

## **Just Us and Jeff Sessions: Evidence**

"Find out just what any people will quietly submit to and you have found out the exact measure of injustice and wrong which will be imposed upon them, and these will continue till they are resisted with either words or blows, or with both. The limits of tyrants are prescribed by the endurance of those whom they oppress." ~ Frederick Douglass, *If There Is No Struggle, There Is No Progress* (1857)

In February of 2007 I was arrested for crimes that I did not commit. Despite my innocence, I was held for seven weeks at San Francisco County Jail - San Bruno, waiting for a bail hearing. The District Attorney's office made an offer. They would dismiss the felony charges against me in exchange for a guilty plea to a misdemeanor, sending me back to jail for the year. There was one problem, I wasn't guilty of anything. Despite the fact that a felony conviction would lead to a lengthy prison sentence, I refused the D.A.'s offer and spent the next ten months fighting my case. It destroyed my life, but I had my freedom in the end.

Despite what one sees on television and in the movies, juried criminal trials are rare in America. Typically, a person arrested will be charged with the maximum penalties available to the arresting officer. A simple jay-walking could be blown-up to obstructing traffic, adjusting your arms while handcuffed could become resisting arrest. Police always exaggerate far beyond the reality of the circumstances they encounter when detaining someone. Making a case for the D.A. to easily win is part of their job, they believe, and D.A.'s rarely if ever lose.

Here's how it works. The police ramp-up accusations of wrongdoing that are so egregious, carrying such intimidating punishments, that the D.A. will offer a plea bargain somewhere in the middle. Most defendants, not all but most, take the plea bargain as commonsense, being instructed to do so as they often are by legal counsel. My decision to fight for my freedom is almost unheard of in the contemporary criminal-justice system, with success falling below single digit percentiles.

Whether you are for or against mass incarceration of Blacks and Latinos, the factors leading to it are invariably the same, racial profiling, prosecutorial misconduct, and disproportionate sentencing. There is also a profit motive to keeping millions of Blacks and Latinos locked up, which I will get into a bit later in this essay.

Racial profiling has all but been legalized by directives emerging from the Justice Department under Jeff Sessions, endorsed heartily by Donald Trump, aided and abetted by a market-driven U.S. culture industry. The flames of irrational fear are continuously being fanned high by official statements coming from federal, state, and local law enforcement around the country. Mainstream film and television broadcasting throw gasoline on that same fire by surreptitiously presenting images of Blacks, Latinos, and increasingly Muslims, as those of virulent criminals. It is important here to remember that Jeff Sessions was one the earliest and most powerful supporters of Trump's

bid for the presidency, with one of Trump's earliest institutional endorsements coming from the Fraternal Order of Police.

Sessions and the F.O.P. had a long wish list beginning January 20, 2017, and they expected results. The F.O.P. went so far as to issue a set of policy directives to the incoming administration the previous month in the form of a press release titled *The First 100 Days*. Despite whatever nonsense corporate news has drummed-up about dissention between Trump and Sessions, they've been getting those wishes fulfilled.

Trump has enjoyed playing the role of political Santa Claus with many of the most backward and criminal money-men in the Republican Party, rolling back and rescinding every Obama era rule and regulation possible.

Here are a few examples. In late February, 2017, Sessions directed the Justice Department to end Federal oversight of America's police departments proven to have internal cultures of racial prejudice and abuse. The strategy had been implemented by the Obama administration to fight racial profiling and hold violent officers accountable. This in the wake of innumerable examples of brutality and murder that had gone unpunished. That same week, Sessions dropped any objections on the part of the Justice Department to a Texas voter-identification law that had been understood by the Obama administration as an unconstitutional violation of voting rights. That Texas law had been crafted in 2011 by the Republican Party to further negate the potential votes of Blacks and

Latinos, as well as left-leaning young people, in their state. The Obama administration had been pursuing the case against Texas since 2013. As the New York Times correctly observed that month, “Under the Trump administration, the Civil Rights Division of the Justice Department is expected to undergo the most severe shift in philosophy of any other section under the Trump administration, and Mr. Sessions appears to be quickly meeting those expectations.”

By the second week of March in 2017, Sessions had asked forty-six Obama-appointed U.S. attorneys in the Justice Department to resign. At the end of that same month, Sessions released a memo directing all those in the Department to immediately review activities and investigations “including collaborative investigations and prosecutions, grant making, technical assistance and training, compliance reviews, existing or contemplated consent decrees, and task force participation” to verify that they were in compliance with the Trump administration. The review of consent decrees was specifically meant to derail Federal investigations of existing police corruption, specifically in Chicago and Baltimore.

Returning to the aforementioned question of minimum sentencing and the radical expansion of the prison population as a result, it should be remembered that it was Bill Clinton who championed such measures well over a decade previously. In his administration’s capitulation to the so-called Gingrich Revolution, Clinton sponsored the Crime Omnibus Bill,

subsequently incarcerating more Blacks and Latinos than the previous two presidents, Reagan and Bush, combined. During his wife's second failed bid for the White House, the former president would apologize for the insistence on minimum sentencing, underlining it as a mistake and the root cause of racially biased mass incarceration. The Obama administration had worked to end the rules that bound judges to impose such draconian measures, as they had indeed proved to be invariably racist.

By May of 2017, Sessions was directing Federal prosecutors to seek the maximum sentence possible in all cases, charging defendants with the most severe crimes available to their circumstances, overturning the Obama administration's previous directives. That July, Sessions reversed yet another Obama era rule, dramatically reinstating property seizures, such as cars and money, of those accused or suspected of a crime, even if the charges did not necessarily end in a conviction. Later that month, Trump told police gathered in Long Island for a speech on illegal immigration not to worry about injuring suspects during an arrest.

By the end of summer, Sessions, with Trump's support, was redirecting the Civil Rights Division of the Justice Department to investigate race-based preferences in college admissions. Preferences he viewed as possibly criminal. That September, Sessions defended far-right activists, including Neo-Nazis, as exercising free-speech as protected by the constitution. Before

the year was out, Sessions would revoke 25 legal guidance documents used by the Department of Justice since 1975, saying they provoked “confusion.” Just before New Year’s Day, Sessions would reopen the legal doors to potentially enfranchise debtor’s prisons nationally for the poor and indigent.

All of which brings us to today. At the end of February this year, the Supreme Court reversed an earlier 9<sup>th</sup> Circuit Court ruling, *Jennings v. Rodriguez*, thus making it legal to detain immigrants indefinitely. This decision followed hot-on-the-heels of Sessions abolishment of an Obama administration rule barring Federal contracting with the private prison industry. It is no secret that this these for-profit private prisons are the main artery through which I.C.E. channels those it detains. Many thousands of those detained are children, all are kept in deplorable conditions with little of the oversight one finds in government-run facilities. The private-prison industries are also a major source of funding for Republican candidates throughout the country.

As if to open the doors further for this money-making venture disguised as law-and-order, in early March, Sessions made a rare visit to California’s capitol, Sacramento, to announce litigation against the state’s “sanctuary cities.” Sessions delivered his remarks at the 26<sup>th</sup> annual Law Enforcement Legislative Day hosted by the California Peace Officers' Association, saying “California, we have a problem. A series of

actions and events has occurred that directly and adversely impact the work of our federal officers. For example, the mayor of Oakland (Libby Schaaf) has been actively seeking to help illegal aliens avoid apprehension by ICE. Her actions support those who flout our laws and boldly validate the illegality. There's no other way to interpret her remarks. To make matters worse, the elected Lieutenant Governor (Gavin Newsom) of this state praised her for doing so. Bragging about and encouraging the obstruction of our law enforcement and the law is an embarrassment to this proud and important state. . . . In recent years, California has enacted a number of laws designed to intentionally obstruct the work of our sworn immigration enforcement officers--to intentionally use every power it has to undermine duly-established immigration law in America. . . . California has also claimed the authority to inspect facilities where ICE holds people in custody.”

Trump followed up soon after, using his weekly address to all but declare war on California, imploring congress to cut-off Federal dollars funding any municipality that supports “sanctuary” policies for immigrants. Trump stated unequivocally, “The State of California is sheltering dangerous criminals in a brazen and lawless attack on our Constitutional system of government. Every state in our Union is subject to the laws and Constitution of the United States – including California. Yet California’s leaders are in open defiance of

federal law. They don't care about crime. They don't care about death and killings. They don't care about robberies. They don't care about the kind of things that you and I care about."

Soon after, an official spokesman for I.C.E. in California, James Schwab, resigned in protest, citing both Sessions and Trumps exaggerations of the threats posed by immigrants in California. Speaking to the *San Francisco Chronicle*, Schwab said, "I quit because I didn't want to perpetuate misleading facts. I asked them to change the information. I told them that the information was wrong, they asked me to deflect, and I didn't agree with that. Then I took some time, and I quit."

While the threat of so-called illegal immigration to the United States has most certainly been exaggerated by both Sessions and Trump, their very real threats to California cannot be overstated. Unlike the Eastern states, or even those of the Mid-West and South, California was never entirely settled. These new threats are attempts to do just that in classic circle-the-wagons settler fashion. In point of fact, the 19<sup>th</sup> century was all but half-way over before California even joined the Union. Its status within the Republic has always occupied both the center and the absolute margins, socially, politically, economically, culturally. The Trump-Sessions junta in American politics should not only be supremely resisted, it should be destroyed. California is the only state with the power to do so with a Democratic super-majority, leading the nation as it has in the past.

As it stands, another Obama policy upended by Trump at the behest of the F.O.P. and enthusiastically embraced by Sessions, is the continued arming of local police forces with military-grade arms and equipment. Gifts from Homeland Security and the Department of Defense. As all of the above changes continue unabated, it will not be long before we see more and more of this type of equipment being deployed by local police forces, as we did in Ferguson, MO. and Baltimore, MD.

I.C.E. and the Justice Department are spoiling for a fight, particularly in Oakland, California and the greater Bay Area, as they made excruciatingly clear in the early weeks of March, 2018.

In the late 1940's, the jazz standard, *Just You, Just Me*, was transformed by Thelonious Monk, becoming the original composition *Just Us*, later titled *Justice*, and finally known as *Evidence*. I think he had a point. Without evidence there will be no justice, and without either, it will stay just us, and if we're not careful, each one of us will be left saying "just me."