

When Laughing During a Congressional Hearing Is a Crime—But a Police Shooting Is Not

Jenna Greene May 4, 2017



Senator Jeff Sessions (R-AL) appears before the Senate Judiciary Committee in Washington during his confirmation hearing to be the next U.S. Attorney General, on Tuesday, January 10, 2017.

Photo: Diego M. Radzinski/ALM

Is this how it's going to be, Mr. Attorney General?

The same day that Justice Department lawyers won a criminal conviction against Desiree Fairouz for laughing during the confirmation hearing of Attorney General Jeff Session, they also announced that they didn't have enough evidence to bring charges against the Louisiana police officers

involved in the shooting death of Alton Sterling.

DAILY DICTA



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On one hand, an embarrassingly trivial offense that, yes, might technically be illegal (“any disorderly or disruptive conduct” in the Capitol is barred under District of Columbia code [§ 10–503.16](#)) merits a two-day jury trial, with Fairouz now facing up to a year in jail.

On the other, the death of a black man who was pinned to the ground and shot by police officers outside a convenience store—and [recorded by onlookers](#), the store’s surveillance system and police body cameras—gets nothing.

Apparently DOJ concluded it would be too difficult to bring a case. “[T]he government must prove beyond a reasonable doubt that the officers acted willfully. This high legal standard—one of the highest standards of intent imposed by law—requires proof that the officer acted with the specific intent to do something the law forbids,” [DOJ said in a statement](#).

I’m sure it would be a difficult case—Sterling had a gun, though you can’t tell from the video if he was reaching for it. But what you do see is a black man on

the ground, on his back, with two white officers on top of him, when one shoots him at close range in the chest. It's hard to see how deadly force was necessary.

DOJ's decision not to pursue the case follows a [March 31 memo](#) that it will review all agreements reached during the Obama administration between the civil rights division and local police departments.

The contrast between the lack of action in the Alton Sterling case and the over-the-top prosecution of Desiree Fairouz could not be more cringe-worthy.

An activist with the group Code Pink, Fairouz guffawed when Republican Sen. Richard Shelby of Alabama described Sessions in his January confirmation hearing as having an “extensive record of treating all Americans equally under the law.”

Sorry, but Fairouz is right. That's funny.

Nonetheless, her laugh—which is barely audible in the [CSPAN recording](#)—was enough to get her kicked out of the hearing by a Capitol Hill police officer.

That seemed like a serious overreaction—[according to the Huffington Post](#), the officer was brand-new, and this was her first hearing. As Fairouz was being escorted out, she reportedly said, “Why am I being taken out of here? I was going to be quiet, and now you're going to have me arrested? For what?” That's further evidence of disruption, according to the feds.

To be sure, Capitol police officers routinely remove protestors from hearings. Typically, the protestors agree to pay a small fine or perhaps do community service.

According to a [statement on Code Pink's website](#), Fairouz and two co-

defendants who were dressed as KKK members, didn't want to settle. "Rather than accept a plea bargain, they insisted on a jury trial ... A victory for the defendants in this trial will be a victory for the people and the values most Americans hold dear."