

Trump's Arpaio Pardon Signals to White Supremacists: "I've Got Your Back"

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Featured image: Sheriff Joe Arpaio speaks to supporters of Donald Trump at a rally in Phoenix, Arizona, June 18, 2016. (Photo: [Gage Skidmore](#))

On Friday, less than two weeks after refusing to unequivocally condemn the white supremacists and neo-Nazis in Charlottesville, **Donald Trump** granted former Arizona **Sheriff Joseph Arpaio** a rare presidential pardon, calling the notorious racist an "American patriot." The pardon is noteworthy for many reasons.

First, it demonstrates Trump's utter disdain for the rule of law. US District **Judge Susan Bolton** convicted Arpaio of criminal contempt for showing "flagrant disregard" of a 2011 court order that he cease racial profiling. Nevertheless, for 18 months, Arpaio, who called himself "America's toughest sheriff," continued his racist practice of detaining Latinos without reasonable suspicion.

"The fact that Arpaio is quite literally convicted of being in criminal contempt of the courts is a big selling point for a president who has evinced nothing but contempt for the judicial branch since before he took office," **Dahlia Lithwick** wrote at Salon.

Second, the pardon sends a clear message to **Paul Manafort**, **Michael Flynn** and anyone else whom special counsel **Robert Mueller** subpoenas to testify in his Russia investigation. Trump could pardon them, too, if they refuse to cooperate and are held in contempt of court. No need to make a deal and testify against the president or his family members in order to receive lenient treatment.

Third, the pardon telegraphs to Trump's right-wing base that he's still pursuing their racist, anti-immigrant agenda even though presidential advisors **Steve Bannon** and **Sebastian Gorka**, both widely associated with white nationalism, have left the White House.

"The white supremacists, Neo-Nazis and others the president excused heard his endorsement of racist and illegal policing loud and clear yet again," **Vanita Gupta**, president and CEO of the Leadership Conference on Civil and Human Rights, stated.

Perhaps most significant is what the pardon says about the president. It demonstrates beyond doubt that Trump and Arpaio share the same values. Both men are racist to the core. Neither has any respect for the law. And both retaliate against those who criticize their

actions. Like Trump, Arpaio attacked judges who ruled against him.

Both Trump and Arpaio championed the “birther movement.”

The editorial board of the Arizona Republic wrote,

“By pardoning Arpaio, Trump made it clear that institutional racism is not just OK with him. It is a goal.” The pardon “elevates Arpaio once again to the pantheon of those who see institutional racism as something that made America great.”

“Pattern or Practice of Unconstitutional Policing”

After a comprehensive investigation, the Justice Department’s Civil Rights Division concluded in a 2011 report that Arpaio’s Sheriff’s Department in Maricopa County, Arizona, engaged in a “pattern or practice of unconstitutional policing.” The [22-page report](#) documented the use of excessive force, routine punishment for detainees who didn’t speak English, a “wall of distrust” between officers and Latino residents, and “a chronic culture of disregard for basic legal and constitutional obligations.”

The report came to the following conclusions:

- Latino drivers in Maricopa County were four to nine times more likely to be stopped than similarly situated non-Latino drivers.
- Roughly one-fifth of the stops of Latino drivers were conducted without probable cause or reasonable suspicion, in violation of the Fourth Amendment’s prohibition against unreasonable searches and seizures.
- Under Arpaio’s leadership, deputy sheriffs treated Latinos “as if they [were] all undocumented, regardless of whether a legitimate factual basis [existed] to suspect” they were illegally present in the US.
- Arpaio’s office “engaged in a pattern or practice of retaliating against individuals for exercising their First Amendment right to free speech.” People who mounted peaceful protests against the Maricopa County Sheriff’s Office were illegally arrested.

Cruel and Sadistic Practices

For many years, Arpaio, who served as Maricopa County Sheriff for 24 years, housed detainees in what he called his personal “concentration camp,” an outdoor jail in Phoenix. Temperatures reached 145 degrees in the camp, causing shoes to melt. In order to humiliate people incarcerated in the jail, Arpaio made them wear striped uniforms and pink underwear. They were forced to work on chain gangs.

A federal appeals court ruled that Arpaio’s deputies unlawfully withheld adequate food and maintained dangerously high temperatures. The 9th US Circuit Court of Appeals determined those practices violated the Eighth Amendment’s prohibition against cruel and unusual punishments.

The Justice Department report found that Arpaio’s deputy struck a Latino man with his patrol car, “pinning D.D. under the vehicle and dragging him for more than ten feet,” causing

serious injury, including broken bones. Another deputy forcibly removed a Latino man from his car, “twisting his arm, head, and neck and causing E.E. to fall and hit his face on the pavement.”

Nathan Robinson, writing for Current Affairs, documented the beating and tasing of a man with schizophrenia. Arpaio’s deputies “dragged Atencio’s unconscious body back to his cell, where he was stripped naked and left on the floor.” He never regained consciousness. Another man died after deputies beat and suffocated him in a “restraint chair.” The families of these men received settlements of \$8 million and \$1 million, respectively.

The [Phoenix New Times](#) tweeted:

“Prisoners there died at an alarming rate, often without explanation.”

“One of [Arpaio’s] jailers nearly broke the neck of a paraplegic guy who had the temerity to ask for a catheter.”

“By 2015, [Arpaio’s] fondness for racial profiling had cost the county more than \$44 million [in settlements of lawsuits against the office].”

Opposition to the Pardon

Civil liberties organizations have lined up to denounce Friday’s pardon.

Juan Cartagena, president and general counsel of LatinoJustice PRLDEF, wrote on HuffPost that Trump’s pardon of Arpaio “is both a slap in the face to the thousands of Latinos who were racially profiled in Arizona and an unbridled rejection of the role of our federal courts to curb unconstitutional behavior.”

The pardon imperils people of color, said **Janet Murguia**, president of UnidosUS.

“Every person of color in this nation has been put in harm’s way because of this action and that is unconscionable,” she noted.

National Lawyers Guild **President Natasha Lycia Ora Bannan** stated,

“This act of pardon is not one of mercy, but an act of aggression, signaling to all that Arpaio’s policies of terrorizing and condoning violence against Latinos and immigrants will not only be tolerated, but encouraged.”

Some leading Republicans, including Speaker of the House **Paul Ryan** (R-Wisconsin) and **Sen. John McCain** (R-Arizona), also criticized the pardon.

“The president has the authority to make this pardon,” McCain observed, “but doing so at this time undermines his claim for the respect of the rule of law as Mr. Arpaio has shown no remorse for his actions.”

Ryan said,

“Law enforcement officials have a special responsibility to respect the rights of everyone in the United States. We should not allow anyone to believe that responsibility is diminished by this pardon.”

Trump has suggested that police officers effectuating arrests should bang suspects’ heads against police car doors, which would violate the Fourth Amendment. The conservative Washington Examiner editorialized that the pardon demonstrates “once again Trump really means ‘busting heads’ when he says ‘law and order’.... But ‘law and order,’ if the words have any meaning, has to apply to government actors as well. Lawless sheriffs promote disorder, and that’s what Arpaio did to get himself convicted.”

Three days before issuing the pardon, Trump telegraphed his intention to a gaggle of supporters at the Phoenix Convention Center. When he asked the crowd,

“Was Sheriff Joe convicted for doing his job?” they applauded.

Arpaio was not convicted for doing his job. He was convicted for violating the law he was sworn to uphold. Trump, a soulmate of the racist, sadistic Arpaio, pardoned him for shamelessly breaking the law.

Alejandra Gomez, co-executive director of Living United for Change in Arizona (LUCHA), said,

“Arpaio built his work on terror and fear.... Arpaio built the foundation for Trump’s agenda.”

Marjorie Cohn is professor emerita at Thomas Jefferson School of Law, former president of the National Lawyers Guild and deputy secretary general of the International Association of Democratic Lawyers. Her books include *The United States and Torture: Interrogation, Incarceration, and Abuse*; *Cowboy Republic: Six Ways the Bush Gang Has Defied the Law and Drones and Targeted Killing: Legal, Moral, and Geopolitical Issues*. Visit her website: MarjorieCohn.com. Follow her on Twitter: [@MarjorieCohn](https://twitter.com/MarjorieCohn).

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