

The Crime and Punishment of John Sinclair

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“Your day has come. You may laugh, Mr. Sinclair, but you will have a long time to laugh. I sentence you to not less than and not more than ten years in the state penitentiary.”

—Judge Robert J. Colombo, July 28, 1969

John Sinclair is in the State Penitentiary at Jackson, Michigan, where he is supposed to spend the next decade. Convicted by a Recorder’s Court jury of possession of two joints of marijuana, Colombo sentenced John to join the thousands of other criminals for whom the world’s largest closed wall penitentiary was built.

Appeal bond was denied by Colombo and subsequently by the Court of Appeals as well. Attorney Sheldon Otis is seeking an appeal bond from the Michigan Supreme Court at this writing.

For the next 114 months, John, like other prisoners throughout the U.S. is not supposed to fuck, smoke dope, eat good food, read what he wishes, talk to his children—one of whom is yet to be born, see movies he likes, converse with old friends, sleep late, struggle against the ruling class, turn youth against the system or frighten the rich old white man.

The fact remains, in the name of the People of the State of Michigan, the Minister of Information of the White Panther Party, is being punished.

Edward Kennedy, the boy who cheated his way through Harvard, at the very least, irresponsibly caused the death of a young woman. He received a suspended sentence for leaving the scene of an accident.

He will spend the next ten years being a United States Senator and doing everything possible to become the President of the United States of America.

During that ten years, he will eat good food, fuck (his wife and who knows who else), drink alcohol, go wherever he pleases (including into a pond if he feels like it), listen to whatever he thinks music is and generally live the life of the rich young white man.

Lee Otis Johnson is black. He was an organizer for SNCC in the state of Texas. For the same marijuana charge as John Sinclair, with even less “proof” of his actual “guilt,” Lee Otis Johnson is serving a 30-year sentence in the Texas State Penitentiary.

Teddy (as he is affectionately known) Kennedy was repentant and remorseful as he used millions of dollars in free television time to seek sympathy for his plight from the nation. Even his neck brace had been removed so that rather than holding his head high he would be able to bow it for the cameras.

John and Lee Otis and the White Panthers and the rest of us are defiant.

“You’re a punk, you’re a pig, YOU WILL DIE!” shouted John at Warner Stringfellow, the Detroit Narc who came to gloat at John’s sentencing. And the others present gave the clenched fist and yelled, “Power to the People” and “Off the Pigs.”

In the defiance lies much of the difference. John Sinclair is not in jail for smoking and possessing reefer. Smoking and possessing the gentle weed is not a crime in the United States. Nothing is.

Causing the violent death of another human being is not a crime in the United States or the State of Michigan or the City of Detroit. If you don't believe it, ask Ronald August, or David Senak who shot and killed three people during the Detroit Rebellion at the Algiers Motel.

Taking the property of another person is not necessarily a crime in the United States and never has been.

If you don't believe that ask the so called Indian, or Senator Eastland or Nelson Rockefeller, or the people of the Phillipines or Okinawa. Or ask the owner of the Get-rich Appliance and Furniture Store that used to be on Twelfth Street before the people took it back and burned it. Or ask the people who used to live where Lafayette Park or the Frederick Matthai Physical Education Building are.

You can pollute the air we all breathe, chop down the trees for private profit, and destroy the ocean beach of Santa Barbara or the lakefront beach of Chicago with impunity.

John Sinclair possessed marijuana. If it were actually a crime to possess marijuana there would be thousands of people in jail. Scores of thousands. Hundreds of thousands. White people. From Birmingham and Scarsdale and Orange County and Palo Alto and Daytona and Evanston. Old people. And millions of their children.

Chuck Ravitz, John's brilliant attorney, said after the trial only half jokingly, "Maybe we ought to start turning in the middle class. Let their asses go to jail."

He continues "As long as the police and courts are successful in associating marijuana with political people such as John and Lee Otis, it will not be legalized. If anything we are further away from that than before.

"People who are involved in struggle," Ravitz advised, "should not allow themselves to be exploited by the pig by being at all involved or at least carelessly involved with the weed. The law isn't changing."

It is a fact, however that millions of people innocently smoke the drug. They are not afraid of either arrest or punishment if they are arrested. They are as secure, if not more so, than those who drank during prohibition.

Only one thing makes the illicit smoker more vulnerable than the drinker of the thirties and that is the advanced decay in the condition of the authorities. The mentality of "law enforcement" in this society is that everyone ought to be dependent on a destructive chemical of some kind. Liquor and cigarettes are cheaper in Washington D.C., our nation's capitol than almost any other place in the nation.

For many, dependency has been achieved through alcohol, for others—through debilitating emphetamines, barbiturates and tranquilizers. Marijuana is too benign. It is not like the other chemicals. And growing numbers of its users are not prosecutable or punishable. They smoke dope like Teddy Kennedy commits negligent homicide.

So entrenched authority, desperate out of the challenge to its legitimacy, had hit upon a new plan. Dry up the supply. Vigorous, imaginative, tenacious law enforcement against the distribution of the supply. Twelve burlap bags here, 300 kilos there, weird nosed dogs at Metro airport.

The result is insidious. The forces of lawnorder are the masters of a self-fulfilling prophecy. It is the overt or secret wish of every narc to turn every marijuana user into a heroin addict.

To accomplish that will among other things justify the expenditure of so much energy in combating marijuana sales as opposed to the lack of energy and failure in stopping the distribution of heroin and other hard drugs which are immensely more profitable and much more difficult to combat.

For most people it is not the presence of weed that makes people turn to hard drugs such as speed and heroin. Rather it is the absence of the gentle drug. And so, because police vigilance is paying off, marijuana is in short supply and the hard drugs are increasingly available. More people are becoming addicted to hard drugs. And so the "connection" is being "proven."

The more basic point for John Sinclair and all of us remains. Criminality and punishment is a factor of class and caste pure and simple.

In theory, every society gets together and decides what constitutes anti-social behavior in that society. Such behavior then becomes outlawed either by formal law or taboo. The U.S. prides itself on being a society of laws. It is. There are thousands upon thousands of laws in the United States.

In fact, one of the obvious but overlooked reasons that there is an increase in lawlessness in the nation is that after two hundred odd years of passing a law every time the ruling class got upset about something there are simply too many laws. (Some examples of this phenomena are, the N.Y. gun control law passed two days after black students carried weapons on the Cornell campus, all Jim Crow laws, the Rap Brown-Stokely Carmichael anti-riot

act under which Bobby Seale, Tom Hayden and others are being prosecuted in Chicago, all of the laws governing riots which were passed by nearly every state in the fall of 1967 and so on.)

It is virtually impossible to be a law-abiding citizen in this society if someone in “authority” decides that you are acting in a way that displeases him.

To return to theory, anti-social behavior—that which would be bad for the whole society—is prevented by outlawing it, that is, defining such behavior as “criminal.” (There are non-criminal categories of deviant, anti-social behavior such as that which gets one committed to a so-called mental institution).

Criminals are those who have been selected as eligible for punishment, most commonly by putting them in jail. Criminals are chosen in a “trial” which is supposed to establish that they really committed the anti-social act they are accused of.

Police are hired to ferret out antisocial acts and the people who commit them. Another reason for growing difficulty in the U.S. is that giant forces have been created to oppose “crime” as an end in itself and not because crime is antisocial.

Punishment is administered to “criminals” for three reasons. First, so that the “criminal” learns that committing an anti-social or deviant act has adverse, painful consequences such as going to prison. Learning that, the “criminal” is supposed to be conditioned not to commit “crimes,” just like a child is supposed to learn not to touch the flame after getting burned.

The second alleged purpose of punishment is to deter others who might be tempted to deviate in the same direction but who will decide not to out of fear of what happened to others.

The third reason is to protect society from repeated anti-social behavior of some of its members.

Any additional function of course is to create jobs and satisfaction for the punishers of criminals.

The natural restraint of anti-social behavior, if there ever was such a thing, has broken down in the U.S. creating a crisis in law enforcement or law order of which John Sinclair is very much a part. Of the many complex factors, two are useful to understand.

First, the people particularly the young but actually almost everyone, have never had the opportunity to make any collective decisions about what constitutes anti-social or deviant behavior.

We have been denied that right by inertia, by inheriting a system in which all such basic decisions have already been made and are now treated as immutable, God-given laws that are not subject to review.

This is true in every important area of human relations including, private vs. public use of land and other resources, marriage, the decision making process in every institution including government, race relations, control of the means of violence and force—the military, the draft, and the police, foreign policy and so on.

All present laws were made and are enforced for the benefit of the group known as the ruling class—those who have the power to control who gets elected to so-called public office and how they behave after they get there. It is increasingly clear that there is no such thing as public office.

Everyone, whatever their title or capacity for self-delusion, serves the rich. If you wanted power in society which would you rather be, the President of the Chase Manhattan Bank or a congressman? It should be obvious that some freedom-loving people find it increasingly difficult to obey and accept laws which they did not make and which do not seem to be for their benefit.

The second reason for growing lawlessness has to do with how existing laws are enforced not what they are or how they are made. The mythology says that laws are enforced impartially without regard to class or caste. We know they are not.

In a society where every citizen is almost always breaking the law in one way or another (by possessing marijuana, or exceeding the speed limit or parking in the wrong place, or evading one tax or another) the law cannot be enforced equally. Who can be the police?

If the law were enforced equally and every citizen were punished for his or her crimes, everyone would be in jail all the time.

In a capitalist-racist chauvinist society, there cannot be equal law. Equal humanity for all people is not assumed in fact. And there is not equal power because some people control the means of production and others do not.

Those who do not can and will always be defined as criminals some way or other by those who do. In a capitalist society it is always “criminal” for people to try to get hold of the means of production in anything other than an individual fashion.

Secondly, in a capitalist system with a capitalist ideology, it is impossible to develop a collective, people’s determination of anything. By definition such a society is fragmented and competitive.

Capitalism always has crime because there is always a contradiction between saying one must follow the rules of society on the one hand and one must go for oneself on the other (“The world doesn’t owe you a living kid...and we don’t owe those welfare people a damn thing—why don’t they get a job?”)

Except for paying lip service to the concept of free education and providing less than survival income for old age, this society offers its members no guarantees of anything except taxes and death. It is moving rapidly to destroy even such absolutely fundamental human resources as air to breathe and water to drink.

Although it may be suppressed for a time, given this basic contradiction between the people and the laws which control them, increasing disobedience and disrespect for laws and those who make them and enforce them is inevitable.

That is why John Sinclair is in jail. He is ahead of his time. He is a dangerous, anti-social deviant who has vowed to destroy society which has imprisoned him. It is not surprising that he has been selected as a criminal.

If we were shocked at John’s conviction or his sentence, it is only because we gave the system more credit than it deserved. Partly We were lulled into a false sense of security by the extraordinary legal job done by John’s attorney Justin C. Ravitz.

There are few accused men who have ever had a more brilliant, conscientious, imaginative defense than John Sinclair.

For two and one-half years after his arrest, Chuck Ravitz made every effort to get the case dismissed before ever coming to trial.

The motion he submitted to quash the indictment was the longest ever submitted in the State of Michigan. Many have called it the best brief against marijuana laws ever written in the United States.

The three judge panel of Recorder’s Court judges which was convened to consider the constitutional and legal issues it raised is without precedent in the practice of law in Michigan.

The first charge of sales and dispensing was dismissed as the result of superb legal argument which may yet result in a successful appeal.

The brief Chuck wrote for the granting of an appeal bond may still succeed with the Michigan Supreme Court. It points out that Vito Giacalone was released on bond after having been sentenced to 4-1/4 to 5 years in jail with felony charges of 67 years in penalties still pending against him.

John’s first trial ended in a mistrial when Chuck pressed to its limit an error made by the prosecution.

The second and final trial was a masterpiece of trial court effort.

The prosecution’s prime witness, secret agent narco punk vulture Vahan Kapegian was entirely discredited.

In a very important development for this and other cases, the police chemist was also discredited. Through skilled cross examination, using the chemist’s own sources, Ravitz showed that the basic tests used to establish evidence of Cannabis (grass) is unreliable and not to be trusted.

The only scientifically correct test in existence, known as gas chromatography, is probably not used by any narcotics enforcement agency in the country. The most common test, heretofore practically unchallenged, is the Duquenois test.

As established in testimony in John’s case this test does not isolate the active ingredient of Cannabis. In other words, marijuana which did not contain THC and therefore which could not get anyone high could pass the test. More importantly, it was admitted that 47 other plants, other than Cannabis could also pass the test.

Despite all of this and more, it took the jury of eight blacks and four whites only 65 minutes to determine John’s guilt. The best the legal system, taken on its own terms, had to offer failed. It had to. Either that or John Sinclair is not a dangerous, anti-capitalist, anti-imperialist, anti-racist leader in the movement for a new order.

He is such a leader and so the Monday after the Friday conviction, Judge Robert Colombo was given’ a chance to do his duty to the voters, the frightened parents and the bankers. That should not have surprised anyone either.

Colombo is a former general counsel to the notorious Detroit Police Officers Association (DPOA). He is the judge who held Karen Malloy for nearly three months in jail under \$25,000 bond, not because she had been convicted of a crime, but because she was a prosecution witness in the Algiers Motel case.

Colombo is most remembered for his widely publicized judicial restraint during the Detroit rebellion.

He made repeated statements justifying preventive detention and other South African judicial procedures which were used at the time on the basis that those arrested were animals.

One defendant who appeared before him protested the exorbitant bond which had been placed on him for a minor charge. The defendant said to Colombo that the bond was improper because he had not yet been convicted of the crime.

Colombo responded by rising from his chair, leaning forward over the bench and screaming at the man repeatedly, "WE WILL! WE WILL! WE WILL!" So much for the assumption of innocence.

Following statements by John and Chuck, Colombo could barely control his anger and contempt as he told John he was an incorrigible with whom every effort at rehabilitation had failed.

As a petty gesture of his power, Colombo announced that John could have two days credit from his 9-1/2-to 10 year sentence for the weekend he had just spent in the Wayne County jail.

Colombo acted without fear, believing falsely that his person and his system are invincible from justice. He does not understand the contradiction between himself and the John Sinclairs.

He does not understand that it is fatal to his system to put the John Sinclairs in jail and it is fatal to leave them out. It is the same mistake that the Czar and Batista and every other tyrant has made.

But as Chuck Ravitz said, the day when the movement could be destroyed by imprisoning one man are over. The Black Panthers have gotten bigger and more powerful every day that Huey Newton was in jail. The more draft resisters who go to jail the more draft resistance increases. The more busts there are in the Army including dope busts at Fort Hood and elsewhere, the more resistance in the Army increases.

John was dead right when he replied to Colombo's attack. He said, "You've completely revealed yourself. You've exposed yourself even more and the people know that!"

Colombo and his ilk have chosen a life of crime—against humanity. Their behavior is dangerous to the social order. They are incorrigible and have spurned every effort at reform and rehabilitation.

They will not be allowed to terrify innocent people here and around the world forever. While trying to free John Sinclair and all other political prisoners, we will learn to accept the idea of casualties.

The viciousness and desperation to come will make 9-1/2-to 10 years look like a slap on the wrist. We will be strong and ready for it or we will not deserve to win. They are beginning to be weak with fear.

We will respond in the only way we can.

Struggle.

fifth Estate

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