OPEN SOCIETY FOUNDATIONS

TRANSCRIPT

"POLICING THE BLACK MAN: A CONVERSATION WITH ANGELA J. DAVIS AND SHERRILYN IFILL"

Policing the Black Man: A Conversation with Angela J. Davis and Sherrilyn Ifill

Moderated by Chris Stone

Recorded September 6, 2017

ANNOUNCER:

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CHRIS STONE:

So good-- good afternoon. Good evening. Welcome to the Open Society Foundations. I'm Chris Stone. I have the privilege of serving as President of the foundations, but more more important-- I have the privilege of being friends, colleagues, and-- comrades with-- our two-- our two guests today. I just wanna-- asked-- I wanna make sure those of you-- standing here know there is-- there is another (LAUGH) and full room downstairs. If you want to-- to sit during the program, please-- please make you way downstairs.
But happy to have everybody-- everybody here. This is a chance, I hope-- to gather not just to hear a conversation up here on the stage but to work together-- to keep building a movement to-- end-- the racist practices of policing-- that have cost so many lives and that continue to destroy so much hope-- so much community-- so many families-- so many-- so many careers.

The-- our-- this is-- a cause, not just a topic. And it's one that has brought many of us here I know-- into this work, into the work we do, and into various ways of pursuing-- the cause of justice, equality, dignity, and life itself. We're joined-- today-- by two old-- friends of mine. Sherrilyn Iffil-- all the way to the-- (LAUGHTER) no. Longstanding, deep, deep--

SHERRILYN IFILL:

Seasoned.

CHRIS STONE:

--since we were three. (LAUGHTER) Sherrilyn Iffil is-- a cha-- is probably my boss. she's on the-- Global Board of the Open Society Foundations. But much more important is a champion of justice-- in the United States and internationally. She serves-- as-- CEO of the-- and-- and Chief Counsel I guess--

SHERRILYN IFILL:

Director Counsel.

CHRIS STONE:

Director Counsel of the NAACP Legal Defense Fund-- standing on the shoulders of many great litigators and civil rights, humans rights champions-- immediately succeeding John Payton, a hero to many of us. And-- and Sherrilyn-- has been a professor, has been a writer, has been a crusader, and really has become one of the most eloquent public voices-- on issues of racial justice and injustice in this country-- since taking up her current post.

Angela Davis, Amani Davis to her friends and former-- colleagues at the Public Defender Service in Washington, D.C.-- started as a public defender the same year in the same class of five-- or six depending on how you count-- (LAUGH) young warriors in Washington, D.C. in 1982. Amani and I served together as public defenders in Washington, D.C., for several years. I left to pursue justice system reform at the Vera Institute at the same-- roughly the same time she left to work with Reverend Jackson on the Rainbow-- as Director of the Rainbow Coalition.

She has-- maintained-- her work both as-- as a campaigner and a political champion-- and a lawyer, and not a law professor for many years. And an author. It is-- these are-- two careers the intersect with the issues we're gonna talk about today in many ways, but-- most immediately-- has-- edited and-- produced an introduction and also one of the-- contributed to one of the chapters in *Policing the Black Man*. And-- Sherrilyn is author of-- one of the chapters as well.

And we're gonna talk for about half an hour among ourselves about-- about-- why they've written this book, about what they're hoping to achieve, about where they see-- opportunities-- for advancement. And then we're gonna open it up and I hope have a conversation-- all together. So Amani, why this book? Why now? Why-- why is this your cause right-- right now?

ANGELA DAVIS:

Before I answer that question, I wanna thank you, Chris. Because I was reminding him that a few years ago before one word of this book had been written we were at a dinner in-- in Washington, D.C., chatting, and I said, "You know, I'm doing this project. It's gonna be about police and black men." He was like, "I have to have you up to OSF so you can do a talk there." I'm like, "Okay, slow down. I've gotta write the book first." (LAUGH)

So you were the first person to really invite me to talk about this. (COUGH) And so thank you so much for hosting this wonderful event. I really appreciate it. So you-- when

I was approached about-- producing a volume of essays about the many ways that the criminal justice system polices black men, it was really sort of inspired really by all of the horrible, unjustified killings of black men and boys over these past few years, something of course which has been going on since slavery.

But so much attention has been paid to it in the past few years because of cellphone videos, et cetera. And so when I was approached about doing it, I just seized the opportunity to do it. Because (COUGH) really there's no issue that I personally care about more than the way that black and brown people are treated in our criminal justice system-- the horrible way that they are treated.

And so I seize the opportunity, and as I mentioned, the (COUGH) killings, the awful, repeated killings that we unfortunately have to view over and over again because of-- on video tape that outrage us, that anger us so much, especially when there's no accountability, that's what inspired (COUGH) the book. But really it caused all of the contributors to think about all of the ways that black men and boys are policed but the criminal justice system in-- at every step of the process, arrest through sentencing. So, you know, they're treated worse than any other demographic in-- in our system-- our black men.

CHRIS STONE:

Well, let me ask you. (UNINTEL PHRASE) Here we are. White man. Two black women having a conversation about policing the black man. So-- part of what you-- part of what all the contributors write about in-- in this volume is actually the-- why this particular-- group, this demographic, as you say, is the spo-- has to be the focus of attention right now.

ANGELA DAVIS:

Right.

CHRIS STONE:

You write about that in your-- your chapter, and-- and Sherrilyn, you-- you make a point-- of also-- speaking about the-- the-- the fate and the experience of-- of black women and girls in the system. Maybe you both just say a word about why it was important for you to write-- write this on this particular--

ANGELA DAVIS:

Right.

CHRIS STONE:

--demographic.

ANGELA DAVIS:

So I-- that question why black men is a good question because certainly black men are not the only people of color that are treated worse than their similarly situated white counterparts in the criminal justice system, right? Black women-- Latinos, Latinas,

Native Americans-- as-- as are members of the LGBT community are all treated worse in the criminal justice system-- than their similarly situated white counterparts.
And so the focus on black men and boys in no way trivializes those experiences, we acknowledge those experiences, but when you look at the statistics just by the sheer numbers, black men are treated worse. And I just wanna share a few statistics. And my memory's not that great, so I-- I wanna get the numbers right. So first of all, black boys are more likely to be referred to the criminal-- to the juvenile justice system than any other children.

Black men are disproportionately arrested. African Americans are 2.5 times more likely to be arrested than whites. And 49% of black men, almost half, can expect to be arrested by the age of 23. And just to give you some New York statistics and-- in particular, New York (NOISE) Civil Liberties Union analyzed the N.Y.P.D.'s stop and frisk database, and of course you're all probably familiar with the Floyd case.

And this was in 2011. They found that 41%-- 41.6% of all stops were of black and Latino men between the ages of 14 and 24 even though they only make up less than 5% of the population of New York. Black men are more likely to be killed by police officers. 21 times more likely to be killed by police officers than white men. The number of black men in prison or jail, on probation or parole in-- by the end of 2009 roughly equaled the number that were enslaved in 1850.

And of course-- black men are disproportionately sentenced to death. So at every-- every step of the way the-- by the sheer numbers. That's why the focus. So it-- it's in many ways unique because of those numbers and unique also because of the history from-- from slavery up to today, which Bryan Stevenson talks about so-- so eloquently in his essay.

CHRIS STONE:

Yeah. Sherrilyn?

SHERRILYN IFILL:

So first of all, thank you, Chris, for-- for inviting me to participate. And I'm so grateful to Angela for-- for pressing-- for-- for pressing me to (LAUGH) participate in this-- (LAUGHTER) in this book.

ANGELA DAVIS:

Of course.

SHERRILYN IFILL:

And-- and to my coauthor-- Jin Hee Lee, who's the Deputy Director of Litigation at LDF and who really-- was amazing at just making sure we-- we grinded this-- this out. And it was a grind in part because there was a part of it I thought we could write in our sleep, and we chose not to write that. (LAUGHTER) We chose to write something else. And what we wanted to write about because-- I knew that this book was gonna be extraordinary because Angela was editing it.

Because the subject matter's so important, because the contributors were so extraordinary-- that we wanted to write something that was-- that really sp-- spoke to-- what we grappled with. You know, we didn't wanna write something kind of at arm's length. And what we grapple with, of course, is the rule of law. And how can the rule of law coexist with the statistics that Angela just read? So what are the flaws in the law that-- that-- make these statistics possible to have-- not only be true today, but to have been true for our-- you know, most of our lives and-- and as you say, since slavery. How is that possible? How do those twos coexist? And when you're a civil rights lawyer you're always suspending disbelief, right, because you believe in the rule of law. You're using law. You are counseling your clients to be-- to believe that the legal process has value. You believe that the legal process value-- and you are using it to try and bring about just ends. So it's a very-- existential struggle, you know, as-- (LAUGH) as a civil rights lawyer to grapple with not only the limitations of law but the flaws in the law and to try to identify them.

And I think the truth is at every turn-- and this is part of what I think we tried to write about in the book. Because we tried to talk about the way in which just the law of discrimination itself is-- has become so deeply flawed and has been interpreted in such a way that it has so boxed in how we think about what racism or discrimination looks like by this endless search for evil white people.

That you have to be able to prove the, you know, intent, the-- the bad heart of the person committing this terrible act. And so that you can have outcome, after outcome, after outcome that produces the results that Angela talked about. And it can have no legal significance until you can find the actual actor who at this point has to have used the N-word and maybe, like, enslaved you to actually be (LAUGHTER) considered racist. So why is that? And I think to go back to Chris' question, it's because everything about the criminal justice system is warped by the stereotype and trope about who the black man is. And the warping of that and the use of that trope, and the-- and the use of that trope to sift, to be the colander through which the criminal justice system-- expresses itself and has meaning for me is the reason why this book is *Policing the Black Man*. Because it's not just actually about black men. It's about actually how the use of the stereotype and the trope about the threat of the black man allows the criminal justice system and allows our society to allow the criminal justice system to commit the kinds of excesses that it does. And because that trope is so powerful and that stereotype is so powerful and has so deeply infused our society at so many levels, (COUGH) it has actually warped the rule of law.

CHRIS STONE:

I-- (CLEARS THROAT) I-- you write-- in-- in your-- in the chapter you've done about-- you ask the question-- in terms of the-- the-- the movement for black lives--

SHERRILYN IFILL:

Do black lives matter to the courts?

CHRIS STONE:

Do black lives matter to the courts? And I-- I got to that part in the book, and I'm reading, and I'm reading page after page, and the answer clearly is no, right? Because you just-- you catalogue one disaster after another in American jurisprudence where

there's hope for a moment, it's dashed back. Where there's progress, it's then reversed. And then you get to the end and you have this wonderful-- invocation of justice (UNINTEL) and-- and her dissent, which you argue makes a difference. Can you say a little bit about-- about how against that history one dissenting voice-- can-- can make a difference?

SHERRILYN IFILL:

Well, this is where the suspending disbelief. (LAUGHTER) You know, one of the most sobering things you can do is to read-- cases, particularly Supreme Court cases, in which they will narrate facts that are so awful, you know, that describe something that happened to-- an African American man in custody, an African American man who was wrongly accused of a crime-- an African American man who was subjected to a criminal justice system that was blatantly racist.

An African American man who was railroaded. An African American-- American man who was lynched. And you'll read all the facts, and then you'll get to the conclusion of the case. And the conclusion of the case is (LAUGH) that, like, nobody's to blame.

ANGELA DAVIS:

Right.

SHERRILYN IFILL:

Nobody's at fault. You know, *Connor vs. Thompson*. Like, he doesn't get any money for having been, you know, on death row for 14 years, but too bad, so sad. But you read this whole thing, and then you get to the conclusion. It's, like, how do these two pieces got together? And, you know, Thurgood Marshall was, you know-- a great dissenter, right? He was someone who used his voice on the court and his position on the court to speak a very powerful truth. And there's always the question about whether that matters. You know, if you don't win, does it actually matter? And I think it does matter very, very powerfully. And when Justice Sotomayor wrote this dissent in *Utah vs. Strife*, and, you know, people talked about how she-- you know, she talked about Black Lives Matter, and she quoted James Baldwin, and a few other fantastic--

ANGELA DAVIS:

Ta-- I think Ta-Nehisi Coates.

SHERRILYN IFILL:

Ta-Nehisi Coates. Oh, it's-- it's awe-- it's awesome. You should read it. (LAUGH) You know, and so people were kind of focused on those elements, but she was really talking about the reality of the criminal justice system and what we know about it in the lives of black people. And what she was saying as a justice sitting in the United States Supreme Court is that this is a matter of justice and democracy for this country.

This is-- if there's one, you know, thing that I think makes it important when any judge does it-- and-- but certainly most importantly-- a justice on the Supreme Court, is because they are signaling to you that we have a democracy problem, not a black people problem, you know, and not a race problem. Which allows people to feel some distance

from it. It allows people to feel like this is about those people. It allows people to feel like, "I'm not a civil rights lawyer, so it doesn't really matter."

You know, when in dissent they set forth something like that and as powerfully as she does and as so often Justice Marshall did, they are signaling to the country that this country has a democracy problem. Now, whether or not people choose to embrace the significance of that is up to them. But truthfully-- I think over the last-- certainly over the last five years, particularly as it relates to the issue of policing and African American men, I think most people would agree we have a democracy problem.

Many people would disagree about the degree of it-- about how to solve it. I mean, I think there are lots of things we could-- you know, we could talk about, but you couldn't survive that week, (LAUGH) you know, in which all Alton Sterling was killed in-- in Baton Rouge, Louisiana, and not even 24 hours later Philando Castile--

ANGELA DAVIS:

Philando Castile.

SHERRILYN IFILL:

--was killed in St. Paul. I mean, you know, I've seen problem more videos than anybody in this room, not just of the deaths, but, you know, I-- some of the cases that keep my up. There's one actually from South Carolina-- you know, an assault that just makes-- you know, those are the-- there are many-- that stay in my head that for-- you would say, you know, there-- you've seen worse, but sometimes they're just-- they're-- they're encounters of such incredible indignity that you just can't get past it.

That-- that 24 hour period, (COUGH) you know, in which-- when I was online, you know, shutting down the computer after seeing the Alton, you know, Sterling video from the sixth angle-- 'cause we try to watch 'em from all the angles so that we know what we're talking about, you know, so that I'm true to the LDF brand-- (LAUGH) and our whole team was just like, "We've had it."

And I remember there was another angle, and-- somebody on our team said, "You know what? I can't watch anymore." (PING) And I-- and I said-- "You know, go to bed. You just go to bed." And so I'm typing up my last email, and I'm shutting down the computer, and what pops up on Twitter is there-- there's another (LAUGH) killing. And I looked at the date 'cause I thought, "Oh, this must be an old tweet that somebody retweeted from-- but no, it was a new tweet. And other folks on my team said, "You know, we heard there's another video."

And so as I'm tracking it down and I find the face-- you know, the Facebook video from Diamond Taylor, the fiancé of Philando Castile, narrating the death of her fiancé in this car. And I emailed my team and I said, "There is another video. I've watched it. Don't watch it, and we'll talk in the morning." And I stayed up the-- that whole night. If you just kind of, like, were in that (COUGH) period and you think you came out of that and you don't think that there is some problem, (LAUGH) there's nothing I can do to convince you.

And-- and I'm at peace with you because, you know, we-- there's no point in me wasting time. I think most people realize that there is a problem. And so to have Justice Sotomayor affirm that, this is not just about people in the street, you know, this is-- this is really about the core of who we are and about the rule of law in this country I think was incredibly important. And I do believe in the long arc of this work. And there will be change-- not fast enough, but there will be.

CHRIS STONE:

You Know, I think one of the things both of you do in the book is you-- you're speaking about the courts. You're speaking mostly about prosecutors in your-- in your chapter. The-- you've captured the fact that policing-- in this country and policing and race have come to define the-- and stand for the whole system.

The-- the nature of law, the nature of justice and this incredibly machinery-- that-- keeps grinding out these hard to believe but-- appalling-- decisions that you catalogue, Sherrilyn. And I-- I-- I'm reminded of-- I used to-- when I was at the Vera Institute of Justice we were doing a lot of work with-- criminal justice-- reformers in other countries, and I had a delegation of Chinese-- criminal lawyers who came to New York to understand the U.S. justice system and arranged for them to spend a day in-- Manhattan-- Criminal Court.

And they sat there and watched these-- this extraordinary-- day in court, came back to the office afterwards, and they were fascinated. They were-- you know, described the comments of the judges, the individual cases, and then they asked, in all seriousness, "Tomorrow can we go to the court for white people?" (NOISE)

SHERRILYN IFILL:

Wow.

CHRIS STONE:

The-- that-- that-- that-- the depth to which the system is just about race and that the police-- the way we police in this country-- defines the justice-- the court system in that way-- I-- I think is-- is so powerfully captured in all the-- all the chapters, from Bryan's discussions about slavery and-- and the origin of-- of-- of-- of the criminal justice system in the country all the way through-- through-- through yours.

Let's talk a little bit about prosecutors. Because-- I think understanding that the police are standing for this whole system and the power of the prosecutors. You make-- you-- you make a powerful argument that while the police may have the most powerful guns in the system-- the power in the system to destroy lives-- to doing justice, to distort justice is-- most powerfully held by prosecutors. How-- how does that happen?

ANGELA DAVIS:

So one of the reasons I've spent the last 20-something years thinking, and writing, and talking about prosecutors is 'cause they really are the most powerful officials in the criminal justice system. And of course we have to pay attention to police officers. They are killing us every day on the streets. But in-- when you're talking about the-- those-- the killings, that's one huge, horrible issue, but what goes on in the criminal justice

system every day with black and brown people is police officers' incredible power and discretion on the streets to stop people, to search them, et cetera.

But police officers can only bring people to the courthouse door. It is the prosecutor who decides whether they may remain entrenched there 'cause they didn't make the charging decision. Prosecutors can decide to charge a person or not. Police officers (COUGH) don't have that power. They recommend charges, and the prosecutor can take that recommendation or not.

They can charge the person with whatever the cop recommends, with something less, with something more, or with nothing at all, right? And so having that discretion is what creates a lot of the racial (COUGH) disparities, many of the racial disparities in our criminal justice system, which are extreme, as we all know. But that charging power, which belongs solely to the prosecutor, combined with the plea bargaining power, which also totally belongs to prosecutors, really allows them to control the criminal justice system.

Especially when you think about the fact that 95% of all cases are resolved by way of (BEEPING) a guilty plea, right? People watching all these TV shows and they think, "Oh, these trials are going all *Law and Order*." No, there's a lot of guilty pleas going on. And because to charge a person all prosecutors need to do is meet the very low standard of probable cause, they can pile on charge, after charge, after charge, many of which may have mandatory minimal sentences, especially in in drug cases.

Five, 10 years, or more. And all they have to meet is that low standard. The-- a much lower standard than the proof beyond a reasonable doubt that they would have to meet at trial. And so you can see how a person when faced with all of these charges that have been piled on, five, 10, 15, 20, 30 years on the bottom, you can see how even an innocent person (COUGH) would plead guilty. Because going to trial is risky business.
When you exercise your constitutional right, you don't know what that jury's going to do. And so the prosecutor holds-- holds all the cards. They decide whether there's gonna be a plea offer, what the plea offer's (COUGH) going to be, and those two powers together really give them control of this criminal justice system. And they make those decisions behind closed doors with absolutely no transparency.

We don't know how they're making the decisions. We don't know when they're making them. We don't know how they compare. Are you giving one person a good deal and not giving another person? They are, but it's really har-- we don't know that, right? And so there are the most powerful, and that's why I focus so much attention on them. And that's why I tell people, "Pay attention to who your district attorney is." Because that person is an incredibly important person.

And hold them accountable. And unfortunately, we don't have a good way of (COUGH) holding our district attorneys accountable. We really don't. You know, only about 10% of all criminal cases are decided in the federal system. 90% of all criminal cases are prosecuted and handled on the state and local level, and state and local prosecutors in every jurisdiction, except five of them, are elected officials.

And unfortunately, a lot of them-- they serve for decades unopposed. People don't challenge them. It's really hard to challenge an incumbent. And they run-- they don't run

on what they're charging and plea bargaining policies are. They don't talk about that when they run for office. Most of them talk about how tough they are on crime. And if they have an opponent-- a lot of times they don't-- they say, "Well, I'm tougher." And no one asks them about their charging and plea bargaining because people don't really know that those are the issues that are important.

But they are important, so that's why we (COUGH) tell people talk about democracy. I mean, really we need to hold them accountable. (COUGH) We need to ask them when they're running for office, "What are you doing-- to reduce the incarceration rate?" The-- I-- I urge you the next time you have a district attorney who's running, raise your hand and ask that question.

Ask them, "What are your charging and plea bargaining policies?" They'd probably faint dead away right there (LAUGHTER) on stage. Ask them, "What are you doing about the racial disparities in our jurisdiction?" You must ask-- you must ask them these questions and hold them accountable because they're the ones who are really, you know, causing-- I'm not saying they're the only ones. Obviously, they're not. There are a lot of reasons why. From the law, the jurisprudence, to the actors in criminal justice, and there are a lot of really complicated reasons why we're in this terrible mess. But prosecutors certainly play a major role, and I feel like they have a responsibility.

CHRIS STONE:

So you talk in the book about-- absolutely elected prosecutors, and you point out that not-- first-- first I thought, "I never seen the-- the data presented the way you do," but just how few prosecutors are anything other than white men-- that-- that it's overwhelmingly men, but even more so overwhelmingly white.

ANGELA DAVIS:

Yes.

CHRIS STONE:

And I think you said-- I think you write outside of two states-- and I can't remember which two they are-- it's only 1% of--

ANGELA DAVIS:

Right.

CHRIS STONE:

--of prosecutors in the country.

ANGELA DAVIS:

Only 1% African American. And I-- which is a horrible statistic-- for all kinds of reasons. But I also must say that having a black prosecutor is not going to solve--

SHERRILYN IFILL:

Not the guarantee.

ANGELA DAVIS:
--the problem, okay? (LAUGHTER) Because I can name you some--

SHERRILYN IFILL:
Don't name them, but--

ANGELA DAVIS:
I won't. (LAUGHTER) I could, but I won't name names of black prosecutors who are as-- causing this problem who have no conscious (SIC) about this. And I can also name you some white prosecutors that are progressive that are actually doing some good work. But-- but there-- now, there are also some good black-- so the point-- there are some progressive black prosecutors, Kim Fox now in Chicago, Aramis Ayala in Orlando. I could go on and on. But there are also white prosecutors, John Chism in-- in Milwaukee. So the-- you know, we do need to diversify the chief prosecutors in this country because for all the reasons that diversity is important. But trust and believe that the race is not going to determine the kind of prosecutor that-- that that prosecutor is going to be.

CHRIS STONE:
Yeah, what are some of the things that prosecutors-- really a question for both of you. What are some of the kinds of things that prosecutors can do that's gonna make a difference on the (COUGH) street, gonna make a difference in people's experience of policing, particularly the experience of black men and boys?

SHERRILYN IFILL:
Well, I'll just go real quick because this is Angela's area of--

ANGELA DAVIS:
No, please.

SHERRILYN IFILL:
--expertise. I mean, I-- you know, prosecutors know who the bad cops are. So let's sup-- let's suppose you are of the school that there is not a huge, systematic problem of policing, it's just about bad apples. (LAUGH) The prosecutors know who the bad apples are. You know, there are prosecutors-- they have do not call lists. There are-- there are officers that they will not call to testify because they lie so much.

They know not to call them, right? And you have to same officers showing up with the same story, right, of the-- you know, "The gun was on the seat," or, "We found it in the glove compartment," or whatever it is. They know who those pretty are, and the prosecutors need to be taking a more active role in engaging with their police leadership around addressing bad cops. Because that makes it harder for everybody. It makes it harder for the good cops, it makes it harder for the (COUGH) prosecutors, undermines confidence in the community, and so forth.

So they need to take some responsibility. Right now this is pre-- precisely the way Angela was talking about it. And the way you teed it up, Chris, you know, it's like the police are absorbing all of this. You know, and yes, there are deep, systemic problems in

policing in this country that are, you know, their own problem and a huge problem, but there are other actors in the system.

And the prosecutors have to take the responsibility for allowing that to happen in policing and for grandfathering that for-- for essentially-- endorsing that conduct by-- by not calling it out and by ta-- you know, taking the word of those police officers who they know are not telling the truth. The videos that you saw come out in Baltimore a few weeks ago, you know, of police officers planting evidence. I mean, what the hell? This is just-- you know, this is the kind of stuff that is just deadly, right, to that relationship that people claim they want between-- communities and police officers. So that's part of it. But-- but, you know, prosecutors are lawyers, and lawyers are professionals. And I do believe that-- and-- and Angela knows that I feel this way-- that the profession has to take more responsibility for this, right?

Because the job of the prosecutor is to do justice. Anytime a prosecutor is running for office and is telling you about their conviction rate, to me that's like a problem. (LAUGH) That's actually not the standard. That's not what the job is is how many people you can put away. So it really is about changing even the frame of what ma-- what is the job of a prosecutor? And we can start doing this now because, you know, we wanna be looking to the future.

We wanna change the next generation and the generation after that of what does it mean. Why would you even become a prosecutor? What is the job of the prosecutor? And to the extent it's become, you know, "I can put away more people than you," or, you know, "I've sought the death penalty on this many cases." What the hell? I mean, how is that a thing? So I think the profession has to take some responsibility.

There are rules that govern the conduct of prosecutors that the profession has to more seriously expose, Brady violations. You know, prosecutors are required to turn over exculpatory evidence. You know, every year you see some case in which prosecutors did not turn over exculpatory evidence and so black person was in prison for 15 years, 20 years on death row and so forth-- and-- and really no accountability for that, you know, for-- for prosecutors.

The exclusion of black people from juries, Batson violations (COUGH) is yet another, you know, area in which the courts have said what's supposed to happen, but in which there are these-- you know, these constant violations. So there does have to be, like-- a professional reckoning, you know, around the rules that are supposed to govern-- prosecutors' conduct. And I think we-- we don't talk about that enough.

Even when we talk about, like, what makes a progressive prosecutor. I have real questions about what you're doing actually in your office. What does your Brady training look like for the-- for the line officers who work for you? You know, what does your Batson training look like? Have you done anti-bias training for your prosecutors in your office?

ANGELA DAVIS:

Yes.

SHERRILYN IFILL:
You know, so I think that-- that Angela's ab-- Angela's absolutely right that we have to focus this attention on prosecutor. It's on them individually, but I do think there also have to be a professional-- professional pressure that's brought to bear in reshaping what it means to be a prosecutor in the same way that the profession shapes what it means to be-- judge, or what it means to be a law professor, or right-- there-- there not-- there needs to be a kind of a reimagining of the role of the prosecutor so that when they're running for office and you stand up and ask that question, you know, they don't feign away. They better be ready to answer it--

ANGELA DAVIS:
That's right.

SHERRILYN IFILL:
--because they're getting pressure from-- from many sides-- and from the profession of which they are a part. (COUGH) That there's an expectation of how they're gonna conduct themselves in that job.

ANGELA DAVIS:
And I'm happy to say that right at John Jay College not far from here this is a new Institute for Innovation in Prosecution where they are doing just that. They are re-envisioning what it means-- how do we measure success by--

SHERRILYN IFILL:
That's right.

ANGELA DAVIS:
--prosecution. We don't measure-- we shouldn't be measuring by how many convictions you get. How at measuring it by how many cases you divert out of the system; by how many people you keep out of the system? That's something they're starting to look at. And it's important. They're bringing together progressive prosecutors, people I would consider progressive, both experienced and some of these brand new prosecutors that were just elected in 2016. And there were a whole number of them thanks to-- George Soros who supported many of them in that effort.
(LAUGHTER)

Thank you, Mr. Soros. And-- and they're exciting. I mean, they've come together and they're talking about this. I mean, it's not quite a wave of change because-- but it's a start. You know, and we have to start pushing that. And I absolutely agree that the profession has that responsibility, and I wanna thank you-- NALDF. You called together eight members of the ABA some time ago to talk about this issue and-- and to press.
It has to be the profession and it has to be all of you. You know, this is where democracy comes in, right? We have to make our-- we have to educate ourselves about what prosecutors are do-- question them and hold them accountable. The electoral system unfortunately is a flawed mechanism of accountability because-- because-- for everything, right? (LAUGH) Because it's just running for of-- you know, voting rights are threatened.

And particularly for prosecutors where they do so much of what they behind closed doors. So there's not the transparency that we ordinarily need in a democracy to really make it work. And so that's where we have to push and-- and hold prosecutors accountable. So it's complicated, but I-- I too have hope-- by some of what I'm seeing lately-- that-- that change is possible.

CHRIS STONE:

Well, let me ask you. Just we're gonna open it up-- in just one second. But let me ask you both-- a final question about Freddie Gray and-- and you-- it's a case you both mention in your-- in your chapters in-- and particularly-- it comes back to that-- like the-- like the dissenting opinion of-- Justice Sotomayor. The-- the-- the prosecution of the officers there failed, and yet you-- and yet the prosecution was important. A lot of times we talk about failed prosecutions of police as a sign of the problems in the system.

But you talk about the failed prosecution there actually-- in a different way, as a sign that there is-- that-- that-- something was-- something was said that need to be said; something was done-- in-- in a way. We could maybe-- maybe we could-- I could ask you both just to reflect a little bit on how you see that case and where-- where-- in all of these cases do you see-- hope as well as the tragedies that we're-- that we're--

ANGELA DAVIS:

You start since--

CHRIS STONE:

--so focused on.

ANGELA DAVIS:

--Baltimore is your home.

SHERRILYN IFILL:

I have really strong feelings about-- you know, about-- about Freddie Gray's death and about the failed prosecution. And not sure I have it all worked out in my head, frankly, what-- I would say about it. Because I think in some ways this is one of those cases that really is reflective of our deep failure, you know, as a society. You know, a young man went into a police van, (LAUGH) and, you know, when-- when the-- when the EM-- EMTs, you know, op-- opened the back of that door and-- and touched him and said his-- you know, his neck felt like a bag of rocks.

And said to the police officers, you know, "What the F did you do to him?" That out of that (LAUGH) comes, you know, no accountability. There isn't any way to dress that up. There just is-- isn't any way to make that-- better than-- than it-- than it is. It's a failure on-- on so many levels. And-- and-- and really I felt Baltimore-- the city of Baltimore was failed, you know-- by this. And-- and-- and the attempt to prosecute I think was important. The failure of that prosecution I think has deepened cynicism, you know, in a town that has, you know, been growing deeply more and more cynical.

And with good reason. And so it's painful, to-- to be frank. But I do think that, you know, I'm-- I'm-- I'm believing-- and this goes back to kind of the-- the theme in the-- in the chapter that I tried to write about. The-- the (SIGH) effort to elude race in-- in law is just killing us. You know, it's just-- it just has to be confronted. And at every turn, whether we're talking about the criminal prosecution of police officers, whether we're talking about bringing civil-- Section 1983 actions (COUGH) against prosecutors who-- you know, kill-- unarmed citizens.

Whether we're talking about federal civil rights prosecutions under Section 242. Whatever-- whatever, you know, avenue we're talking about, whether we're talking about stand your ground laws. You talk about the-- you know, Trayvon Martin killing and George Zimmerman. In-- in every instance the law has bent and twisted itself to exclude any discussion of race. And the project that, you know, I'm kind of about and that we're about is thinking about how can we change that.

It's-- essentially a law reform project, which is-- you know, if you're doing long term impact litigation and civil rights law, that's what you should be engaging is law reform. But that's really what it is. I mean, I'll-- I'll never forget the judge in the-- in the pros-- in the case-- involving the prosecution of George Zimmerman saying to the prosecution, "You can-- you can talk about profiling, but you can't use the words 'racial profiling.'"

ANGELA DAVIS:
Yeah.

SHERRILYN IFILL:
Right? (LAUGH)
(OVERTALK)

SHERRILYN IFILL:
That's how-- that's how granular it is. Like, you just can't use that word.

ANGELA DAVIS:
The R word.

SHERRILYN IFILL:
Right? And-- and a police officer can talk about the threat that he-- he can, you know, invoke *Tennessee vs. Garner*, and the progeny, and so forth, and talk about the threat that he felt, but there's no place in that prosecution to examine the way in which threat is constructed through a racial eyes lens, right? That-- that my perception of whether someone is threatening, right, despite all the data that, you know, Phillip Goff has developed that shows that, you know-- African American boys are seen as five years older than they are by police officers, and all that stuff, right, that actually influences what they think--

ANGELA DAVIS:
And bigger.

SHERRILYN IFILL:

And bigger. So whether you think Tamir Rice is 10 or whether you think he's 20, you know, as-- as they thought-- claimed to have thought, right? It's actually about race. And yet, you can go through a whole prosecution-- went through a whole prosecution in the Philando Castile case and-- and race is just not discussed. You know, Phila-- the-- the officer who killed Philando Castile can say, "You Know, I-- I pulled over-- I went over to the side of the car..."

"... and when I smelled mar-- marijuana and saw that there was a four-year-old in the car, I thought if he's willing to smoke marijuana in front of a four-year-old, what will he do to me?" I don't really get that leap, right? (LAUGHTER) Something's missing in the center. And what's missing in the center is all about race, but there's no space to talk about that. There's no-- there's no expert witness that is supposed to-- and if you tried it, the judge is gonna (UNINTEL).

CHRIS STONE:

Right.

SHERRILYN IFILL:

So part of what we have to do is begin to get judges and prosecutors and defense counsel and everyone comfortable with the idea of how you do it. And we have to begin to get the profession focused on model rules of how you introduce that conversation. And we have to begin to talk about the disqualifying nature of race to any legitimate sense of threat. We can't just keep pretending that that has nothing to do with all these words that we use.

CHRIS STONE:

Right.

SHERRILYN IFILL:

And then we write some opinion and call that law. If all these words are shaped and tainted by race, there has to be a place in-- in litigation to explore that. We may lose, but you can't just exclude the word. You can't just say, "You can say profiling, but not racial profiling." Let's talk about it. We can talk about whether it was racial profiling or not; what evidence would be relevant to determine whether or not it was racial profiling. But to just exclude-- just to say-- stick my fingers in my ears.

No. No. No. No. I will not talk about race. That cannot be sustained in the law anymore if it is to in fact be legitimate. And increasingly, cases like Freddie Gray's and others are convincing communities that the law is illegitimate, and that is now what I want because I do stand for the rule of law, because I did that oath, because I do believe in it. But that is what is happening.

ANGELA DAVIS:

And-- and I will just-- and, you know, I can't add a thing to what Sherrilyn so eloquently and agree with it so much. I will say this: I mean, we talk about that prosecution. And I, too, have thoughts and haven't quite worked it out. You know, in all these other case, right, from Walter Scott-- who was shot in the back with his-- as he ran away, Tamir

Rice, a little boy playing with a toy gun in the park, right? What kids are supposed to be able to do.

Eric Garner choked to death-- to death, right? And we witnessed all of these with the video tapes over and over again from Philando Castile, right? Terence Crutcher in Tulsa, Oklahoma. Two video cameras, right? One from a dashboard, one from a helicopter saw him with his hands up in the air be gunned down by Betty Shelby. And in-- not in one of those cases was the police officer held accountable.
Not one. And in most of them they weren't even charged. Even in Walter Scott's case hung jury when there was a charge. Very few were they charged at all, right? And so that's the thing when-- when we talk about prosecutors, right, for-- they could charge these police officers. Why were so many of them not charged? I talked-- a minute ago about how prosecutors have this charging power. It's so easy to charge someone. (LAUGHTER) It's so easy for prosecutors to get an indictment. Can I just tell you there's an old about phrase about--

SHERRILYN IFILL:
Ham sandwich.

ANGELA DAVIS:
--a ham sandwich, right. You know, a grand jury will indict a ham sandwich because all it is (LAUGHTER) is this probable cause standard, right? More probable than not. They indict black folk every day all day long just like that. It's so easy. But yet, you know, and-- and LDF did a beautiful job I think in that letter that you wrote aft Ferguson when that grand jury testimony was released.

And it appeared that that prosecutor was representing-- he appeared to be representing the cop that he was supposed to be prosecuting, right? And so-- so talk about the relationship between cops and prosecutors. How about charging some of these cops when you so easily can do that? Yes, the law is not good. You mentioned *Tennessee vs. Garner*. In the interest of time, I won't get into it.

The law is bad. It does give police officers greater leeway to use good and deadly force than you and I. It does. But to tell me you can't get an indictment, you know, is-- is-- is crazy. So yes, I'm glad that Marilyn Mosby did bring the charges-- and there's all kinds of reasons why that probably didn't happen, and all of it doesn't lie right at her feet.

SHERRILYN IFILL:
No, not at all.

ANGELA DAVIS:
But I will say this: I'm in also interested-- you know, and getting back to your issue about black prosecutors and all of that-- she's a black woman. I would like to know what she's with all of the black and brown people that she's prosecuting every single day in Baltimore city and why are the racial disparities in Baltimore greater than in most cities around the country. And she's a black woman. So, you know, I'm glad she brought the charges, but, you know, what are we doing every day in Baltimore city? You know, I-- I'm not-- I'm not seeing a lot of progress there. I'll just leave it at that. (LAUGH)

CHRIS STONE:
We'll leave it. So let's-- let's open this up. If you have a question-- on-- or a short comment-- if that microphone is right here. Just ask you to come on-- come on up. And downstairs are we doing cards? Yes. Thanks. And-- and if you-- so yes, if you-- if you're downstairs-- watching this on-- on the screen just-- and you have question come on up and-- join-- join the line. Thank you so much.

ADOCHE EBAY:
Hello. Hi.

CHRIS STONE:
Hi.

ADOCHE EBAY:
I'm Adoche Ebay. And-- I was wondering-- I know both of you work so deeply with these cases and you're inundated with them all the time. And for me and my friends it's always about, like, how-- (LAUGH) at this point I don't even watch any more videos 'cause what else is there to say? You're gonna watch it, they're gonna be dead, the cop's gonna get off, and that's it. So I'm wondering for you what do you for your sel-- your own selfcare? Because for me (LAUGH) I'm, like, constantly watching it or hearing. Like, I went to school for journalist at Howard so--
(OVERTALK)

ADOCHE EBAY:
You know--

ANGELA DAVIS:
Sorry.

ADOCHE EBAY:
--it's-- (LAUGHTER) the-- reading-- watching the news and being informed is important to me, but being depressed, and sad, and just randomly weepy is not fun. So I was wondering what you do to, you know, be informed also-- like, do you take breaks? Do you do yoga? (LAUGHTER) Do you meditate? Do you watch *Scandal* or something? I don't know. (LAUGHTER) What do you do?

ANGELA DAVIS:
Now, I'm gonna speak first on this one. Thank you so much--

SHERRILYN IFILL:
It's a plant.

ANGELA DAVIS:

--I didn't plant her-- (LAUGHTER) for that wise, wise question. You know, because-- and she's looking sheepish because this sister right here who is my civil rights leader-- I don't know-- I don't know how many of you know this woman, listen to her, see her, watch her advocacy. She's amazing. She is my civil rights leader and one of the greatest, honestly. And I say that not just because I'm her friend. And I'm always ta-- saying that to her-- so thank you-- about selfcare, right?

You know, because I'm hearing her talk about how her and her staff watch that video, and like you, I have to turn it off. And I say this to everybody. I say to this my students when I'm teaching them. You have to take breaks from it for your mental health. I mean, that's what you have to do. You answered your own question. I mean, we do have to fight. We do have to confront. We do have to watch it from every angle, especially the people who are litigating and doing the advocating.

But we do have to take breaks from it because it is bad for your mental and emotional health. So yeah, yoga, walking, whatever (LAUGH) you have to do-- guilty pleasure. But you have to get away from it mentally. And, you know, not just this stuff, but all that's going on in our world in our country today. We all know that. We have to turn off the television because we think, "Wow. We thought (NOISE) that last thing was the worst thing that could happen, and now this." And so you do have to take mental breaks from it while you continue to fight. I'll just say that.

SHERRILYN IFILL:

I agree. (LAUGHTER) Well, I-- the only thing I would say is, you know-- for so long and-- and Angela knows this. You know, those of us who have been in this or have known about-- police violence against unarmed African Americans, you know, LDF-represented-- Cleamtee Garner, you know-- Eugene Garner's dad, you know, for years, you know, trying to-- to get some kind of recovery-- for the death of his 15-year-old son-- who was killed in Memphis.

And-- you know, I-- I've talked about this before-- that kind of my first exposure to even thinking about police was when I was 10, you know, here in New York when-- you know, when police officers killed a 10-year-old. Because I was 10, so I paid attention to it. And it was, like, a big deal, and it was on a cover of the newspaper, and all that stuff. And-- and I really hadn't thought about it in years until-- until I was in Ferguson, actually.

And I just was on the radio one day and I started talking about this case when I was 10 years old. And when I got back to my-- hotel room, someone tweeted at me and said, "I found the case." And-- and it was-- you know, 'cause I remem-- I said I-- I don't remember the kid's name, but I remember that the officer's name was Shay, and I remember that he got away with it, and I remember how upset our parents were. And it was in Queens. It was right near--
(CHRIS STONE: UNINTEL)

SHERRILYN IFILL:

--where I lived. It was Clifford Glover. And-- and he was killed by-- an officer named Shay, so I actually was right about the-- when-- when I was 10 and he was 10. And-- and

the officer was tried, and he was acquitted. I think it was a jury of 11 whites, one black person. And-- so this had been for years. So I'm, you know, like, very far from 10. So this is decades, right? And we were kind of gaslighted. You know, we were always told, like, this didn't really happen.

It didn't really happen that way. So to be frank with you, when the videos starting coming, there is-- you know, for those of us who spent most of our time on the other side of it-- like, there is power in it. You know, and it should make a difference. It should make more a of difference than it did-- and than it-- than it is making, but, like, it is powerful and affirming to me that this is real, and this is happening, and you can see it. That being said, I agree that it's overwhelming. I do have my, you know, get-away-from-it-all TV shows that-- you know, that help, but it's-- I actually feel like I'm watching it for you. You know, I'm watching it so you don't have to watch all of them. So that-- that's my job for now, you know? And it-- it's not-- you know, Angela's right, I should take more breaks. But I also feel like that's what-- kind of what I signed up for.

That I don't want you to watch every one of them, but I will watch every one of them for you. And you can rest assured that when-- when you turn on the TV and see me talking about it I'm not just making it up and I'm not just talking about what I don't know. You can rest assured that I did watch it, (LAUGH) and I do know what I'm talking about, and I'm translating your anger. And you may notice that, like, I'm appearing more and more angry on television. (LAUGHTER) And that's deliberate. I'm choosing to-- to let it show because I-- because I am angry, and you're angry. And I think that it's important for that to be seen.

CHRIS STONE:

Please.

THERESA HASSLER:

Hi. My name is Theresa Hassler. Just to give some context: I've been in New York since 2011, I was born and raised in St. Louis. So Ferguson is-- I know Ferguson, right? I know the 18-- or 89 municipalities that the *Washington Post* wrote about. So everyone else was surprised-- with the Ferguson report, but it just seemed like another day to me. And so with the discussion I'm looking forward to reading the book.

Just wondering about-- addressing the prosecution-- and the imprisonment of-- of black males, but based on a subversive system, right? Because the Ferguson report and *Washington Post*-- in St. Louis and other areas you have this revenue generating system, right? And so it really is to their benefit, right, in order to meet these annual revenue and budget goals-- to not put you in prison, right?

'Cause 30 days isn't filling their coffers, right? But to actually fine you, and continue to fine you, and continue to fine you. So it's really sort of a debtor's prison. And so while I think that one of the things that is very much in your face is this very blatant-- prosecutorial discretion-- and the imprisonment-- of black men. There is this subversive-- part that continues to elude us. Even if you look at the footnotes of the Ferguson report, it says, "Since the publishing of this report, they made some moderate changes. They're considering doing something limited."

But those are those areas of racism that are a lot harder to pinpoint, right? It disproportionately, of course, affects black people, but it's not based on solely putting them in prison. It's based on really getting them in prison or in debtor's prison based on revenue generation. So I'm wondering-- any thoughts on that-- and how to really address it at the root cause?

ANGELA DAVIS:

So you're absolutely right. And what she's referring to the reports-- if you have not read the Justice Department's Ferguson report and Baltimore report--

SHERRILYN IFILL:

I strongly urge--

ANGELA DAVIS:

--you must.

SHERRILYN IFILL:

--you to.

ANGELA DAVIS:

It-- it-- it will-- it will make your mouth drop open. I mean, just systematic constitutional violations. The things that these police officers did-- which were clearly unlawful, systematically and on purpose. And the fining, as you say, that really was just making money for the coffers. And a lot of people talk about how, you know, there was no a prosecutor. There wasn't a federal cooperate. It's really hard-- and Sherrilyn knows-- to bring civil rights charge. Because the law is so bad.

You know, Eric Holder, as you all know, went to Ferguson, and then afterwards Loretta Lynch followed up. And-- and in-- and in Baltimore as well. But what came out of it was-- were those consent decrees. And, you know, Sherrilyn can-- she can talk about those particularly in Baltimore. (CLEARS THROAT) But they mean something, and they're there to effect change systematically in those departments. And a lot of it's going to (COUGH) depend on what plays out from now on.

But you're absolutely right about it. And what's scary about that-- before I pass it over to Sherrilyn-- is that we know if it's going on in those two cities that it is going on in cities all over the country. But because there was no a killing and the Justice Department come in and didn't do those investigations, we don't know. But it-- clearly those two places, Baltimore and Ferguson, are not just, you know, some pariahs. It's happening everywhere, and that's what's so frightening about it.

SHERRILYN IFILL:

It-- you know, one-- one of the great things about the Ferguson report is that it revealed that whole system that you're talking about to the public when many people did not know about the system of fines and so forth. And so I think that was really important, and they are under a consent decree. And there are-- a number of organizations that have been

litigating. Is it Equal Justice Under Law-- Equals Rights Under Law-- I always forget the name of it-- that's been doing really extraordinary work in this field.

And so I actually do feel that people are getting at that system. What I think is-- is-- we're not getting at-- and Chris has heard me talk about this before-- is that I just think that this is where you pull the threat, you know, on race in the criminal justice system. It leads you to all these other places. And I think (NOISE) part of what was revealed bou-- about that system is that these are jurisdictions that in some ways should not exist, right? You have all these towns that were created, many of them, you know, white flight towns originally, right, with people running from, you know, major cities and seeking to live in the suburbs. And those people wanted small government, and they wanted to be out of the city, and so forth. Then you have-- African American populations and other low incomes populations that move into those areas who have the need for robust government, as you-- like you do in an urban environment.

And they're in that environment-- and so they-- they're-- they're inheriting this kind of small government. But it's not just small government, it's a government that literally cannot sustain itself. You know, and so that's why they create the system. They create the system actually just to perpetuate itself. And (COUGH) for me the most telling part-- we've been trying to think about how to unpack and deal with that came out of kind of Ferguson is looking at-- governing systems that-- I actually think one of our U.S. Programs board members called it a failed-- that we would call a failed state anywhere else, right?

You know-- three months after Ferguson, you know, nobody still could name the mayor of Ferguson, right? You know, it's not like people don't know who the mayor of New York is. People knew who the mayor of Baltimore was. Like, you just know. You know, you know who the mayor of Chicago is.

ANGELA DAVIS:
Right.

SHERRILYN IFILL:
We get these same, you know, police incidents, but you don't know who the mayor is. What's the name of the mayor of Ferguson? Right. (LAUGHTER) So you don't know. You don't know because, you know, Knowles, Jim Knowles, is not that important. (LAUGH) You know, why is it not that important? Because the mayor of-- of Ferguson is-- a part time job for which he is paid $350 a month. (LAUGHTER) The city council's part time. They're paid $250 a month, right? So remember what you saw when Ferguson happened, right? It's not like you saw them on TV. You know, people were out in the streets. Remember, you saw the police chief?

ANGELA DAVIS:
Right.

SHERRILYN IFILL:
And-- but you didn't even see 'em, right? What-- it's not like-- it's not like New York where when we had unrest, like, you didn't see de Blasio. Like, the-- you saw the mayor.

Like, come on. I mean, so why didn't you see them? So these-- these individuals are not really the individuals who have any real power, and the community knows that, which is why they were on the street. They didn't march to the mayor's house, right? Because he's the $350 (COUGH) a month guy, and there's-- (LAUGHTER) and there's a 200-- and I-- and I say that without disparagement.

Because the truth is I'm a civil rights lawyer, believe in justice, and-- and-- and truth, and equality. For $350 a month I'm not sure how good mayor I would be, (LAUGHTER) right? So-- so the people who really have power in that town, therefore, are the town manager, the very clever young man who, by the way, came up with the fine system as a way to keep the government going in Ferguson, and the chief of police. Two appointed positions. Those are the people running that town.

And that's the system that I know is perpetuated in outer ring suburbs and other communities around this country where it's the town manager and the chief of police who really run the show, and then there's this, like, pageant of representation 'cause we have a mayor and we have a city council. But that-- that's-- those are not real people who are, like, waking up working on the governing problems of a town for $250 a month. That's not gonna happen. So I think that's the piece we haven't gotten at, which is that there is a democratic governments problem in jurisdictions around this country. What they came up with was a way to perpetuate this mock government, but it's not real. It's not real. And so maybe we need to begin to talk about, like, should you get to form a government? Like, should you get to have a police department if, you know, there are six members of it and it only covers this terrain?

Like, don't we need-- you talk about regional policing and-- right? Like, the idea that you could just create your own police department. Like, these are the things-- but they-- but these are about-- about governance, and I think we need to spend some time talking about what makes-- what are the components of true, democratic governance.

THERESA HASSLER:

I don't have another question, just a comment just to that point. If you-- going back from Ferguson-- and everything you're saying makes sense, right? I thought he made $1,000 a month, so $350 is blowing my mind. But when you go back to the history of St. Louis specifically, right, and its placement on the Mississippi, it-- it's a schizophr-- and I'm sorry to use that word. It's a schizophrenic city. It was a slave state and a free state. So you have to almost go back to the history of St. Louis, right, and its placement with the Missouri Compromise. St. Louis has always been at this crossroads of being progressive and regressive. And so it's been hard, right? We were the first ones to adopt home rule, right? Why do we have 89 municipalities? And St. Louis city is also a county, right? We have a police chief and a sheriff, right? So it is-- (LAUGH) it is-- it's-- at the outset it looks like, "Oh, they're just crazy. Fix it." But you're looking at, you know, 150 years of dysfunction. I mean, it's-- engrained.

CHRIS STONE:

And I think-- I-- (CLEARS THROAT) the point you make about the-- I mean, in some ways the criminal justice system is also an economic policy. It is-- it is about economics from its start. Bryan Stevenson's chapter at the beginning does a wonderful job just give a quick-- a quick look at-- the convict labor system-- and the exploitation of African

American-- men in that system-- for-- for money in many, many forms before they ever got to the fine system or private probation, or any of the other ways that the system has extracted money and labor-- from the people caught up in it.

And understanding that just like-- just like Jim Crow and segregation were economic policies, not just racial policies. The criminal justice policies in this country are economic policies as well. And I think your-- your question pulls-- pulls that forward. The-- the consent decrees that we've-- that we've heard about-- are themselves-- a schizophrenic-- response. Because, you know, the few dozen-- there-- a tiny-- compared to the 18,000 to 30,000 police departments in the country you have-- you have a few dozen of these consent decrees.

You-- but the struggle for those, like that dissenting opinion that Sherrilyn talked about at the beginning-- is-- is-- is a product no trajectory of an accidental-- vote. That's-- people died for that system of consent decrees. People struggled for that; fought battles for years and years, turned down by Congress year after year. Started with the prosecution-- of Frank Rizzo's police department Drew Days and-- and the-- and-- and the Carter Justice Department.

Trying to get the power to bring those-- those-- those pattern practice cases against a jurisdiction. Being turned down by Congress year after year only in '94 finally getting it. And now-- now you have in Baltimore, in Ferguson the beginnings. Like that dissenting opinion, that is not gonna solve this problem, but it does-- it's-- it's-- product of real struggle, and it's the beginning of that--

SHERRILYN IFILL:

That's right.

CHRIS STONE:

--of that change that Sherrilyn talks about. So--

DEMETRIUS LIEBERSON:

Thanks for really thought-provoking conversation. My name's Demetrius Lieberson. I'm got two quick questions. The first one is the challenge that Angela left us with in terms of why aren't prosecutors prosecuting police. And with the prosecutors that you-- and especially these progressive prosecutors-- what are their reasons for no prosecuting po-- police and taking forward charges?

And my second question is coming from a South African context where race is very much at the forefront, I'm curious to know how you work resonates with other country contexts. And I'm specifically, like, Brazil where the issue of race is visible invisible, as it seems to be in the States. And has there been much engagement outside of the U.S. context with your work? Thank you.

ANGELA DAVIS:

Not-- not with mine personally, but you're absolutely right. I know that-- you know, it-- it's interesting because when I talk about the United States and when I talk about the mass incarceration problem in particular I compare it to other Western countries in

Europe and about how our incarceration rate-- rate is so much lower than their-- and a lot of people think the reasons behind that have a lot to do with race and who we're not locking up, who we're not locking up.

As to your first question, you asked about whether or not-- you know, what-- what are progressive prosecutors' excuses for not-- I-- I actually am not aware of any of the prosecutors that I'm talking about anyway who have failed to-- to-- to prosecute police. In fact, one of the more progressive ones who was recently elected, Aramis Ayala-- in-- in Florida-- doesn't have anything to do with the prosecution of police.

But she stepped out and said, "I'm not going to seek the death penalty because it's racist, because it's unfair, et cetera." And then the governor of Florida, Rick Scott, proceeded to remove her from all of the death eligible cases, the cases where the death penalty could be sought in her jurisdiction, and appoint a prosecutor from another jurisdiction who was not elected by the people of Orlando to take over those cases. And she sued him, and unfortunately, the case came down last week. The Florida Supreme Court--

CHRIS STONE:
Yeah, terrible.

ANGELA DAVIS:
--ruled against her. So it's a struggle when progressive prosecutors step out there and-- and, you know, it's a fight. They're going to have to fight to do things differently, clearly.

CHRIS STONE:
Yeah?

ANNE JACOBS:
Hi. I'm Anne Jacobs from the John Jay Prisoner Reentry Institute. I wanna ask a question about the civil penalties for prosecutorial and police misconduct. I find it outrageous that we keep paying in New York out of the general tax levy coffers and don't understand given that in-- in New York for instance, the prosecutors' budgets are quite substantial why the penalty for misconduct doesn't go to the source of the behavior and the lack of oversight and wonder if that's grounded in law or just custom. But it seems like any behavioral economic-- economist would say that there's an opportunity to build a different set of incentives there.

ANGELA DAVIS:
So are you talking about the penalties that are paid, for example, when the city is sued for, like, police killings, and all that, and all the dollar-- all the millions of dollars that have to be paid as a result of that?

ANNE JACOBS:
Yeah.

SHERRILYN IFILL:
And so your question is why isn't it that the people-- like, you-- you mentioned prosecutors. Why aren't prosecutors--
(OVERTALK)

ANNE JACOBS:
--in New York City just pays it out of the general-- there is no economic consequence to the prosecutor's office or the police department for the misconduct of their employees.

ANGELA DAVIS:
I--

ANNE JACOBS:
And I don't know if that generalizes to the rest of the country, but I personally have found it (LAUGH) offensive and outrageous.

SHERRILYN IFILL:
So let me say something about money. And-- (LAUGHTER) so-- you know, when a police officer is sued in his official capacity and-- and someone brings a suit, they're usually bringing that suit against the city--

ANGELA DAVIS:
Right.

SHERRILYN IFILL:
--right? So the cit-- the-- the city is the defendant, and then the city is paying, right, whatever is the settlement. That-- that makes sense to me. That doesn't get at your question. I'm coming to that. But-- so I don't-- I don't think there's anything generally wrong with the idea that when the city is sued for the conduct of someone who--

ANGELA DAVIS:
Works for the city.

SHERRILYN IFILL:
--does something in their official capacity that the city should pay. Don't have a problem with that. What I do have a problem with is-- which is more of what you're getting at-- is-- is this question of-- creating incentives for good conduct and against bad conduct through the budget. And I would say that this is-- this runs rampant throughout-- the whole kind of apparatus of municipal criminal justice-- where there essentially are not the incentives that you would imagine...

... there would be for people to-- wanna protect their budgets by insuring that their officers are doing the right thing. And I think this goes all the way up to the federal system. So the project that we've been working on-- and hopefully by next year you'll be able to track this online through L-- LDF's website-- is about this issue of settlements and what gets paid out. It's almost like a shell game, right?

The part I've been most interested in-- because Title VI of the Civil Rights Act of 1964 prevents the federal government-- or should prevent the federal government from providing funds to any program that engages in discrimination. The federal government gives a minimum of $2 billion a year in just grants to police departments. That's a minimum. That doesn't include the military equipment and all kinds of other stuff that they do.

I see no real tracking that I've been able to determine, you know, that really shows that the federal government is engaged in any rigor around insuring that those departments who get those grants are not engaged in discrimination. So part of what fascinates me is when you compare the grants that come from the federal government to the amount of money paid out in settlements every year it's, like, almost unbelievable.

It's, like, why would you be eligible for any federal money if you're paying out-- you know, if Chicago's paying out $40 million in settlements, why should you be eligible for $20 million in grants? It's crazy, right? So there's something, like, up-ended about-- and-- and this is a piece that we're trying to unpack right now. And part of what we're trying to unpack is all of the streams of money that will allow you as the citizenry to do exactly what you're talking about.

'Cause it seems to me internal to New York-- and don't wanna just talk about New York 'cause I think this is true around the country-- that-- that you ought to be requiring systems that at the very least say, you know, if you reach a certain amount-- if your department or your precinct is responsible for this percentage, right, of misconduct settlements in the city, something happens to your-- in your prec-- something has to--

ANNE JACOBS:

That's what I was hoping for. (LAUGH)

SHERRILYN IFILL:

--so-- so I think that's-- but I-- but I think what we need first is the data. We need to be able to track where the money's coming from, how much you're getting in federal grants, how much you're allocated by your budget, how much you're paying out in settlements. And actually what we've discovered is that information's not easy to find. It-- you know, 'cause it's from so many different sources. So to put it together-- and we're trying to put it together in a web-findable form.

And the purpose of it is really for you, so that communities-- so that-- because what-- this is what I would do: When I hear that an officer has killed an unarmed individual, like in Tulsa, the first question I started to ask last year was, "Okay, I need to know (COUGH) how much money does Tulsa get in federal grants for their police department?" That would be, like, my first thing. I just wanna know.

Like, what-- you know, because I wanna make that nexus. And I think you ought to be able to know that, too. And you ought to be able to know how much a particular precinct in a particular community is generating in the city having to pay out settlements so that that is, like, an accountability measure that you-- but I just think, like, everything

associated with policing the data is so buried. It's not readily available. As you know, we don't even really have a real database about, you know, police--

ANGELA DAVIS:
The killings.

SHERRILYN IFILL:
--killings.

CHRIS STONE:
Right.

SHERRILYN IFILL:
You know-- most-- most of the data we have is about shootings, but not--

ANGELA DAVIS:
Right.

SHERRILYN IFILL:
--necessarily about killings, right? So-- so-- so this is partly a data issue. And to me when we can get that data (SNAP) in a usable forms it becomes-- it should become a tool that citizens can use for advocacy. This is the kind of stuff that you then are bringing to de Blasio and you're saying (LAUGH) as you're in this budget prisis (SIC)-- process, you know, how do you manage that?

Then you can talk about when they're engaged in the process of negotiation with the police union around what the new contract is gonna be. Then you can begin to talk dollars and cents. Then we can begin to talk about whether we're filing Title VI complaints-- with the-- you know, about particular departments that are receiving federal funds but-- whose records seem to suggest that they're engaged in discrimination.

But we-- we-- we just don't readily have that data available, and I don't have (COUGH) it readily available that I can, like, make the case to you of what the nexus is and what the trail is that we should be following. So we're working on that, and we think we're gonna have it in some kind of web-findable form, hopefully in the next year, so that we can just-- by-- jurisdiction by jurisdiction have that information and have it as a tool for you to use.

ANNE JACOBS:
Great. Thank you.

JEREMIAH:
Jeremiah is my name. Thank you for having me. Thank you also for developing such a brilliant book about the justice system. I think there are a lot of challenges from your presentation. I think we should be looking at now the way forward. What are we to do to fix the system, which is the most important thing? There are very good cops that I love.

They are doing good policing, but the bad cops are actually giving a negative watch-- negative look at the good cops.

So how-- how going to fix the justice system-- criminal justice system? Your people need to revisit to look at-- we-- are we to fix? Are we going to fix it from the top to the bottom? (LAUGH) Or we start fixing it from the bottom to the top? That is to say getting to the scholars, children in the schools, colleges who are now moving towards legal system.
They need to be groomed from that. Already the system is damaged, which you have already outlined. To start to fix it those who are now coming into the new system-- we should have a reformation. What are we going to also look at the conflict resolution system? How can we bridge the gap between the police and the community? Are we going to set up what we call the Police Partnership Board?

We are in police-- they can (UNINTEL) the police to the Police Partnership Board, and they can take up a very stringent punishment for them. Very recently I saw a clip that came-- that happened in 2016 (COUGH) when one of the drivers-- I could not see the-- whether it was a female or a male-- she was pull-- that she or he was pull out, and the cops actually s-- to the-- the driver, "No, we are looking for blacks."

There is a clip at CNN. It was 2016 (UNINTEL) in that year. In fact, the officer has been put on-- on administrative leave. Is that only enough? To even make such a statement is just, like, here you cannot even think of smoking. You don't even have to think of smoking here. So there is no need to even put no smoking here. Don't even think. So those are things we have to look at it how to fix it.

ANGELA DAVIS:

So let me-- 'cause you mentioned a lot of (COUGH) things, and I'm old. So I can't remember them all. So let me just stop you and try just-- a few things. A lot of the issues you mentioned are addressed in various chapters of this book. You talked about educating children from childhood. So in Katheryn Russell's-- Russell-Brown's chapter about implicit bias, something that Sherrilyn mentioned, about the implicit bias that so many-- that we all suffer from, but certainly that police officers suf-- suffer from.
And she talks about how that works and the training. She talks about the importance of changing, you know, the curriculum in elementary schools to teach children from the time they're young on up in terms of teaching them that. A lot of the issues around policing-- in Tracey Meares' and Tom Tyler's chapter. Tracey Meares sat on-- President Obama's-- taskforce on 21st century policing, and so she talks about a lot of their work and the suggestions they make about changing the systemic problems (DOOR OPENS) in police departments. And so many of the things you mentioned-- in the interest of time I'm not gonna be able to sort of get into the details of 'em-- but the book does talk about a lot of the issues that you mentioned there. So thank you.

OSTER:

Good day. My name's Oster, like the blender. Thank you for a great book. (LAUGHTER) Thank you for a great program.

ANGELA DAVIS:

Oster, no problem.

OSTER:
I'm from Queens.

SHERRILYN IFILL:
I'm from Queens. (LAUGHTER)

OSTER:
And as you know-- our D.A. is Richard Brown. He's 85 years old. He's been in office since at least 1981-- 1991 and hasn't been ever challenged. In March-- now-- we know that-- people who work for-- folks who worked for the-- the D.A.'s office-- they aren't well-paid. They're overworked and underpaid. But-- they found it in their budget to donate $20 million to the N.Y.P.D. And then-- but to understand systems.

Richard Brown-- 'cause you said that the D.A.s may be the-- the problem, but if D.A.s are-- they're run, that means it's the political machines that actually put them there. There are 3,143 counties in the country. The majority of them are controlled but some sort of political machine. And if that political machine-- in-- in area-- in urban areas, they're probably gonna be Democrat-- are the ones appointing these D.A.s and not being held accountable to 'em.

So isn't the problem, at least for black people, the dependency on the Democratic Party-- their reliance on the Democratic Party is failing us because they're-- essentially they're putting folks in position who aren't serving our needs. So isn't that the-- problem? (LAUGH) Thank you.

SHERRILYN IFILL:
I don't think so. (LAUGH) Here's why.

ANGELA DAVIS:
I don't know so either.

SHERRILYN IFILL:
I mean, because, you know, I-- the example we can use, you know, is a place like Baltimore, which is overwhelmingly Democratic-- majority African American. And it was not easy for Marilyn Mosby to get elected, and she's got a real challenge getting reelected, but she did get elected. She decided to challenge the person who was in office, who himself had challenged the person before him, all Democrats.

And she decided to do it, and she did it, and she was successful in doing it. I don't-- I can only imagine if Freddie Gray had been killed with the prior prosecutor what would've happened. It certainly wouldn't have gone down like it did go down. So I think part of the problem is-- and-- and, you know, for those of us who do a lot of-- voting rights work-- and I-- I'm, you know, old enough to have done voting rights litigation suing Democrats (LAUGH) as well as suing Republicans.

And part of the issue is about what we call low salience elections. Most people walk into the voting booth on a given election day, and they vote for the President, they vote for the governor, they vote for their senator, they might vote for their mayor, they might vote for their city council person, and then they stop. Even though the sheriff has all the power to evict people, they don't vote for the-- in the sheriff race.

They don't vote in the D.A. race. They don't vote in the judicial race. The judicial says pick three, and maybe you pick three, maybe you don't. So I think part of the problem with a lot of these offices in these low salience elections is that we have not decided that these things are important to us.

ANGELA DAVIS:
Yes.

SHERRILYN IFILL:
Everybody has something to say about the presidential election. Nobody has anything to say about the judge who's running for--

ANGELA DAVIS:
That's right.

SHERRILYN IFILL:
--the local-- judicial seat. Because most of the work I do is in the South, you know, I just became so entrenched in looking a local offices because those are the people who really control the lives--

ANGELA DAVIS:
Yes.

SHERRILYN IFILL:
--of African Americans in the communities where I work. It is the county commission, it's the town council, it's the water board, it's the justice of the peace, it's the constable. You know, we just won a case in Louisiana with, you know-- state trial judges-- and how they're elected in-- Terrebonne Parish, Louisiana. And the judge found that, you know, the way they're elected intentionally discriminates against black people. I mean, so when you-- but when you're in these jurisdictions you begin to understand why those elections are so important.

And that was my education as a young lawyer at LDF almost, you know, 30 years ago now. The first cases I litigated where those cases. I didn't litigate-- you know, cases that were about redistricting and all-- and congressional races, and all that. My-- my cases were about the justice of the peace, judges, the constable, the town council. You know, when we were looking at the-- the County Commission of Etowah County, Alabama-- and we looked at the duties of each county commissioners each county commissioner had control over roads and ditches in their community.

And I think, like, who wants that job, right? But it turns out, like, that's the job, right? (LAUGH) Because, you know, how the infrastructure is created is what determines what side of town the Walmart's gonna be on, and where the jobs are gonna be, and-- all of that stuff. So to me this is more about our responsibility as citizens and where we take seriously-- we talk about the right to vote, but we only talk about it every four years. Because mostly people only care about talking about it when we talk about who's gonna be in the White House.

ANGELA DAVIS:

Right.

SHERRILYN IFILL:

For the people that I represent, the people who control their lives more than the President is that local judge, that local D.A., the town council, city council, and so forth. So-- when-- when we decide that we're gonna challenge-- as happen in many of these D.A. races-- when progressive people stood up and said, "I wanna-- I want that seat," you know, whether it was Aramis Ayala, or Kim Fox, or any number of others who decided to do it, we had a different result.

And we-- and we came out and voted in that election, as they did in Chicago, because they were so mad about Laquan McDonald and everything that went down there. We-- we have a different outcome, and we have Kim Fox. So I think we have to really get serious if we're gonna talk about democracy and voting. But if we think that we're fulfilling our responsibility by showing up every four years or by, you know, talking about-- talking trash about the mayor race in-- in New York, which we all do.

You know, but not knowing (LAUGH) when it says "pick three judges" who those judges are, and not thinking-- you've seen people's stuff on the street. You think it doesn't matter who the sheriff is? You know, so I think we have to also-- because there are places where there's only one party, and it's-- and-- and it-- and we have the ability to (COUGH) bring somebody to challenge, and we don't. Or we don't show up for that election.

So off years matter. I tell people all the time there are elections every year. Not every four-- I know-- I know we just had a presidential election. We're all deeply traumatized, (LAUGHTER) but there are elections this year. I don't know what the offices are here--

AUDIENCE MEMBER:

Actually next week.

SHERRILYN IFILL:

Next week. There you go. (LAUGHTER) Okay, so do you know what I'm saying? But I can tell you in Texas there are elections, right? And so-- and-- that's what I worry about. So when I'm, you know, challenging Texas voter ID it's because people are getting ready to vote for sheriff and town council, and I wanna make sure that they are enfranchised for those offices. And I think we just-- we just all-- we've allowed the-- we've just let-- let those-- you know, we-- we give those away.

School board? Are you kidding me? I mean, that's huge. That school board in Texas that voted in that textbook that's used all over the country, right, that has all the misinformation about the history of this country. Like, these are powerful offices. And any one of us in this room could run for school board.

ANGELA DAVIS:
Right.

SHERRILYN IFILL:
Would we?

ANGELA DAVIS:
Right.

SHERRILYN IFILL:
You know, so I think that the idea of-- people who claim that they're interested in politics but actually really only mean politics at the national, highest level but don't actually mean politics as it's exercised in their local community are part of the problem. And that's all of us, and we have to take responsibility for that.

ANGELA DAVIS:
Couldn't agree more. Pay attention to your D.A. races. And not only are they not looking down the ballot and voting, sometimes there's only one name there. So that--

SHERRILYN IFILL:
That's right.

ANGELA DAVIS:
--like, there's only one person because no one's challenging--

SHERRILYN IFILL:
Nobody's challenging 'em.

ANGELA DAVIS:
--the D.A., and so they sit there for decades as the D.A., you mentioned. So we gotta get people out to run. And I know it's hard and costly, but--

CHRIS STONE:
But I will say also, you know, I think you're-- you're right about-- I mean-- in Queens-- some of-- some of our-- some of my friends have been spending some time in the last few years trying their persuade people in the community to run in that--

SHERRILYN IFILL:
To run.

CHRIS STONE:
--run in that seat, and it is hard because people know that there isn't the interest. They know there isn't a movement behind them. And I think what's been so amazing, not just with Kim Fox but with dozens now of progressives, mostly people of color running in these-- picking up these races trying to challenge incumbents, is they're winning.

ANGELA DAVIS:
Yes.

CHRIS STONE:
It turns out you can actually--

ANGELA DAVIS:
You don't need that many votes.

CHRIS STONE:
--you can-- (LAUGH) you can win in these races, and you can change the culture of prosecution in this country-- with each of these-- with each-- with each of these races.

ANGELA DAVIS:
I think about--

CHRIS STONE:
So I think those are-- yeah?

ANGELA DAVIS:
There's, like, 18. And about 18 of those D.A. races, like, 15 out of 18 the cha-- the person who challenged won, which is pretty extraordinary.

CHRIS STONE:
Yeah?

LUCRY ORTIZ:
I wanna stay on these elections. My name Lucry Ortiz. I'm a former public defender in the Bronx Defenders as well as Burton County, New Jersey. So y'all are speaking to my soul right now. (LAUGH) One of the things that I saw every day as a public defender were countless BS, low level arrests, criminal trespass, hopping the turnstile, resisting arrest, possessions of small amounts of drugs.

ANGELA DAVIS:
Yes.

LUCRY ORTIZ:
And that is what kept a lot of black and brown men, boys, seeing me for ridiculous reasons. So right now the election that's going on in Brooklyn-- interest D.A.'s office there contested. They're having a conversation about low level arrests and low level offenses. Shaun King, an activist and journalist, is exposing the 42nd precinct in the Bronx for--

ANGELA DAVIS:
Right.

LUCRY ORTIZ:
--what they're doing up there, but they also have a notorious history of arresting at this level. So I know what's going on here, but I'd love to know, like, what is the national conversation on these low level arrests? Because the laser focus is obviously on the killings, which are awful, but the warehousing of our young people is because of a lot of these arrests.

CHRIS STONE:
Thank you so much for that.

ANGELA DAVIS:
No question about it. And you wanna start?

SHERRILYN IFILL:
You know--

ANGELA DAVIS:
Or?

SHERRILYN IFILL:
Yeah. I mean, this is-- this is-- this is-- this goes really to the heart of the way we have allowed ourselves to kind of submit to this mystical vision of what law is. You know, law does not come down from the sky. We create it. We actually enact laws. Like, we-- the-- we actually pass them, and then we can decide which ones we wanna vigorously prosecute.

ANGELA DAVIS:
That's right.

SHERRILYN IFILL:
That's actually a decision. It's not like you vi-- you know, you vigorously prosecute all of them.

ANGELA DAVIS:
That's right.

SHERRILYN IFILL:

And you are absolutely right that the-- the-- the prosecution, the vigorous, you know, prosecution and-- and arrests around these low level offenses, which so much remind me of the Black Codes. We've been looking at them lately in our with something that we're working on. And-- you know, were these vagrancy laws-- you know, after-- after slavery ended-- which just kind of-- which has really fed into convict leasing later, and so forth. It was just-- you just, you know, got black men off the street and you could-- you could put them in jail, and then they could be-- you purchased essentially. And so (LAUGH) it was a way to kind of keep slavery going. And it's so similar to what we see, you know, in-- in-- in this context. I think that's the part of the conversation that-- that we're not having more robustly. Because the criminal justice system, which Chris des-- described as partly about ec-- economics is like everything also about investments.

We decide where we want to invest our public resources all the time. And the decision to invest our public resources having-- officers who are paid, and who have a contract, and-- who get overtime, and health care, and so forth, and deciding that we're gonna deploy them to worry about people jumping a turnstile is-- is, like, a crazy public policy decision that we can make, and we can also unmake. And that conversation not about policing versus not (LAUGH) policing but about we wanna deploy.

If-- if-- if police officers tomorrow started handing-- remember when-- you know, when there was a period of time in New York when there was dog crap everywhere. (LAUGHTER) For those of you who are old enough. That was just a thing. You just-- there was just dog crap, and you just lived with it. Then they decided to have the pooper scooper law, and for a brief period of time they just handed out a lot of tickets to get people to pick up after their dogs.

They didn't-- they didn't keep doing it. It was, like, a brief period of time to get people to pick up after their dogs and to kind of get the culture going of, like, you kind of gotta carry the little bag and pick up your dog crap. And it did change, right?

CHRIS STONE:

It did.

SHERRILYN IFILL:

Actually it-- remarkable, for those who are old to remember. Remarkably. Right? Now today if the police were out, like, ticketing everybody who didn't pick up the poop, the-- it just couldn't survi-- first of all, you know New York and their dogs. They love 'em, right? So that's not gonna happen. The-- we just wouldn't do it. If-- if-- if police officers decided, you know, for-- to just hit everybody with a jaywalking ticket, we wouldn't allow it.
(LAUGHTER)

We wouldn't allow that in New York. We would decide that that was a crazy use of our-- of our resources. We wouldn't invest in it. So this is where it comes back to why is this about policing the black man. Because why is it so important to get the turnstile jumper and to-- you know, to do-- to do the package? This is what-- what Brat-- Commissioner

Bratton used to call the package: Resisting arrest-- failure to obey-- what's the third one? You probably know what the third one is. It's-- it's one of the bull shit ones.

CHRIS STONE:

Dis-- disorderly.
(OVERTALK)

SHERRILYN IFILL:

Disorderly conduct. That's it-- the-- he would call-- he called that the package, and he said, "When you see the package"-- when he sees the package he's suspicious about that arrest. I mean, he-- this is what the commissioner was saying. He's suspicious about that arrest when he sees what-- a police officer brought somebody in on the package. Because that's usually an attitude ticket. You know, what-- whatever it-- you know, it wasn't really anything, but they gonna hit you with something, right?

So we could make a decision that we will not allow the package, right? That the package is-- is-- is-- is suspect at all times. Anytime we see the package, this is how we're gonna do procedures within the precinct. That would make police officers think twice about the package, right? We could decide immediately that we were not going to prioritize turnstile jumping. That's just-- not even-- not even prioritize it, that we're just not gonna do it.

We're not even gonna-- we're never arresting anybody for that. That if we-- if you're a police officer and you see it, you can issue-- you know-- appearance ticket, but you can't-- you can't-- we could just decide that. And so this is all about where we choose to invest. And because we have this stereotype about who black men are and the need to control them we have decided to irrationally invest resources in the kinds of arrests that you're talking about.

And that's why I'm saying to leave race out of the-- our understanding of how we approach law leaves us-- leaves us having this conversation. Which we're saying how could that possibly make sense in a city like New York that's got, you know, so many issues in which there are crime problems and so forth? Why would we expend resources, you know, on-- on people jumping term-- turnstiles?

It sounds crazy until you put it in the context that explains what's driving so much of this, even unconsciously, that people don't even know they're doing it. Some people do know they're doing it, but some people don't know they're doing it. And until we begin to be honest about that conversation we will be engaging and supporting irrational practices in the criminal justice system, which is what we currently do.

CHRIS STONE:

I'm gonna end with your last question. So I'm sorry for those of you still in line, but we're gonna do one more, and then we're gonna-- adjourn.

ARIAMA:
So my name's Ariama. I'm a student at Kuny (PH). And a couple of hour ago-- a couple of hours ago-- I don't know if you heard-- Michael Bennett, the Seahawks defensive end--

SHERRILYN IFILL:
Saw. Uh-huh (AFFIRM).

ARIAMA:
--he said that he was gonna file a civil rights-- lawsuit I've--

SHERRILYN IFILL:
Yes.

ARIAMA:
--against the Las Vegas PD-- for being singled as, like, a black guy after a shooting. And I was just wondering, like, do civil rights lawsuits-- besides the monetary value, do they really do anything in terms of (LAUGH) helping out the cause? (LAUGH) (OVERTALK)

SHERRILYN IFILL:
That's a good one. That's a good one.

CHRIS STONE:
I think that's for you, Sherrilyn.
(OVERTALK)

SHERRILYN IFILL:
So I did read the story. I did read the story, and-- the-- so Michael Bennett plays for the Seattle Seahawks, and he's-- after the Floyd Mayweather--

ARIAMA:
Fight. Yes.

SHERRILYN IFILL:
--what-- whoever he was fighting fight. (UNINTEL PHRASE) He-- there was-- some kind of shooting, (COUGH) and-- and he was not involved in it at all, but the police singled him out, and slammed him to the ground, and cuffed him, and put-- the officer-- he says put a gun to his head and says, "I'll blow your brains out." And so--

ARIAMA:
Yes.

SHERRILYN IFILL:

--so we saw James Black in New York, right-- who-- who was the basketball player whose leg was broken by the police. See what I can remember. That was also settled. (LAUGH) So we-- so we-- I-- I think the-- these cases are really important because they do raise consciousness about the issue, and they're critically important. But one of the reasons that we tend not to be involved in those kinds of cases where people are-- suing to get-- to get some, you know, kind of recompense for the violation of their civil rights. Sometimes we are involved, but mostly what we care about is the systemic change. And--

ARIAMA:

Right.

SHERRILYN IFILL:

--and that's the key. You know, so they could-- they could say right back at me, "Well, are you effectively changing the system?" (LAUGH) And I would say, "I hope so." I-- I like to think I am, but I don't-- I think that's part of the equation. So there are all these different elements. There-- there are the pro-- prosecutors willing to prosecute police officers who have violated-- who have engaged in unconstitutional policing. There are pattern and practice investigations by the Justice Department in consent decrees.

There are-- individual civil rights claims by people of the sort that you don't-- all of those pieces together are what are supposed to be pressure on the system to change. So I think it's great. When I read the story I was thrilled to hear that Michael Bennett was willing to do it, right? He wasn't gonna just suck it up. He's saying, "I want"-- because what he wants is he wants that exposure.

He wants it to be seen. He wants to cause them to pay attention-- and to change. And so every one of the-- no one of these things is actually gonna do it, but all of them together are supposed to be bringing that pressure to bear that's gonna require transformation and change. So I welcome-- that litigation by him and by the others who have tried in their own way to, you know, expose their encounters with police to kind of help people understand that this is not-- that this could happen to anyone, which is what they really are trying to show. They're trying to show people that, like, in case you think you would be immune from it, you know, it can happen to you.

CHRIS STONE:

So we're gonna-- we're gonna leave it there and invite you to-- to join us-- for some informal conversation and some book signings. But let me-- let me just urge you-- buy the book. Don't stop there. Read the book. (LAUGHTER) Don't stop there. Talk about the book. Don't stop there.
(SHERRILYN IFILL: UNINTEL)

CHRIS STONE:

Join a multigender, interracial movement to end these practices. Don't stop there. Thank you. Join me in thanking our guests for conversation. (APPLAUSE)

* * *END OF TRANSCRIPT* * *