



U.S. Department of Justice

Channing D. Phillips  
United States Attorney

*District of Columbia*

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*Judiciary Center  
555 Fourth St., N.W.  
Washington, D.C. 20530*

April 26, 2017

**By Electronic Mail**

Abbe Smith  
Ashley Jones  
Georgetown University Law Center  
Counsel for Dane Powell

***Re: United States v. Dane Powell, 2017-CF2-1405***

Dear Counsel:

This letter confirms the post-indictment plea offer extended to your client, Dane Powell. This plea offer will remain open until **April 28, 2017**. However, the government reserves the right to revoke this plea offer at any time before your client enters a guilty plea in this case. If your client accepts the terms and conditions set forth below, please have your client execute this document in the space provided below. Upon receipt of the executed document, this letter will become the plea agreement between your client and the Office of the United States Attorney for the District of Columbia. The terms of the offer are as follows:

1. Your client, Dane Powell, agrees to enter a guilty plea in this case, 2017-CF2-1405, to Count One of the superseding Indictment, **Inciting or Urging a Riot (Felony Rioting)**, in violation of 22 D.C. Code, Section 1322(d); and Count Twelve of the superseding Indictment, **Assault on a Police Officer (Felony)**, in violation of 22 D.C. Code, Section 405(c). Your client understands that the offense of **Inciting or Urging a Riot (Felony Rioting)** carries a potential maximum penalty of 10 years' incarceration and a \$25,000 fine, or both. Your client also understands that the offense of **Assault on a Police Officer (Felony)** also carries a potential maximum penalty of 10 years' incarceration and a \$25,000 fine, or both. Your client also understands that the Court must require your client to pay an assessment of at least \$100 for each felony count.

2. Your client understands that the government will reserve stepback pending sentencing, however, if your client is in full compliance with the conditions of his release at the time the guilty plea is entered, the government will not ask that he for stepback pending sentencing.

Your client understands that the government is waiving any applicable enhancement papers, and is reserving allocution at sentencing, subject to the terms set forth in paragraph 5 of this agreement.

3. Your client understands that the Government agrees that it will dismiss the greater and remaining counts against your client in case number 2017-CF2-1405, at the time of sentencing.

4. The parties further agree that your client, after taking an oath to tell the truth, shall agree to the attached factual proffer in open court on the date of the plea.

5. Your client understands that the Court may utilize the District of Columbia Sentencing Commission's Voluntary Sentencing Guidelines in imposing the sentence in this case. The Government and your client agree that neither party will seek an upward or downward departure outside of your client's applicable guideline range.

6. Your client agrees that this letter is binding on the Government, but not binding on the Court, and that he cannot withdraw this plea at a later date because of the harshness of any sentence imposed by the Court. The Government understands that your client is not bound by the Government's allocution, and may request a lesser sentence, subject to the terms set forth in paragraph 5, above.

7. In entering this plea of guilty, your client understands and agrees to waive certain rights afforded to your client by the Constitution of the United States and/or by statute. In particular, your client knowingly and voluntarily waives or gives up his right against self-incrimination with respect to the offenses to which your client is pleading guilty before the Court accepts your client's plea. Your client also understands that by pleading guilty your client is waiving or giving up your client's right to be tried by a jury or by a judge sitting without a jury, the right to be assisted by an attorney at trial and the right to confront and cross-examine witnesses.

8. This letter sets forth the entire understanding between the parties and constitutes the complete plea agreement between your client and the United States Attorney's Office for the District of Columbia. This agreement supersedes all prior understandings, promises, agreements, or conditions, if any, between this Office and your client.

Sincerely,

CHANNING D. PHILLIPS  
UNITED STATES ATTORNEY

BY: \_\_\_\_\_  
Jennifer A. Kerkhoff  
Assistant United States Attorney

**DEFENDANT'S ACCEPTANCE**

I have read this plea agreement and factual proffer and have discussed it with my attorneys, Abbe Smith and Ashley Jones. I fully understand this agreement and agree to it without reservation. I do this voluntarily and of my own free will, intending to be legally bound. No threats have been made to me nor am I under the influence of anything that could impede my ability to understand this agreement fully. I am pleading guilty because I am in fact guilty of the offenses set forth herein.

I reaffirm that absolutely no promises, agreements, understandings, or conditions have been made or entered into in connection with my decision to plead guilty except those set forth in this plea agreement. I am satisfied with the legal services provided by my attorney in connection with this plea agreement and matters related to it.

Date: \_\_\_\_\_

\_\_\_\_\_  
Dane Powell  
DEFENDANT

**ATTORNEY'S ACKNOWLEDGMENT**

I have read each of the pages constituting this plea agreement, reviewed them with my client, Dane Powell, and discussed the provisions of the agreement with my client, fully. These pages accurately and completely set forth the entire plea agreement.

Date: \_\_\_\_\_

\_\_\_\_\_  
Abbe Smith  
Ashley Jones  
Attorneys for DEFENDANT

## **PROFFER OF FACTS**

Had case number 2017-CF2-1405 gone to trial, the Government's evidence would have shown beyond a reasonable doubt that:

On January 20, 2017, defendant Dane Powell (hereinafter, the "Defendant") joined together with more than 200 other people in and around Logan Circle in Washington, D.C. The group formed a "black bloc" in which individual defendants wore black or dark colored clothing, gloves, scarves, sunglasses, ski masks, gas masks, goggles, helmets, hoodies, and other face-concealing and face-protecting items to conceal their identities in an effort to prevent law enforcement from being able to identify the individual perpetrators of violence or property damage. Some of the members of the black bloc were armed with hammers, crowbars, wooden sticks, and other weapons. The Defendant was among those dressed in black, and had in his possession a gas mask. The Defendant also attempted to conceal his face with a mask. The Defendant was in possession of a hammer, and a heavy wooden stick with a flag attached to it.

At or about 10:19 AM on January 20, 2017, the Defendant and others participating in the black bloc moved south from Logan Circle on 13<sup>th</sup> Street NW. The Defendant marched with the black bloc and saw that, within minutes of leaving Logan Circle, individuals participating in the black bloc began to vandalize and damage public and private property.

At approximately 10:35 AM, the Defendant and other participants in the black bloc who were armed with hammers, crowbars, wooden sticks, and other weapons, broke the windows of a Starbucks coffee shop located in the 1200 block of I Street NW, Washington, D.C. The Defendant then continued to move with the black bloc for several additional blocks when, at approximately 10:40 AM, the Defendant broke the windows of a McDonalds restaurant located near the intersection of New York Avenue NW and 13<sup>th</sup> Street NW, Washington, D.C. The Defendant then continued to move with the black bloc for multiple blocks.

At approximately 10:50 AM, the Defendant and more than 200 participants in the black bloc observed law enforcement forming a police line consisting of less than two (2) dozen officers at the intersection of 12<sup>th</sup> Street NW and L Street NW. At approximately 10:52 AM, the Defendant and other participants in the black bloc formed their own line, counted down, and charged the officers who formed the police line. The Defendant was one of approximately 50 or more individuals in the black bloc who broke the police line and was able to escape. Law enforcement was ultimately able to detain and to arrest more than 200 participants in the black bloc, and those individuals were held at the intersection of 12<sup>th</sup> and L Streets until they could be processed for arrest.

After the Defendant broke the police line and while law enforcement was detaining the more than 200 participants in the black bloc at the intersection of 12<sup>th</sup> and L Streets NW, the Defendant and other individuals continued to engage in violence in the streets of the District of Columbia. As a result of the continued violence, law enforcement formed a police line at 12<sup>th</sup> and K Streets NW, Washington, D.C. On at least three separate occasions, the Defendant threw a brick, large rock, or piece of concrete at uniformed law enforcement officers who had formed a line. Other individuals also threw bricks, rocks, or pieces of concrete at uniformed law

enforcement officers in the area. Multiple officers were transported to the hospital after being hit with bricks, rocks, or pieces of concrete, to include one officer who was knocked unconscious on the scene.

The Defendant participated in and moved with the black bloc for approximately sixteen (16) blocks, for more than thirty (30) minutes, while the Defendant and other participants in the black bloc committed acts of vandalism, destruction, and damage around the streets of the District of Columbia.

The actions of the black bloc constituted a “riot” as that term is defined in 22 D.C. Code, Section 1322(a), that is, it was a public disturbance involving an assemblage of five or more persons which by tumultuous and violent conduct or the threat thereof created grave danger of damage or injury to property or persons. The property damage caused by this public disturbance was in excess of \$5000.

The Defendant willfully incited or urged others to engage in this public disturbance by participating as a member of the black bloc. He further willfully incited or urged others to engage in this public disturbance by participating in the destruction and damage of property during this public disturbance. As a result of the Defendant’s participation in the black bloc, he knew, or reasonably should have known, that his actions constituted willful incitement or urging others to participate in this public disturbance with him, or aided and abetted those who were inciting or urging others to engage in this public disturbance that resulted in property damage in excess of \$5000.

The Defendant’s actions in throwing bricks, rocks, or pieces of concrete at the uniformed law enforcement officers created a grave risk of significant bodily injury to the officers.

### **Statement Regarding Olivia Alsip**

Defendant Dane Powell (“Defendant”) acknowledges and agrees that the following facts are true: On January 20, 2017, the Defendant was in a romantic relationship with Olivia Alsip. On January 20, 2017, Olivia Alsip was present with the Defendant at Logan Circle in Northwest, Washington, D.C. Olivia Alsip was dressed in all black clothing, had a mask to conceal her face, and had a gas mask on her person. Olivia Alsip left Logan Circle at approximately 10:19 AM as part of the black bloc. The Defendant did not observe Olivia Alsip break any property during the public disturbance that constitutes the “riot” for purposes of this plea, however, she moved with the black bloc for approximately sixteen (16) blocks, for more than thirty (30) minutes until the group was detained by law enforcement at 12<sup>th</sup> and L Streets NW, Washington, D.C. at approximately 10:52 AM.

### **Limited Nature of Statement of Facts**

This statement of facts is intended for the limited purpose of establishing a factual basis for a guilty plea by the Defendant. It is not intended to set forth every fact known by the Defendant or the United States regarding the matters discussed above.

**DEFENDANT'S ACKNOWLEDGMENT**

I have read and discussed the above Proffer of Facts with my attorneys, Abbe Smith and Ashley Jones. I agree, and acknowledge by my signature that this Proffer of Facts is true and correct.

Date: \_\_\_\_\_

\_\_\_\_\_  
Dane Powell  
DEFENDANT

Date: \_\_\_\_\_

\_\_\_\_\_  
Abbe Smith  
Ashley Jones  
Attorney for DEFENDANT

**DEFENDANT'S AGREEMENT TO WAIVE DNA TESTING**

My attorney has discussed the contents of this plea agreement with me, including the fact that I may request or waive DNA testing (or independent DNA testing, if applicable). I understand the conditions of the plea and agree to them. I knowingly, intentionally, and voluntarily waive and give up DNA testing (or independent DNA testing, if applicable) of any biological materials in this case. I further state that I am fully satisfied with the services my attorney has provided to me and am fully satisfied with the explanation my attorney has provided me concerning the terms of the plea offer, the potential evidentiary value of DNA evidence in this case, and the consequences of waiving and giving up DNA testing in this case and pleading guilty.

Date: \_\_\_\_\_

\_\_\_\_\_  
Dane Powell  
DEFENDANT

Date: \_\_\_\_\_

\_\_\_\_\_  
Abbe Smith  
Ashley Jones  
Attorney for DEFENDANT