



DOJ turns on Turner, First Amendment

By HARVEY SILVERGLATE | January 25, 2011

The [sentencing memorandum](#) filed by Boston federal prosecutors last week, seeking between 33 and 41 months incarceration for convicted former Boston City Councilor Chuck Turner, is no ordinary document. (Today, Judge Douglas Woodlock imposed a sentence of 36 months.)

From the first line, the memorandum reads like the coked-up rant of a paranoid regime, infuriated that any of its subjects would dare speak against it.

The memorandum explicitly asks the court to take into account not just Turner's crimes (accepting a thousand-dollar bribe, perjury) but his speech - namely, his temerity in daring to criticize the government.

Turner, the feds wrote, "has sought to undermine the integrity of the judicial process. . . . [He] has falsely promoted distrust not only of federal and local law enforcement, but of the criminal-justice process, this Court, and the jury which found him guilty."

How did Turner do all this? The memorandum helpfully supplies examples: Turner told the Boston Herald that the charges against him were "a trumped-up case" and a "charade"; he told the Dorchester Reporter that the trial was "the attempt of the government to destabilize a community of color that's on the move." And after his conviction, Turner told the Boston Globe that he would not be "the first innocent person who's going to be sent to jail."

Because of all this, the feds wrote, Turner should get locked up for as long as the federal sentencing guideline allows.

And on the point about innocent people going to jail, Turner was speaking the truth. It would take considerably more space than is available in this week's issue of the Phoenix to lay out recent examples of misconduct of federal prosecutors and FBI agents, in Boston and around the country, that have resulted in the knowing prosecution and conviction of innocent defendants.

Not to mention the FBI's cozy, decades-long relationship with Whitey Bulger and his band of psychopathic thugs. In light of this, the feds' tone of outraged innocence sticks in the throat.

And even disregarding that history, Turner has every right to speak freely about the federal government - even when it is prosecuting him - without expecting to be punished for it.

"Turner's vitriolic campaign was ultimately an act of profound narcissism," the memorandum's authors write in tones of shocked victimhood. In another footnote, the feds sought to further disparage Turner by alleging that "there is substantial doubt about Turner's effectiveness as a public servant."

But neither of these things - even if true - should be taken into account in sentencing. Since when is it up to the DOJ and FBI to decide which public officials are worthy of remaining in office - and which are legitimate targets for an FBI sting of dubious validity? (See "[The persecution rests: Turnergate](#)," November 5, 2010.)

The six-page memorandum, signed by US Attorney Carmen M. Ortiz and the two trial prosecutors, John T. McNeil and James P. Dowden, tells more about the Department of Justice's agenda and integrity than about any wrongdoing on Turner's part. What stands out is the aplomb with which the DOJ seeks to punish a citizen and recent public official for exercising his First Amendment rights. It's un-American.

The time has long since arrived when it is incumbent upon citizens to curb the power of federal prosecutors - and judges who do their bidding - to tyrannize local governments and individuals.