

Law-and-order campaign follows sentencing in Stanford sexual assault case

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In the wake of California Judge Aaron Persky's June 2 decision to sentence Stanford University student Brock Turner to a six month jail sentence for sexual assault, the political establishment has launched a law-and-order campaign aimed at establishing mandatory sentences, expanding the prison population and increasing the police powers of the state.

The emerging "tough on crime" campaign reveals the deeply anti-democratic character of complaints that Turner's sentence was "too lenient" and a product of his "white privilege." The chorus of police, prosecutors, political figures, media magnates and identity-based organizations that have joined to denounce Persky are strengthening dangerous authoritarian tendencies in the state.

The campaign against Persky, which a number of public defense attorneys have publicly opposed, is intended to intimidate those few criminal judges who do not serve as rubber stamps for the prosecution. The Santa Clara County District Attorney's office successfully removed Persky from another case after the judge dismissed a misdemeanor charge against an impoverished Hispanic defendant.

The law-and-order campaign has metastasized in recent weeks, culminating in a proposal by a host of Democratic State Assembly representatives to make sweeping changes to the California Penal Code. On Tuesday, the Senate Public Safety Committee unanimously approved sending two police-backed bills to a floor vote. Assembly Bill 2888 would establish a mandatory minimum of three years in prison for sex assault cases where the victim was unable to consent due to intoxication or unconsciousness. Assembly Bill 701, also proposed by Democrats, would broaden the statutory definition of rape to include forced penetration of any body part with any foreign object.

The reactionary character of these law-and-order reforms is exemplified by the comments of the press and by prosecutors supporting the proposed changes.

The *San Francisco Chronicle* described the current penal code as "crazy soft-on-crime," and warned that "Brock Turner is what happens when you give judges unlimited discretion to go lenient." Calling for harsher sentences, Santa Clara County District Attorney Jeff Rosen said the mandatory minimum sentencing law is part of a "cry for change" and said that AB 2888 will "help us hold accountable sexual offenders who stalk unnoticed within our state's college campuses..."

Los Angeles County Assistant District Attorney Michele Hanisee wrote in a series of blog posts that the six-month sentence "encapsulates the wholesale turnover in the criminal justice system." She used the Turner case to call for eliminating rehabilitation, house arrest and community-based alternatives to long prison terms. Hanisee complained that the state of California spends only "\$10 billion on prisons" per year, which she said was unfairly below funding levels for schools and social programs. Hanisee insisted that moves must be taken to increase the prison population, expand sentences and eliminate alternatives because "victims are taking a distant second fiddle to the convicted criminals who victimized them."

Hanisee's comments about prison funding and social programs are not idle talk—they exemplify the connection between "tough on crime" campaigns and rightward shifts in social policy more broadly. In the post-WWII era, "anti-crime" talk has been a primary mechanism for facilitating attacks on social programs and the transfer of wealth from the working class to the financial aristocracy. In the words of President Richard Nixon, "Doubling the conviction rate in this country would do more to cure crime in America than

quadrupling the funds for [Hubert] Humphrey's war on poverty."

On the one hand, "tough on crime" campaigns serve to direct funds away from social programs and into the police and intelligence apparatus. On a more fundamental level, law-and-order campaigns serve to confuse and disorient, injecting political consciousness with an emotionalism that both prevents an objective understanding of the social roots of crime and justifies anti-democratic methods of police rule.

The latest law-and-order campaign is being led by the Democratic Party. A press release from Democratic sponsors of AB 2888 called Turner's sentence "shockingly lenient." By extending sentencing, Democratic Assemblyman Bill Dodd said, "Letting a rapist off with probation and little jail time re-victimizes the victim...our bill will help ensure that such lax sentencing doesn't happen again."

On June 9, sixteen Assembly Democrats sent a letter to the California Commission on Judicial Performance urging the oversight board to "take action against Judge Aaron Persky because of his misconduct" in the Turner case.

The letter, written by the Assembly Chair of the California LGBT caucus and the California Legislative Women's Caucus, says that the judge gave Turner "preferential treatment," which "is perceived by the public to be based upon the fact that Turner is an upper middle class, white student-athlete who was privileged enough to earn both admission and an athletic scholarship to a highly selective university, just as Judge Persky did himself."

The demagoguery employed by the official representatives of state identity politics to justify a drastic expansion of the prison system based on an attack against "white privilege" is aimed at covering over the real class content of the "tough-on-crime" campaign.

Never in modern history has a country had higher incarceration rates than the United States. One adult out of every 110 is presently incarcerated in a county, state or federal prison, with millions more subject to probation or parole. Mandatory sentencing rules have played a direct role in increasing prison population sizes. In 2011, the United States Supreme Court wrote that California's state prisons were so dangerously overcrowded that it violated the Eighth Amendment

right of prisoners to be free from "cruel and unusual punishment."

This overcrowding is in part the product of California's Proposition 184, which created a "three strikes" statute making life sentences mandatory for those convicted of a third felony. Prop 184 was passed after a law-and-order media and prosecutorial campaign whipped up after the tragic murders of 12-year-old Polly Klaas and 18-year-old Kimber Reynolds and allegations of "lenient sentencing" for violent criminals.

A 2015 report from the pro-reform Prison Policy Initiative noted that incarcerated people in the US had pre-incarceration median incomes of just \$19,650 for men and \$13,890 for women. Only 22 percent of incarcerated men and 15 percent of women earned more than \$37,500 per year before incarceration. The impact of mass incarceration is devastating on the working class more broadly, and in particular its most impoverished sections.

As Bruce Western and Becky Pettit wrote in their groundbreaking 2010 study, *Incarceration and Social Inequality*, "In the last few decades, the institutional contours of American social inequality have been transformed by the rapid growth in the prison and jail population."

The authors further note: "The influence of the penal system on social and economic disadvantage can be seen in the economic and family lives of the formerly incarcerated. The social inequality produced by mass incarceration is sizable and enduring for three main reasons: it is invisible, it is cumulative, and it is intergenerational."

Those who have joined this law-and-order campaign bear political responsibility for its disastrous effects.



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