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**Civics 101**

**Episode 111: The DOJ**

**Virginia Prescott:** [00:00:00] I'm Virginia Prescott and this is Civics 101. The podcast refresher course on the basics of how our democracy works. The Department of Justice has been all over the news recently from investigating use of force by police departments, to the president's public criticism of his own attorney general, to the firing of FBI Director James Comey. So we weren't surprised by the multitude of questions we've received about the Department of Justice. Listeners asked, What does the DOJ do from day to day? What falls under the DOJ? And what is its relationship between the DOJ and other branches of government? Well we have just the person to help parse out these questions. CARRIE JOHNSON is Justice correspondent for NPR. So great to have you on civics 101.

**Carrie Johnson:** [00:01:08] My pleasure. Happy to be here.

**Virginia Prescott:** [00:01:10] So listener question what does the Justice Department do?

**Carrie Johnson:** [00:01:14] Actually a lot of things. The Justice Department includes prosecutors it includes a host of agents agents that the FBI, agents at the Drug Enforcement Administration., U.S. marshals, agents at the Bureau of Alcohol Tobacco Firearms and Explosives, and then immigration judges as well. So the DOJ spans a huge huge portfolio about 170000 people total and an annual budget 28 billion billion that's billion with a B.

**Virginia Prescott:** [00:01:44] Well so all of those agencies under the DOJ purview, what is it, if you were to say its mission? What is it?

**Carrie Johnson:** [00:01:52] You know since the attacks of September 11 2001 the department's primary priority has been protecting national security. But it also seeks to keep people safe from crime. It seeks to preside over a system of crime and punishment in the U.S. and it also plays a big role in incarceration because the Federal Bureau of Prisons is also part of the Justice Department.

**Virginia Prescott:** [00:02:18] When and why did the Department of Justice get its start?

**Carrie Johnson:** [00:02:22] Well, the Justice Department actually got its start properly under the presidency of Ulysses Grant in 1870 and under an act of Congress. But even before that time there was a legislation and there was an attorney general dating back to the 1700s. The attorney general mostly worked on his own but he employed a lot of private lawyers to help do litigation and as the responsibilities of this Justice Department grew bigger and bigger and that roster of private lawyers grew larger and larger. President Grant's administration decided there needed to be some kind of entity inside the auspices of the government to do more of the work. And in those early years that Justice Department did a lot of prosecutions of the KKK and other people after after emancipation who were attacking former slaves.

**Virginia Prescott:** [00:03:21] Civics 101 did do an episode on the attorney general, the most visible face of the department, but can you remind us of what the A.G. does?

**Carrie Johnson:** [00:03:30] Sure. We have had 84 attorneys general so far in in the country and at its base the attorney general at least in the modern era after Watergate has been a sort of a public face of the justice system has been in fact a cheerleader for his or her agents around the country and prosecutors and has a big external role in both explaining the justice system and reassuring the public that when federal crimes are committed that his or her Justice Department is going to get to the bottom of them find out who's responsible and punish those people appropriately. Today the attorney general is nominated by the president confirmed by the Senate member of the cabinet.

**Virginia Prescott:** [00:04:15] What is that relationship between the executive and the attorney general?

**Carrie Johnson:** [00:04:20] You know this is kind of a complicated thing because we talk about some kind of independence of the Justice Department and the FBI but they really do report to a president. And so the way it's been understood since Watergate which was a very traumatic time for the Justice Department and the FBI as well as the rest of the country since Watergate the norm has been that when it comes to policy issues the Justice Department reports too and consults with the White House and the president. So in this administration in the Trump administration that means a lot of emphasis on violent crime gangs like M.S. 13 and prioritizing immigration enforcement. Those kinds of consultations are not only necessary but considered appropriate. Where people tend to draw the line post-Watergate is when a president or anyone in the White House aside from the top lawyer in the White House the White House counsel wants to be kept abreast of specifics involving ongoing federal law enforcement investigations that has been a no no because of the potential for interference. The potential for political interference with the ongoing operations and investigations of the FBI, the ATF, the DEA, and the like. And that has been deeply frowned upon for generations now and in fact previous White Houses and previous attorneys general have instituted memos limiting the number of people in the White House who can call up anybody inside the Justice Department and ask really nosy questions about investigations.

**Virginia Prescott:** [00:05:55] Well last fall President Trump ratcheted up calls for the DOJ and FBI to investigate the activities of some of his political rivals Hillary Clinton namely former President Obama. So can he do that? I mean are there established checks and balances between the president and the DOJ?

**Carrie Johnson:** [00:06:13] While the president has a lot of power and uses it in terms of his bully pulpit on Twitter and in public statements that he makes. But even Republican veterans of the Justice Department have found some of the calls to investigate political opponents like Hillary Clinton and some of her top aides to be un-befitting of the U.S. justice system and un-befitting the system of norms that's cropped up after Watergate. There's also evidence that other people inside the White House aside from the president have been asking the Justice Department and the FBI about specifics of ongoing investigations. That is really not done in the last 40 or 50 years and every time it's happened somehow those kinds of conversations have leaked out into the press. In part I think as our release valve for folks in law enforcement and folks with concerns about this issue and the independence of the department and the FBI to let folks know that something is happening and it may not be quite appropriate.

**Virginia Prescott:** [00:07:17] Well I want to pick up on that because you're talking about you know the president leaning on the Justice Department to do their bidding on some level but beginning early last year and since the president and his administration have publicly and privately scolded attorney general sessions for recusing himself from the Department of Justice probe on Russian election meddling. I'm wondering since you mentioned Watergate are there any historical precedents for this kind of beef between the executive and the A.G.?

**Carrie Johnson:** [00:07:47] You know President Bill Clinton was never very happy with his FBI director Louis French. And he really wasn't very happy with his attorney general Janet Reno either in part because Janet Reno repeatedly exercised her authority at the Justice Department to approve the naming of independent counsels to investigate parts of Bill Clinton's White House and cabinet secretaries among other things. So there has been friction. There's been pretty intense friction between White house's and FBI in the past. I'd also point out that during the George W. Bush years folks in the White House particularly then Vice President Dick Cheney were really unhappy with the deputy attorney general. A name you all recognize, Jim Comey who went on to become the FBI director and be fired by President Trump last year. Jim Comey is deputy attorney general approved the appointment of a special prosecutor to investigate the leak of a CIA operative's identity in the George W. Bush administration. Then president President Bush and Vice President Cheney were both interviewed by that special counsel. That investigation really rocked the White House and there was a lot of friction then too. That said the level of animosity coming from the White House directed at the Justice Department and the FBI in the Trump era is something I have never seen and something most people in Washington who have been here 40 or 50 years and followed law enforcement have never seen. This is an unprecedented sustained attack on these two institutions which generally are embraced by Republicans and conservatives in Washington. Instead the figureheads at the Justice Department and the FBI have been repeatedly beaten up by the president and some of his allies. And that attack continues to this day.

**Virginia Prescott:** [00:09:44] Well how about changes in an administration? How does that affect the DOJ? I'm thinking about the investigations into Chicago, Baltimore other police departments during the Obama administration. Also during that administration cold cases from the civil rights era were picked up again. Did these kind of priorities carry over from one administration to the next?

**Carrie Johnson:** [00:10:07] Well elections have consequences and oftentimes the Justice Department swings like a pendulum. At least parts of it do when an administration changes. So for instance when he came on board Attorney General Jeff Sessions in the Trump era announced that he and President Trump viewed local law enforcement as allies and they didn't want to be meddling in the business of local law enforcement. While the Attorney General Sessions has gone on to prosecute individual police officers for breaking the law particularly for say abusing people in custody he's announced far fewer investigations of police forces as a whole systemic patterns of abuse. The Civil Rights Division is one of those areas that really swings depending on whether a Republican or a Democrat is in power. Another area like that is the environmental division at the Justice Department and to some extent the antitrust division. What doesn't tend to change that much is the bread and butter criminal law enforcement at DOJ, so too prosecutions of accused terrorists people who are accused of hate crimes and other people who break the law including run of the mill offenses those folks are generally prosecuted by U.S. attorneys around the country and those priorities don't change that much. I would add one complicating factor during the Obama years than Attorney General Eric Holder launched a big initiative to reconsider how drug criminals are punished and charged. And Holder directed his prosecutors to use more discretion in charging people with drug crimes. That memo that guidance was wiped away by Attorney General Jeff Sessions who wants to take a much tougher approach to drug criminals. It's just one year in the Jeff Sessions era a little too soon to say whether prosecutors in the field around the country are adopting those changes. But in a year and a half two years we'll be able to see whether people are going more people are going to prison and for longer terms because of drug crimes.

**Virginia Prescott:** [00:12:10] Carrie, you detailed some of the last you that unprecedented in decades shifts over at the Department of Justice both in its conduct and I guess priorities. Has that shift changed the role of the DOJ and the attention given to some of the other offices that it oversees because there are many?

**Carrie Johnson:** [00:12:29] Yeah. The responsibilities of the Justice Department are enormous. Over the last nine months or so and the focus of most media and public attention has been on Jeff Sessions the attorney general and this ongoing investigation of Russian interference in the 2016 election and as a result there's a lot less attention being paid to what's happening in the federal prisons what's happening in the in the civil rights area what's happening in U.S. attorneys offices around the country. Folks aren't spending a lot of time on those issues which is frustrating for people like new FBI director Chris Rea on the Hill this week who said everybody focuses on the two investigations they know we're doing and nobody pays attention to everything else that we're doing to keep the country safe.

**Virginia Prescott:** [00:13:19] You've been reporting on legal issues, the FBI, high profile trials and now the DOJ for more than a decade. What Carrie do you see here some of the biggest challenges for the DOJ moving forward?

**Carrie Johnson:** [00:13:33] The Justice Department and the FBI are undergoing the biggest stress tests that I've ever seen. And perhaps the biggest stress test since Watergate. The White House seems poised to continue an attack on at least some figures at the Justice Department and the FBI is basing decisions on political considerations rather than law enforcement considerations. That's something that we haven't seen at this level in decades and decades. So far the institutions have held up. I'm going to be watching to see if we get more of an outflow of people at the Justice Department and the FBI for more lucrative opportunities outside of the government trying to avoid some of these attacks by the Justice Department the Bureau the Federal Bureau of Investigation are sort of top of mind every day and no one knows. Day in and day out what might happen by the end of the day. It's just it's just a very uncertain time over at the Justice Department right now. You go into the building. It's quiet. There aren't a lot of people in the hallways and it seems to be an agency kind of crouched in a defensive position. And what's so remarkable is that they're defending themselves from an attack by their own president.

**Virginia Prescott:** [00:14:53] CARRIE JOHNSON thorough inside look at the Justice Department. Thank you so much for speaking with us

**Carrie Johnson:** [00:14:59] My pleasure.

**Virginia Prescott:** [00:15:00] Carrie Johnson is justice correspondent for NPR at the Washington Desk.