



PUBLIC ENEMY: ATTORNEY GENERAL JEFF SESSIONS WANTS TO MAKE AMERICA SAFE. BUT WILL IT BE SAFE FOR US?

BY JEANNINE AMBER

No one was hurt in the crime that sent 32-year-old single mother Sharonda Jones to prison in 1999. She was a first-time offender charged with distributing cocaine, which the judge determined was going to be converted into crack, and therefore subject to stiffer penalties. Sharonda was sentenced to life behind bars, leaving behind her eight years old daughter.

"It crushed my heart," Jones says of the impact her incarceration had on her only child. "I missed her graduation. I missed her first almost everything."

Jones is one of tens of thousands of drug offenders sentenced to severe prison terms under the mandatory minimum sentencing guidelines, initiated during the 1980s "war on drugs." The guidelines prevented judges from using their discretion when meting out punishment. Instead of considering a defendant's circumstances, as they often do during the sentencing phase, judges were compelled to follow rigid one-size-fits-all guidelines. It didn't matter if you were an addict caught with a couple of grams or a big-time dealer moving weight, either way you were getting a lengthy sentence.

Compounding the issue was the 100-1 sentencing disparity for possession of crack cocaine versus the powder form of the drug. To make it clear: 50 grams of crack (about the size of a Snickers bar) would get you a mandatory ten-year sentence. You'd get the same sentence for possessing 5000 grams of cocaine, enough to fill a gym bag. Lawmakers argued that crack a more dangerous drug (a fact that has never been proven). More to the point: crack users were predominantly black.

The mandatory minimums guidelines were draconian. Scores of research showed the war on drugs also didn't work. Rather than acting as a deterrent, the primary effect of the guidelines was to fill prison cells with bodies. Over the past four decades, there has been a 500 percent increase in incarceration rates, with one in five inmates serving time for drugs. Hardest hit have been African-American men, who are incarcerated in state prisons at a rate five times that of whites, according to a 2016 report by The Sentencing Project. "We have the highest rate of incarceration in the world," says Nicole D. Porter, the Sentencing Project's advocacy director. "Much of that has to do with reinforcing the racial hierarchy." Porter notes that her organization projects that 1 in 3 black men born in 2001 will be incarcerated in their lifetime. "The fact that we lock people up for so long says a lot about who [our lawmakers] imagine to be in prison, and what they imagine their futures to be."

After decades of tough-on-crime presidents and skyrocketing incarceration rates, a reversal finally came with the election of President Barack Obama, and his appointment of Eric Holder, the country's first African-American Attorney General. Criminal justice reform became a priority of the administration.

In 2013, Holder, in a meeting with the American Bar Association, boldly cited wide-spread racial inequality in the criminal justice system and questioned the effectiveness of the war on drugs. "Too many Americans go to too many prisons for far too long, and for no truly good law enforcement reason," said Holder. "This isn't just unacceptable... it is shameful."

In a decisive move, Holder directed state prosecutors to stop using mandatory minimum guidelines when sentencing low-level drug offenders, and instead reserve the harshest punishments for the most violent crimes. This new policy was part of a greater agenda to move away from mass incarceration and toward a more holistic approach to reducing crime by addressing underlying educational, economic and social inequalities.

Most important, Obama's policies were grounded in research and evidence, not fear. In 2014, Obama announced "My Brother's Keeper," a raft of proposals aimed at increasing opportunities for young men of color, and disrupting what's come to be known as the 'school-to-prison pipeline.' Specifically, multiple studies had revealed the disproportionate rate of black students receiving suspension, expulsion and even getting arrested at their schools for, sometimes minor, infractions. One Texas study showed that 83 percent of black male students had been removed from their classrooms as a form of discipline (compared to 59 percent of white boys). The same study noted that students who had been disciplined at school (as opposed to receiving counseling or other support services), were three times as likely to end up in juvenile detention the following year.



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Obama's efforts to reform the criminal justice system were far-reaching, aimed at keeping people out of jail and increasing police accountability. Under his administration, Attorney General Holder led a Department of Justice investigation into policing practices in cities like Ferguson, MI, and Baltimore, where unarmed black men had been shot and killed by officers. The president also created a special task force charged with developing strategies to foster trust between police and the communities they serve, and allocated more than 2 billion dollars for officer training. Behind bars, Obama banned solitary confinement for juvenile offenders, expanded mental health care services in federal prisons, and increased the amount of time inmates in solitary confinement were allowed to spend outside.

After an investigation by the justice department revealed conditions in for-profit-prisons to be more dangerous for inmates than federal institutions, in 2016 Obama ordered a plan to slow down—and eventual phase out—the country's reliance on private penitentiaries.

By the time Obama left office in 2016, the national crime rate had dropped and there were fewer people locked in federal prisons than when he became president. It was the first decline in the incarceration rate since President Carter.

"With Obama, we were seeing signs of de-escalation—a move away from some of the policies that had destabilized our communities," says Kasandra Frederique, New York director for the Drug Policy Alliance, a national research and advocacy organization. "We had a five percent drop in incarceration, and a billion dollars saved."

But that was then, Donald Trump is now in charge and he's handed oversight of criminal justice to ultra-conservative former Alabama State Senator Jeff Sessions, now attorney general. By all indications, with Sessions leading the way the country is poised to take a giant step backward.

TURNING BACK THE CLOCK

This past May, Sessions issued a stunning directive ordering federal prosecutors to seek the most severe sentences allowable under law, even in cases of non-violent offenders. The memorandum immediately restored mandatory minimum guidelines and rescinded Holder's previous order telling prosecutors to reserve stiff sentences for the most serious crimes. Once again low-level drug offenders could be sentenced as kingpins. Eric Holder immediately condemned Sessions' directive, calling it "dumb" on crime.

"It is an ideologically motivated, cookie-cutter approach that has only been proven to generate unfairly long sentences that are often applied indiscriminately and do little to achieve long-term public safety," said Holder in a statement in which he characterized the move as "turning back the clock."

None of this comes as a surprise to anyone familiar with Jeff Sessions' political past. The Trump loyalist has a long history of raising concerns about his commitment to civil rights.

In 1986, Coretta Scott King submitted a nine-page letter to Congress opposing the nomination of then U.S. Attorney Sessions for a position as federal judge. The previous year, in a highly controversial case, Sessions had attempted to prosecute three civil rights activists for voter fraud (the men were acquitted). King wrote: "Mr. Sessions' conduct as U.S. Attorney, from his politically-motivated voter fraud prosecutions to his indifference toward criminal violations of civil rights laws, indicates that he lacks the temperament, fairness and judgment to be a federal judge."

King's letter, along with other concerns about Sessions' track record on race (a former assistant district attorney testified at that Sessions had repeatedly called him "boy"; Sessions denied the charge), sank his nomination for federal judge. But 31 years later, during Sessions' confirmation

TRUMPIED

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hearings to become attorney general, questions about his attitudes toward race and justice surfaced again. In January, *The Nation* published a scathing indictment of him, arguing that the former state prosecutor could return criminal justice to the "Jim Crow era." The article cited numerous examples of 70-year-old Sessions's "extreme and increasingly outdated views on crime and punishment and racial justice," including his support, in 1995, of the use of chain gangs in Alabama prisons; his blocking of a 2014 bipartisan bill aimed at reducing lengthy prison sentences; and his support of the Confederate flag. In 2015, after nine African-American worshippers were massacred by a White supremacist at Emanuel AME Church in Charleston, South Carolina, the governor of Alabama had four Confederate flags removed from the state capitol. Sessions responded by declaring, "[The Confederate flag] is a huge part of who we are and the left is continually seeking...to delegitimize the fabulous accomplishments of our country...."

Sessions's May order to reinstate harsh mandatory minimums isn't the only weapon the attorney general has aimed at Obama-era reforms. Less than two weeks after he took office, Sessions issued an order halting Obama's directive to phase

border this past May. Undocumented immigrants who risk staying in the United States know all too well the peril they face. This year the Trump administration awarded a \$110 million contract to a private prison company to build a 1,000-bed immigration detention complex in Texas. "The writing is on the wall," says Cassandra Frederique, New York director for the Drug Policy Alliance, a national research and advocacy organization. "This is about prosecuting and persecuting communities of color. It is not a dog whistle; it's a 200-foot neon sign that says, 'We are going to make America great again by locking up all the people we don't like.'"

HIGH STAKES

Over the past four decades, there has been a 500 percent increase in incarceration rates, with one in five inmates serving time for drugs. Hardest hit have been African-American men, who are incarcerated in state prisons at a rate five times that of Whites, according to a 2016 report by The Sentencing Project. "We have the highest rate of incarceration in the world," says Nicole D. Porter, The Sentencing Project's advocacy director. "Much of that has to do with

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out the use of for-profit prisons, arguing the country needs more prisons to "meet the future needs of the federal correctional system." Interestingly, two of the country's largest private prison corporations donated to President Trump's inauguration celebration. Their stock prices soared after his election.

Sessions, in lockstep with Trump, is also targeting undocumented immigrants, ordering mass arrests and severe federal penalties, and stepping up the use of detention centers. The crackdown has terrified many refugees, thousands of whom have attempted to walk across the U.S.-Canadian border, sometimes with tragic results. Seidu Mohammed, a 24-year-old Ghanaian man who had his petition for asylum turned down by an American judge, lost all his fingers and a toe to frostbite after walking seven hours through frigid temperatures crossing into Manitoba in December; Mavis Otuteye, 57, also from Ghana, died of hypothermia in a ditch less than a mile from the Canadian

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In 2016, after an investigation by the Justice Department revealed conditions in for-profit-prisons to be more dangerous for inmates than federal institutions, Obama ordered a plan to slow down—and eventually phase out—the country's reliance on private penitentiaries. By the time Obama left office in January 2017, there were 8,000 fewer people locked up in federal prisons than when he took office. It was the first decline in the incarceration rate since President Jimmy Carter. "With Obama, we were seeing signs of de-escalation—a move away from some of the policies that had destabilized our communities," says Frederique. "We had a 5 percent drop in incarceration, and saved a billion dollars."

Fast-forward to the current administration, and the legislative shifts under Trump have many advocates crying foul. Brittany K. Barnett-Byrd, a Dallas-based attorney and fellow at #Cut50, a bipartisan organization aimed at reducing the prison population, insists mass incarceration is fueled, in part, by a willingness to dehumanize those we lock behind bars. Barnett-Byrd, who represented Sharanda Jones in her appeal for clemency, notes another case: In 2010 Chris Young, 22, was arrested as part of a drug ring. He received a mandatory life sentence in 2014 after being convicted on a drug charge. Young was a repeat offender, and Kevin H. Sharp, the U.S. district judge who was required to implement the sentence, subsequently resigned from his post, telling local newspaper *The Tennessean*, "If there was any way I could have not given [Young] life in prison, I would have done it.... [He] deserved some time in prison, but not life."

Barnett-Byrd adds, "This policy is just out of touch with reality. Nobody should be doing life in prison for a nonviolent drug offense. Nobody. I would be very surprised if Jeff Sessions had recently gone to a prison and spoken with someone impacted by these sentences." As a young woman, Barnett-Byrd experienced her own mother's incarceration. She says plainly that when lawmakers consider incarcerated people, they would do well to remember, "There are heartbeats behind those numbers."

A SECOND CHANCE

While President Obama worked to keep people from going into prison in the first place, he also turned his attention to those already behind bars. In 2014 he implemented the Clemency Initiative, urging nonviolent federal inmates who'd been sentenced to lengthy prison terms under the mandatory minimum guidelines to apply to have their sentences reduced or commuted by the President. During his time in office, more than 36,000 inmates petitioned for relief, and Obama granted 1,925 inmates clemency, including 568 who had been serving life sentences. Sharanda Jones was one of the lucky ones.

On April 16, 2016, after almost 17 years behind bars, she was set free. "I am so grateful," she says during her lunch break from her job-training program at a Dallas auto-salvage

shop. "I was given a chance to redo my mistakes and start over again." Shortly after her release, Jones, now 50, received another gift: She became a grandmother. "I came home in April and my granddaughter was born in May. I have a chance to rebuild my relationship with my daughter and a chance with her little girl. I see them almost every day."

Jones is making the most of her new life. She gives back to her community, collecting clothing to distribute to people less fortunate than herself. And she's traveled to Washington, D.C., to meet with members of Congress to help put a face on the crisis of mass incarceration. Yet Jones says her heart breaks whenever she thinks about the people still locked behind bars with no hope of getting out: "Life in prison is a wasted life. A second chance is all some people need." □

Jeannine Amber (@jamberstar) wrote "Guns in America: 41 Stories of Survival" in the July 2016 issue of ESSENCE and is the coauthor of *Rabbit: The Autobiography of Ms. Pat*.

RESIST: HOW TO FIGHT BACK AGAINST TRUMP-ERA POLICIES ON CRIME



"Many of us have the information we need," insists Drug Policy Alliance's Cassandra Frederique, who says it's imperative we share what we know. "We need to have conversations in our churches, our schools and our social organizations about the war on drugs and the impact these policies have on our communities."



The majority of district attorneys who prosecute crimes in the U.S. are elected officials, which means voicing your opinion can make a difference. "It's time to vote in your local district attorney races," says Frederique. "Tell the candidates, 'No. You're not going to take our kids.'"



National and local organizations such as #Cut50, Law Enforcement Action Partnership, the Drug Policy Alliance, Equal Justice Initiative and The Sentencing Project are at the forefront of advocating for criminal justice reform. "There are people who have been working to dismantle the war on drugs for the last 25 years," says Frederique. "Join us!" For a list of organizations, visit namaste.org/blog/exceptional-nonprofits-in-criminal-justice-reform.