

Mass Incarceration

INTRODUCTION

Good afternoon, everybody. I think we're going to get started now. We are beginning the afternoon session with a panel on Challenging the New Jim Crow and Mass Incarceration. Professor Andrea Roth is going to be moderating the panel today. She is a professor here at Berkeley Law. She teaches criminal law, criminal procedure, evidence, and forensic evidence.

She was a Grey Teaching Fellow at Stanford Law School and a trial and appellate attorney at the District of Columbia Public Defender Service for over eight years. She's a member of the Constitution Project's National Committee on DNA Collection and was chosen in 2017 to serve on the Legal Resource Committee of the National Institute of Standards and Technologies Organization of Scientific Area Committees.

Her latest article is entitled *Machine Testimony* and was published in *The Yale Law Journal*. So, please join me in welcoming Professor Roth and the panelists for Challenging the New Jim Crow and Mass Incarceration.

ANDREA ROTH:

Hi, welcome. So first, I think we all want to thank the *Berkeley Journal of African-American Law & Policy*, the *Asian American Law Journal*, the *Berkeley La Raza Law Journal*, and the *Journal of Middle Eastern and Islamic Law* for hosting this conference and bringing this conversation about white supremacy into this building, where it needs to occur for a number of reasons, and for including a panel on incarceration.

So, you've all heard the statistics. The United States accounts for 5% of the world's population and 25% of its prisoners. One in three black males born today can expect to serve time in prison during his lifetime. In sum, the link between mass incarceration and the perpetuation of white supremacy has now been made explicit in mainstream discourse, from Michelle Alexander's *The New Jim Crow*, to Ana DuVernay's documentary, *13th*, both of which, by the way, feature the story of one of our panelists, whom you'll meet in a moment.

Nonetheless, mass incarceration's cause and effects are just now being fully explored by mainstream academics and others. So, to dive in, we are lucky to have with us today three experts, each with a unique perspective on the human toll of incarceration. First, we have Jonathan Simon, the Adrian A. Kragen Professor of Law here at Berkeley and the Director of the Center for the Study

of Law and Society.¹ Next, you will hear from Dorsey Nunn, the Executive Director of Legal Services for Prisoners with Children (LSPC).²

And, finally, we'll hear from Sajid Khan, who's been a Deputy Public Defender in Santa Clara County since 2008.³

So, to start us off, we'll start with Professor Simon, and, then, we'll hear from Mr. Nunn and Mr. Khan. We'll have the panelists each talk for about three minutes each to give some initial thoughts on their perspective on the harm that incarceration inflicts on communities of color. And, then, we'll have some time to have the panelists react to what they hear from each other. And, then, we'll definitely have time at the end to open it up for questions and answers. So, Professor Simon, if you could start us off.

JONATHAN SIMON:

Well, thank you very much. And I want to join in thanking the four journals for putting together this remarkable conference and for not doing what many of us do in academia—silo these issues as separate issues—and to see them as part of a larger project of maintaining white supremacy or our project, in challenging and breaking it down.

So, a couple of caveats. As Andrea said, we all come at this from our own perspective. Mine has been one of extraordinary privilege. I, essentially, was a

1. Professor Simon's classes include criminal law, and also a seminar on mass incarceration, and sociology of law. And his scholarship concerns the role of crime in criminal justice in governing, contemporary societies. His most recent book is titled *Mass Incarceration on Trial*. And he also has two award-winning books, *Governing Through Crime*, and *Poor Discipline: Parole and the Social Control of the Underclass, 1890-1900*.

2. Mr. Nunn is a leading expert with over 40 years of professional experience in criminal justice reform. He is the first formerly incarcerated director of a public interest law office in California. He was sentenced to life in the California Department of Corrections when he was 19 years old. He was paroled in 1981 and discharged from parole in 1984. Under his leadership, LSPC has made significant advances, including the development of the Elder Freeman Policy Fellowship, legal victories, including the Ashker lawsuit that ended long-term, solitary confinement in California, and policy victories, including numerous ban-the-box laws passed at the local, state, and federal levels, the end of shackling of pregnant women, and the biggest drug sentencing reform passed by the California legislature in recent history, SB180.

Before becoming Executive Director, he worked as a paralegal, community organizer, and program manager at LSPC and as a paralegal at the Prison Law Office. And his leadership has helped to establish several local and national institutions and movement-building projects, including All of Us or None, Free at Last, Critical Resistance, California Coalition for Women Prisoners, and the Formerly Incarcerated and Convicted People and Families Movement.

He's visited prisons across the world and attended international conferences and has served on delegations to them, and he's received numerous awards that would take me, literally, another three minutes to list, including the White House Champion of Change award, signed by President Obama.

3. He's a graduate of UC Hastings Law School and UC Berkeley undergrad, so we will claim him as a Cal Bear. He's represented juvenile and adult clients in cases ranging from misdemeanors to homicides. He also has a beautifully written blog called *Closing Arguments*, which I started reading yesterday, and, two hours later, teary-eyed, went back to what I was supposed to do before midnight. And co-hosts a podcast interviewing judges and attorneys with a colleague of his at the public defender called *Aider and Abettor*.

social scientist in training, studying criminology and prisons as what we call mass incarceration began. So, I've observed it, as it were, as an observer with a lot of distance from the harm that it does to my family and myself. But I will try to give you a sense of what I think it has done from a social science perspective, especially to communities of color.

So first of all, a caveat that when we talk about mass imprisonment, we shouldn't just think about prisons. We need to think about police, probation, parole, courts. It took all of those institutions to sort of produce a mass imprisonment-scale population. And there is something called the war on crime, which was, basically, a project of both the federal government and most state governments between the late '60s, early '70s, and, basically, you could say it continued until at least the Obama administration. But it kind of ran out of steam in the early 2000s.

But there's a remarkable new book I want to plug here by a brilliant, young, African-American woman, a historian at Harvard named Elizabeth Hinton, called *From the War on Poverty to the War on Crime— the Making of Mass Incarceration in America*. And I think it's soon out in paperback. And it just is vital reading.

The other caveat—demographically and historically— we're really talking about a wave of imprisonment that took an already racist and highly ineffectual prison system and, essentially, massively increased the damage it was doing. So, one way to think about this is to look at the impact that it had on, essentially, people who both came into the prison system or were their family members beginning in the late '70s. One of the reasons that we're lucky enough to have Dorsey Nunn with us is that he went to prison before this really hellacious wave of new policies. He might not even ever have gotten out if he'd gone to prison after the mid-'80s or so given our lifer policies. So, I'd love to hear his thoughts on that.

But so, I want to talk about the impact on the life course because I think the most important. As I get older, I appreciate the most important source of vitality for maintaining a healthy society is communities that can sustain themselves against often historic disadvantages. And one way to look at the impact of mass incarceration is to see what it did to the children of the boom and what it's now doing to the elders of the boom. So, there has been great social science research on this. I want to plug another book, *Children of the Prison Boom: Mass Incarceration and the Future of American Inequality* by Sara Wakefield and Christopher Wildeman. They do incredible statistical work to try to understand, how did an already racist, damaging system change in its impact as it went from already huge to massive? So, if you consider the generation of people born in 1978, just as the war on crime was beginning to send lots of people to prison—and who, therefore, didn't have as much risk of their parents being in prison— compared to those born in 1990 at the height of it. if you were born in 1978 and you were white, you had a 1.4% chance of your father going to prison while you were still a child. If you were black, it was a 13.8% chance. So already a very

considerable gap. But if you were born in 1990 and you were a black child, you had a 25.1% chance of having a parent—a father, I should say, go to prison. If you were white, it was only 3.6%. So, it went up, but not nearly the same impact.

Well, what did that do? Well, they tried, and I can't summarize all of this in two minutes or a minute; but they took a look at the most severe indicators of social harm. Being homeless while you're a school-age child. Infant mortality, right, which is a snapshot of everything that can go wrong with a family. It's a tiny thing, but it's a proxy for all of the things that can go wrong for a family. Being labeled as aggressive while you're a boy in school, which quickly gets you into the juvenile justice system. Being defined as having a mental health problem, whether externalizing or internalizing. In each one of these, we see, already, the massive gap between blacks and whites get bigger.

So, consider homelessness. Already, for those born in 1978, if you were black, you had about a 23% greater chance of being homeless while school-aged than your white counterparts. By the 1990 cohort, that was over a 60% bigger gap between black and white. And it really runs that way through these other indicators. And what we see is that the impact on the generation of fathers who went to prison, which is horrible enough, has actually created a greater impact for the next generation, people who are now 23, 24, 25. One of the reasons we see fewer and fewer of them in colleges and other places is that many of them have been diverted at earlier ages by these trends.

Now, before I close, I want to talk about the next wave of problems hitting us, which is the elders. I mean, I've seen my parents off now, and I realize that one of the most important things generations do for each other is connect around these important lifecycle things.

And we're facing the prospects of tens of thousands of people right here in California dying in prison. Lifers are dying, still, at a higher rate than they're being paroled, despite the fact that they pose virtually no risk and that they were in a massively overcrowded system.

Finally, the mental health and physical health impact that prisons have put on our now-elders that are coming out of prison is something that we're going to have to grapple with as communities because that's going to hit their kids again, right? It's a double whammy. You first got hurt because your father was in prison, and, now, you've got to make up for a nonexistent social safety net for them coming out. So maybe I'll stop there. And I do have some ideas on how we can make this better. But it's a bad situation.

ANDREA ROTH:

We did all talk beforehand about how we would end on a hopeful note. And so, we'll hear from Mr. Nunn.

DORSEY NUNN:

As I heard all that, I started thinking, damn, it ain't easy being black. But my name's Dorsey. And I was just thinking when you was talking, what was the first phone call that I received this morning? It was from the parents of somebody on death row who had died. So how does that fit into the question of impact when I knew that some family was just absolutely being devastated? And I'm trying to figure out how to help, you know? So, my stuff boils down to how to help. I just sent thousands of manuals into prisons all across California called *The Incarcerated Parents Manual*, where people who are struggling with the idea of, how do you maintain custody of your children when you get incarcerated?

Because when you're practicing criminal law, everybody just thinks that we're attached to the crime and not attached to the community or the family in any real particular way, you know? So, it's like, while we're going to prison, we're being devastated in a much more rapid response. And when I say, it ain't easy being black, just think about how we're treating the heroin epidemic. I came through the crack phase, right? And when I came through the crack phase, and y'all talk about a school-to-prison pipeline, when I came through, it was from the womb to the tomb because we had crack babies. They start chasing them right off.

It wasn't like we chased them later, or we thought we had a solution that was prescribed by medicine, or you had a health care problem. It was a criminal justice problem. When I think about the impact on the community and I think about, what does it cost in real dollars? In real dollars, I think they have something called the GNP. All right? And they talk about, it's between \$78 billion and \$87 billion a year. So, I assume that they're extracting that from a community. If we're disproportionately stopped, disproportionately arrested, and disproportionately incarcerated. And when we talk about the question of incarceration, often, we talk about it as if it's a new problem. We just started recently talking about the disproportionate rate of black people. It used to be just punishment in general. But it ain't never been punishment in general. There's been a consistent pursuit of black people, probably resisting mass incarceration, since they shackled us on the bottom of the ship. It just didn't start now. The chains even look similar, when you look at the shackles.

But when you get to the impact, god, the impact. There's impacts that people don't measure. It's like when I talk to my administrative director, and we're into this real, close-up, personal. I'm going to talk to y'all like you're my homies because that's the only way I can convey this shit. When we're up-close and personal and we're having this conversation, we talk about how we both wanted additional kids that never happened after our incarceration. So, we don't talk about the death of the child-bearing years. We don't talk about, in the event that somebody is incarcerated, and your parents is raising multiple generations of children, does it have an impact on their life expectancy or the quality of their life? When we talk about mass incarceration, what happens that prior to mass

incarceration we was engaged in a conversation called the prison industrial complex, which was the marriage between prison and punishment. So, at some point, it's hard not to curse.

I'm saying, because, at a certain point, I want to say, I'm sitting up in this university, and right now, somebody on the stock market is selling me and all of my people. They're trading on us. They're bartering on us. And they're looking at, probably, the generation or two generations down for me, about how much their ass will cost in the sale for it. But we'll never frame it that way because I think educated people got a way of making bullshit smell like roses. (Laughs).

And we somehow don't think that we're selling and bartering human beings on the stock exchange. Probably at the advantage of this university and other universities, because y'all invested. And I love you. Y'all some nice people. And I really want your support and to find my vision and not to press my kids or my next generation of kids, you know? How about this, since I've been home, not only have I tampered with the conversation and made you actually start calling it the prison industrial complex, which was an obscure term in the Mike Davis book, and me and Angela Davis taught you how to say. Not only did I man the box. I got more than half of the nation operating under policies that me and my homies actually pushed out and got the country to do and had the president talking about it. The other thing that we did is that, we built our solutions. I'm also a co-founder of Free at Last, so when everybody was talking about punishing people for drugs, we was actually talking about [solutions]. It'll be the 25th anniversary of Free at Last next year. And what we started doing was building our own model so we can treat our own people because we got tired of people putting us in jail. And the first thing that we brought online, necessarily, was that I thought we was going to be wrestling with the question of men. But, we started looking at, how do we wrestle with the question of women and children? Because, for the same dollar, we can get at least two. We can actually put two people in treatment as opposed to one.

So, when we talk about, what is that impact? That impact devastates not just a family, it devastates the whole landscape. It don't devastate just me. I didn't do this time by myself. My parents did this time with me. My children did this time with me. And right now, I'm a great-grandfather. And last Christmas, I took out my grandkids and my great-granddaughter, and I actual told them I've been to prison for the first time. And when I looked back, and they was crying. I gave them \$100 bill a piece, too. But even in a \$100 scenario, I knew that they were different than I was, and they were more privileged, because I can't never remember my parents giving me \$100 bill. And they all lined up to get some tapioca, holding a \$100 bill out there in San Ramon. And I can't never remember ever thinking that white people would ever give me and two of my homies change for \$100 in a row. So, they didn't have their scars. And at Christmas, I was thinking about, how do I not convey the scars of my oppression to the next generation? I'll tell them they have to resist in a real, serious way.

So, if you ask me, what's the impact of incarceration on my community, I think it maintains us artificially at the bottom. And I think it maintains us as being poor. And I think that it violates our safety and our security. And I think that, when you do violence to me, you don't call it violence. I think you dress it up and call it something else. So, when you're savaging me, I don't think that it comes across as savaging because, somehow, we can excuse that shit in our mind with the language that we use.

And people say I curse a lot. But I think there's kind ways you can curse at people, like when you're screwing them over on a regular basis and you're hiding behind the language. So, when you talked about the number of people that can anticipate going to prison, we can talk about, what is the rate of our incarceration now? And when we talk about our children, we can break it down to simple terms. A black person is seven times more likely, a black child is seven times more likely to have a parent in prison than a white person. And that's been the numbers. It hasn't been inconsistent in the way that the numbers flowed.

ANDREA ROTH:

We'll hear from Mr. Khan.

SAJID KHAN:

Thank you all for having me. I don't have much empirical evidence. But I do have several years as a public defender in Santa Clara County here in the Bay Area. And that experience informs the comments that I'm about to share with you. I was just in a Santa Clara County courtroom two weeks ago, two Fridays ago from today. And I was representing a young, Latino male who was sixteen years old at the time of alleged homicide that's now been transferred to adult court.

So, he's brought into court in shackles to be arraigned on this homicide case. And in the box where they have the other people that are there for arraignment, I looked over, and it was full of young, brown and black males. They looked like they were eighteen, nineteen, twenty years old.

And I thought to myself, and I'm thinking as I sit here right now, I thought to myself about my experience as a teenager in San Jose. I grew up in Milpitas in San Jose in the Bay Area. I remember shoplifting from a Mervyn's to steal some Nike socks for my high school football experience. And my parents got called. My mom came and picked me up. And I went home. And I had to suffer the consequences of shame, and some getting grounded, and some distrust from my mom and dad. But the police weren't called. I wasn't taken to juvenile hall. That is in severe contrast or stark contrast to the experiences that I had when I was in juvenile court representing young people—primarily young brown and black boys—who are the sons of immigrants from Mexico and other Latino countries, and young, black boys, who are often the sons of those who have been previously incarcerated.

They didn't get their parents called. They had police called on them when they committed petty thefts or small crimes like vandalism and things like that. They had the probation department called. And even though sometimes they weren't ultimately locked up on those initial charges, it was their first entry point into our system of mass incarceration that Professor Simon just talked about: probation, parole, a kind of starting point when they're twelve, thirteen years old. So, my first experience I want to share with you is the experience of these. When we talk about impact on our communities, we talk about juveniles, the first entry point when they come into our systems is that these young, black and brown boys typically are ripped from their homes. They are removed from their schools. Oftentimes, they are arrested at school.

And, then, when they're plopped into our juvenile halls, even if they're there for a day, or two, or a week, and then they're expected to somehow reintegrate back into their school systems as if nothing happened. But those scars of that day, or two, or those weeks still remain.

That disruption is so traumatizing and so challenging. It sets them down a path that is sometimes something that can't be reversed. We talk about the traumatization of the incarceration itself. It's not necessarily that we incarcerate. It's also how we incarcerate: the isolation, the violence, the dehumanization.

My client that I represent—the same client that I was in court with—his name's Fernando. He was seventeen when he got arrested. He's currently still in juvenile hall. The room that he stays in has a light that doesn't turn off. He sleeps a foot from his toilet. He has to eat in that same space. He has no windows. He has an hour of outdoor time, which is really just an hour of air in an enclosed gym with some windows. And so, I mean, how can you quantify the trauma that occurs when someone is sixteen, seventeen years old and subject to that type of environment for a day, let alone for a week, a year, or longer? And so that's the entry point, is with our juveniles. And so, these juveniles are then plopped back out into our communities, and we expect them to integrate back, and to be law-abiding citizens and college students, and to kind of be on the track that many of us had the privilege to be on. But that's just not realistic given the experiences that they've had to endure and the trauma that they've been subject to and have never been treated for. Then, these young people often graduate to the adult side. And when we talk about the adult system of incarceration, we talk about similar issues.

We talk about those same mental health issues that might have been existing in those young people and the substance abuse issues that result from being incarcerated, being forced and jammed into our jails. And those mental health issues and substance abuse issues not being treated, and not only not being treated but being exacerbated, again, by the conditions and the way we incarcerate. The interruption of work and housing, again, for these nineteen, twenty, twenty-one-year-old males that are in the crosshairs of our system. We're not talking about necessarily violent crimes that these people are being incarcerated for. Our courthouses are full of people that are coming to court for

driving on a suspended license, driving without a license, and things that really are the criminalization of poverty. And so, these interruptions of work, and family, and housing have this residual, domino effect that just burrows into their souls. And we expect them to come out and expect them to reintegrate seamlessly. And that's just an unrealistic expectation of our fellow human beings that have been traumatized as they have, even for a day, in custody.

Then, we combine that with our system of branding people as convicted felons. The idea that people once convicted of a felony, even if it's a nonviolent, residential burglary when they were eighteen years old, something that they can never shake for the rest of their lives. Something that employers, I know we're in the process of this ban the box movement but still, the reluctance and the hesitancy for our employers, our schools, all of us, for that matter, being willing to hire someone with a felony conviction. Being willing to have that person come into our homes, to paint, or to build a roof, or let alone to help our tech companies, or wherever it might be.

And so, it creates this perpetual underbelly in our communities that spans generations, as Mr. Nunn and Professor Simon have just talked about. And that felony branding, it's part and parcel of the dehumanization of our fellow human beings. And it allows for this continued other-ization of our black and brown community members here in our country, where it's then easier to ravage them with violence, for our police officers to pull them over, to kill them, to shoot them, to dehumanize them on our streets. And so, it's all part and parcel of the same construct.

And, then, finally, to talk about the lengthy and life sentences that my clients often endure. Those that are sitting, currently, in our prisons for crimes that they committed when they were sixteen, seventeen, eighteen, nineteen years old, that are now in their fifties and sixties that have been relegated to life terms in our prison systems are being defined by the worst things that they've ever done. These are individuals that have matured. They have aged out just naturally from their proclivity to commit crimes. Yet, they are still locked away. And what happens is people like Mr. Nunn, or my former client, named Bilal Chatman, who came out of a life prison term after the passage of Proposition 36. He was serving a 155-year sentence on a three strikes case for selling drugs to an undercover officer. Prop 36 gave him a new lease on life. And he, fortunately, was able to get out and is now a law-abiding citizen and is a manager at a local tech company in the Bay Area. But for every one of him, there are countless others that are locked away in our prisons.

And if we talk about the impact that has on our communities, there's this complete loss of intellectual resource and complete loss of emotional resources, that these individuals can come into our communities with and offer. Not only professionally, but for the young people in our communities, to help divert them from the same paths. I'm a big prison documentary junkie. And sometimes, you walk watch these documentaries, and you see these people. I watched a documentary called *The Terminal*. It's about hospice care in a state prison in

Iowa. It's on HBO. And if you didn't know that these people were convicted felons and they were serving life terms, you would think they were doctors, or hospice care workers, or nurses. There's nothing about them to indicate that they're violent or anything like that. And there are so many of our fellow human beings locked away. And it, again, creates this void of intellectual and emotional resource that our community—not only the families—but our community as a whole suffers from.

And so those are my thoughts initially, just anecdotally from several years as a public defender in the Bay Area. The impact that incarceration leaves on our families, on our community, and all of us is so severe. It is so hard to quantify. And it is so intangible. But it's pervasive, and it's insidious. And it requires a lot to undo. Thank you.

ANDREA ROTH:

So, I know we want to leave time for questions, but I was wondering if the panelists had thoughts on how we take this moment of unification and inspiration and turn it into an action plan, or if you have thoughts on what the movement should prioritize, what policymakers or future lawyers should prioritize. We have a lot to do.

SAJID KHAN:

Well, the first thoughts that come to mind, and it just flashed in my head now. The Brock Turner case out of Stanford is a hot-button topic in the news the past couple weeks and was in the news cycle in the past couple years. And the reason I bring that up is because, in response to the sentence that Brock Turner received for the charges that he was convicted for, the sexual assault charges, there was a huge movement that resulted in the law changing. The laws for which he was convicted of previously allowed for a judge to sentence someone like Brock Turner to a probation term, rather than directly into state prison. Because of that case and the vitriol that resulted from it, that law has now changed, and it requires a mandatory minimum, a mandatory prison sentence be imposed on anyone convicted of that particular crime. And, now have this recall effort, where Judge Persky—the judge who sentenced Brock Turner—is now being recalled because of what was perceived as a light sentence given to Brock Turner.

The reason I bring that up is because I'm not necessarily asking you all to work on the recall or against the recall. What I'm asking us to consider thinking about is pushing back against the use of mandatory minimums and pushing back against the demonization of judges that impose what are sometimes perceived as lenient or "merciful sentences." I think that this recall effort is a really scary one because we've never seen a recall effort against a judge who has imposed what we would consider to be too harsh of a sentence. And we would hope that that actually would be something that might merit some outrage. So, what's coming to mind for me is that when we see these, it really requires a groundswell of

support to start to counter or dismantle this mass incarceration machine. And so, it's really important that we, as a community, start to rethink, as individuals and, then, as policymakers, the idea of, you do the crime, you do the time. It's an old adage that we all have been born and raised with.

But we have to really kind of pull apart and fight that instinct. And so, this recall effort is an example where there's an opportunity on these high-profile cases to try to push back against notions of mass incarceration and notions that belie our mass incarceration machine.

DORSEY NUNN:

Ooh. Sometimes, I don't know who I'm talking to. So, I need to know, how many of y'all vote? Well, I want my homies to be able to vote while they're sitting in a prison cell. So, do anybody got a petition in here that we can initiate a drive so y'all can get my homies the right to vote while they're sitting up there in San Quentin or some other place, so that we can take care of our own families? Because I don't think that y'all can save me. I think that I got to save myself. So, you can help, though, you know? You can sign the petition to give us the right to vote. And don't feel like it's an abomination. You let white folks vote in Maine and Vermont. Let me vote in San Quentin. People in prison in Maine and Vermont, predominantly white states, have the right to vote. Share some of that stuff with the people in Arizona, New Mexico, and California.

That's one thing you can do. Another thing that we can do is stop letting them identify us as if we are something other than a human being. So, in your language, can you call me a person as opposed to a felon? That might be helpful to me because I don't think that we equipped ourselves with the language to win real fundamental changes. So, if we're going to shift the paradigm, we've probably got to learn the language to shift the paradigm. And calling me an ex-offender or calling me a felon when I'm sitting with you don't make me kick it with you that. The other stuff, like, when you say, what's the loss? How does it impact the community?

It's that I've been managing million-dollar budgets probably for twenty years. If I stop doing that and I go to get a job, somebody is going to bring up that burglary I had in 1969. And it's almost like when I'm talking to people, and they say, do you use drugs? And I say, well, I ain't hit a joint in twenty-six years while they're holding a cocktail. Just crazy shit to me. (Laughs).

And when I think about, how do you do a vision? So, all of us now, on the back of our T-shirts, it says, "We're building a movement, not another nonprofit," right? And when we say that stuff, we don't necessarily want to be everybody else's clients because I think that the hardest road to travel is from being somebody else's client to being equal, because I think the definition of "client" is "dependent upon." What happens when we want to depend on ourselves? What happens when we want self-sufficiency? What happens when we want self-determination? And even when we talk about voting, we're even

afraid to say that we want to vote for ourselves and not you. We don't even talk about, we want to hold public office. We want to say, we want to vote for y'all, right? And y'all even resist that shit.

What happens when me and my homeboys get together and say, you know, I think that you're capable of holding an office? And I have one of these weird lives. On December 23rd of this year, I just signed on behalf of my organization the purchase of a \$2.4 million building. That don't normally happen for a brother like me. And I generally don't find another brother that can lend me \$2.4 million. It's like finding that needle in the haystack. But the reality of it is, instead of not buying the building, I'm buying the notion of a place that can house movement-builders. So, when you ask me how can you help, you can throw me a party, let me and my homies come over there and pitch your friends, and ask them, can they actually contribute to a cause?

Because the only thing I ever got to say when I went to court and I was tried was, guilty, or not guilty. What happens when I really want equality and power? What happens when I really want to control the destiny of my own self? What happens, every year we give away 200 bicycles to children whose parents are incarcerated? And we don't tell them Santa gave you a bicycle? We tell them that your parents from prison sent you a bicycle. At a certain point, y'all can teach them how not to respect us. And, then, y'all expect us to control the behavior of our children while, at the same time, putting in place a scheme of things that don't have us respected at the end.

And I need to tell you, there's a difference between being deadbeat and dead broke. It's two different things. So, all the names that y'all got a chance to not challenge, when y'all have the opportunity to, please, pick it up, and challenge. When I knew I was coming to a university, there's other places I could have spent my time with. But I figured y'all had the ability to write letters. Y'all had the ability to change and challenge the editorials. Y'all had the ability to do stuff that could be lacking in poor areas that don't have the opportunities to get the best education. And things don't seem to change fast enough for me because I stay a mile from Facebook, and my school still looks shitty that I went to kindergarten in. It don't look like we share the resources. So, at the same time, you can get the technology but not necessarily transfer the wealth where it makes a difference in poor neighborhoods. So, when you want to say, what can we do, you can share the privilege. God, y'all still love me? (Laughs).

JONATHAN SIMON:

Let me just say a couple of reasons that I feel very hopeful. One of them you just heard from. I think if you look at the impact that the formerly incarcerated people have had on our communities, I think it's uncalculated because criminologists don't study it. But it's probably the primary reason for the crime decline in America, is formerly incarcerated people coming back to their community, making a difference, and changing how young people

interacted [with those] impacted communities themselves. Some of you heard Richard Rothstein this morning and know that, by the late '60s, black communities had experienced, essentially, two decades of federal policy determined to undermine any economic and social support that they had. And those communities are beginning to recover, in a sense, not because the federal government has put anything back into them, but at least it stopped digging it out at the rate that it was.

Another big difference is the millennial generation of lawyers that I see rising up today. I spent twenty-five years beginning in the early '90s teaching many criminal lawyers coming out of the University of Miami Law School. I always had a bad feeling that I was actually helping to build the infrastructure for mass incarceration in Florida. Without all those lawyers out there to convince young, black men to accept a probation sentence for a plea bargain in a case that they might have won on trial, knowing that they would go to jail and prison shortly thereafter.

I see that very differently now. My students are very different in their attitude. And I think millennials, generally, do not accept the basic premise of the legitimacy of the expanded carceral state that the boomers, my generation, has. But I don't think we can do it all with the kind of local movements that we're seeing now. Ultimately, we will have to press Sacramento and, ultimately, retake Washington because we're going to need something like Obamacare back and expanded to deal with the massive health deficit that prisons have left on this generation. And we're going to need something like a GI Bill for the formerly incarcerated to pay for a dignified period of life and to help them restore their families and communities. So, we have a big agenda, but I really feel positive about our ability to accomplish it right now.

DORSEY NUNN:

And can I ask you one more thing? Next time Trump tells you that we had a reduction in the unemployment rate of black people, I want y'all to understand, they're not counting us in prison. They're not counting us in a whole bunch of different ways. But while he's telling you that, somebody should be calling them. Where's the intellectual honesty? But when the intellectual honesty is there, there are things they're not counting. They're not counting the unemployment rate; we're not included in the unemployment rate. We're not even included with how are we doing in educational part of this stuff when we're in prison. So, the count is a little bit off because there's bodies of people—large numbers of people—that are black people that you're not counting when we want to look at this thing in a favorable way, like we've made a whole bunch of progress. It might not have been that much progress if we counted everybody that should be in the count.

ANDREA ROTH:

So, I think we have a bit of time for a handful of questions.

AUDIENCE:

Thank you. Dorsey, I appreciate you so much. My brother had died in LA County jail, and so your name is across the country, the state, the world. We love you. Thank you for all the work you do every day to sacrifice for my brother and all the folks who are system-impacted.

So, I had three questions. One was around realignment because I feel like there's a big push with realignment, especially in California. But when I talk to all my family members who are incarcerated, they say, when they go to— when they're in Chowchilla, other spots, that's like the paradise compared to when they're in Los Angeles, when they're in County. And I know there's been some hunger strikes at the county level.

So, I was wondering if you all could talk about, specifically, some of the struggles around fighting that, in terms of just the horrendous conditions. And, then, also, the power of black and brown solidarity-building when we look, especially in California, at the carceral state and black and brown bodies who are incarcerated.

DORSEY NUNN:

God. I guess this is a nice time to talk about the hunger strike, huh? Because I actually do think that we had a hunger strike in the state of California. And it was the first time that I think they came up with a document that declared that they were ending hostilities among themselves. So, before we had attorneys that signed to end long-term solidarity, there was a move for unity inside of the California Department of Corrections that drove that agenda. When you talk about twenty years of people getting out, just think about twenty and thirty years of people just being in the hole. And that's what happened. When you was talking, I was thinking about, at some point, before I got to prison, I went from being a prisoner to being a hostage because, at a certain point, people start demanding fines, fees, and bills. And I didn't have no money. Everybody knew it didn't have no money. Hell, they could count, like, my \$3 when they arrested me.

It wasn't that hard to count \$3. So, they start extracting stuff from my parents and other people in a real way, whether it be to bail, or rather when I needed to pay a fine, my mom would kick in, and it would be some more stuff coming out of my family. So, we were losing all the way around. When we got to realignment, and they started actually making people serve their time in the county jail, they didn't necessarily take into consideration that we were attached to people. So, the visiting situation in prison was that you had contact visit. If you had a little baby girl, you can bounce her on your knee. That's hard to do if you've got a non-contact visit, and you're actually doing it through a telephone.

Then, they will prescribe the number of people that you can have come and see you that are your children. They will limit your visits in terms of being able to visit, see your children, instead of every week, if you can actually beat the rush

to get a visit, to every three weeks to see your kids because you've got to split them up. So, when you ask about the impact, the impact is something current. Something current is that the California Department of Corrections are trying to create regulations that will strip people of the right to have a family visit if they get caught with a cell phone. Man, if you love your kids, why in the fuck don't you see that I love mine, too? If you love whoever you're laying with, sleeping with, or walking around with holding hands, what makes you think that my capacity to love is any less, and I would do anything to satisfy that? Because if you can't recognize even that fundamental thing, then you don't recognize my humanness as being as valuable or similar to yours.

So, if they start breaking this thing down, we shouldn't allow the state or anybody else to hold our families as if they're privileges for the state. There should be something fundamentally wrong with that. And there's something fundamentally wrong when we can talk about family values, and then, when you're a prisoner, suddenly, that stuff do not apply. And I hate to preach, especially for free.