.

That has made it virtually impossible for outsiders to monitor whether the bureau is putting its massive investigative resources toward the monitoring of anti-government militias, anti-fascist activists, white supremacists, or racial justice advocates.

After someone set a building on fire at the civil rights institution @HighlanderCtr, in Tennessee, and left a white supremacist symbol behind, the @FBI showed up and asked organizers there about “antifa.”
https://t.co/54C69VWjMR

And last fall, after foiling a plan by right-wing militias to kidnap Michigan’s governor, the @FBI showed up at the home of a Michigan state senator’s chief of staff and aggressively interrogated her about a proposed bill to ban teargas against protesters. https://t.co/uvgGXXSLoF

Post 9/11 the US national security apparatus has ballooned into a massive, and massively expensive, monster. Civil liberties were eroded, and people were abused.

So how the hell did January 6 still happen?

Here’s former FBI agent @rethinkintel on that.

I could go on forever, but the point is, accountability is clearly in order here. There can be no talk of ‘unity’ before a real reckoning with everything that brought us to this point.

But those who know the criminal justice system up close, know that not much of that accountability can come through the courts.

And those who know the justice system up close, know that any erosion of civil liberties, and any stretching of the law that we allow here, will ultimately come back to harm those the criminal justice system already does the most harm to — Black people, more than anyone else.

As @tbh4justice of @adv_project put it to me:

The problems we have in this country run far deeper. And a much better criminal legal system than the one we have would hardly begin to address them.

The system we do have is not equipped to do that.

I have covered the justice system, and law enforcement's obsession with Black protest and dissent from the left — all while white supremacist and far-right extremism grew unchecked.

There should be accountability, unquestionably, but I doubt our justice system can deliver that.

Or as @tbh4justice put it, “I don’t see how we can prosecute or jail our way out of a burgeoning fascist movement in the United States.”

https://t.co/R5Kd2pDmY6