

Sleeping is a Crime

by Sam J. Miller, John Jones, & Jean Rice

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The weatherman said that Tuesday was going to be the coldest night of the year so far. As the temperature dropped, we made repeated runs to the store in search of more layers of clothing, more blankets, toilet paper, sandwich ingredients, flashlights—all the necessary materials for a sleep-in at Central Park.

Picture the Homeless is a member-led grassroots group of homeless people organizing to fight for social justice. PTH members sleep in Central Park on a regular basis, and regularly they are harassed, ticketed, and arrested for sleeping in the park—which is not against the law. It is a Parks Department regulation that the park be closed at 1 AM; however this regulation is used almost exclusively against homeless people—joggers, insomniac yuppies walking dogs, and others are ignored by cops hell-bent on ending the REAL menace to public safety: homeless people trying to get some sleep.

Jean: We know our adversary is on the wrong side of the Constitution, so we try to stay on the right side. But this civil disobedience was not about breaking any law, it was about challenging an unjust law enforcement policy.

Sam J.: Individual homeless people break laws because they don't make sense—you have to sleep somewhere, and if every spot will get you ticketed you just take your chances on your own. Collectively, however, we could challenge unjust policies of selective enforcement and then fight together against whatever punishment we receive.

John: I see several types of illegal activity in the Rambles in the Park. Those people never get busted; we get arrested for sleeping. I say to these cops all the time—"where are you when people are doing drugs and selling themselves and getting robbed?" I don't oppose their coming through, checking up on things—that's just about safety. Sometimes kids come through there, and I've had them throw rocks at me, sometimes people smoke crack. But they're not the ones who get messed with.

Sam J.: We'd timed the action to coincide with the release of a report by the National Coalition for the Homeless, called *Illegal to be Homeless: America's Meanest Cities*. New York ranked sixth among 179 communities (and first among large metropolitan areas) known to have passed anti-homeless laws or otherwise criminalized homeless people for non-criminal behavior. We brought several copies of the report, to give to the officers.

At eleven, the Parks Department came by to warn us that the park closed at 1 and that we'd be arrested if we stayed. At twelve-thirty, they came back to remind us. At five of one, another cop car pulled up and two officers got out.

"You all know you're getting arrested if you don't leave at one, right?"

“Under what ordinance?” asked Jean, our designated rep for talking to the cops.

“The park closes at one,” they said.

“Show me the City Council Resolution where the people of New York City decided that it was illegal to sleep in the park,” said Jean.

“I don’t have an answer for you.”

“Then we’re not going.”

Sam J.: They went by the books, which they don’t normally do. They said, “the park is closed, if you don’t want to get arrested you can leave now.” A cop from the Homeless Outreach Unit was there, and he asked us all if we wanted to go to a shelter. None of us did.

John: In all the dozens of times they’ve busted me, they never said, if you want to leave now you won’t get arrested.

Sam J.: Cops from five precincts showed up; they took us to the 28th Precinct. All of us were released except for John and Jean, who the cops said had warrants on them. We spent the next twenty-four hours chasing them through the system, bounced around by lies from Central Booking and the 28th Precinct. Neither detainee had any access to phones or lawyers. All of us were written up for different offenses, even though we were all doing the exact same thing. Jean raved all night, until they came to take them to Central Booking: “I haven’t been read my rights, I don’t know what I’m arrested for, I haven’t gotten my phone call, I’m fucking cold, what the fuck is this, a dungeon? Domestic terrorism, that’s what this is.” He was waiting for John to holler from the cell down the hall, “Jean, shut the fuck up.”

Jean: While I was inside, the cops kept asking me, “How did John Jones talk you into getting arrested for him? You’re too old for this shit.” I said to them: “Nobody talked nobody into nothing. Various people from our organization made us aware of your policies regarding people sleeping in the parks, and this is our way of testing your policy and of saying that we don’t think it’s right.” Even though I spent the night in the 28th Precinct, my voucher said I’d been processed by the Central Park Precinct. “You know we could lose you in the system for a week,” they told me. I’ve been in New York since 1944, and I have an *extensive* arrest record, dating back to the 50’s, in all five boroughs, for drugs and pimping and all sorts of things, and this is the first time I’ve been held incommunicado for so long, and the first time my people on the outside were told I was sent one place and I was actually sent to another. It makes me flashback to things that happened to rebellious black youth in my hometown in South Carolina, and it’s pretty scary. My Legal Aid representation urged me to plead guilty, even though it would then be entered into the books as a misdemeanor and would keep me from getting into public housing.

John: Since our action, I haven’t been arrested or ticketed—it’s been two months and the only thing they’ve done is come up to talk to me, ask me what happened after we got taken to the precinct. Before the action, we’d get messed with a couple times a week. I submitted a grievance with the Civilian Complaint Review Board, to make the point that the arrest was illegal. I got a call from a Sergeant, he said they would continue to enforce these regulations

because the criminal justice system is the only venue to do so. Yet I've been to 3 or 4 judges on this issue, and they've all released me—which says the judges don't agree that it's a criminal justice issue. The NYPD has what they call the blue wall of silence, which says, in effect, don't tell people our job is to protect those with money—people paying taxes—from people who *used to* pay taxes.

Jean: As a student of history, I've learned that when the masses acquiesce, it's the first step to totalitarianism. Jews in Germany, Africans in America—the African slave trade wasn't acceptable until the elite could convince the people that we were less than human. 3/5 of a person, to be exact. And I think people DO need to be convinced that homeless people are not people. It takes a lot of propaganda to make people turn a blind eye to this kind of shit. I am gratified that twice in the past year, tourists in Penn Stations saw homeless people being victimized and put a stop to it. I am gratified that two backup cops refused to take part in the beating of a homeless person.

John: The media perpetuates these negative stereotypes about homeless people—as people with substance abuse problems, mental illness problems. I don't have a problem except a financial problem! When newspapers have editorials like “Get those violent crazies off the street!” that makes the average person see me and think that's who I am. And that brings in the fear factor, which brings on judgment. And if you know anything about fear, you know it can bring violence. Violence against me! You don't know me, you don't know any of us—I could be the nicest guy in the world. I wish Picture the Homeless didn't have to have a Civil Rights Committee. The Civil Rights movement of the 1960's should have gotten all this shit finished. This country should have outgrown civil rights abuses.

Sam J.: Since Giuliani, the focus of the NYPD has been on criminalizing the homeless. Instead of providing real housing, the city prefers to spend money on the far-more expensive rigmarole of arrest, processing, court time, jail time—at the same time as it pours money into a shelter system so dangerous and corrupt that thousands of men and women refuse to go into it, having been assaulted, robbed, and otherwise abused, by other residents as well as by shelter staff. Until the City truly starts to prioritize REAL affordable housing for the very-poor, there will be hundreds of thousands of homeless people living on the streets and in the shelters and doubled-up with friends and families...all of whom must be accorded the same civil and human rights as anyone else. So until that utopian day where there's housing for everybody, criminalizing homelessness is not the solution.

Jean: The right to occupy public space is a civil right that is denied to people who are visibly not from a certain class. It's been our experience that when we attempt to embody equal justice for everyone, we get negative press. When we won our lawsuit against the NYPD, the Post wrote an article calling us “Vagrants with Lawyers.” The slander against homeless people that the media spreads is an example of how Americans are hypocritical. When we as New Yorkers allow police officers to be both law enforcers and law makers, that's showing that America is not a true democracy. I won't rest, and Picture the Homeless won't rest, and homeless people in general won't rest, until you can go into Central Park and your color doesn't matter, your sexual preference doesn't matter—they treat you the same as the guy paying \$10,000 a month in rent on Central Park West. If they don't bother him, they better not bother my brother. That's the change that's gonna come.

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