



TRANSCRIPT

"PROJECT PREVENTION, CHILD WELFARE, AND JUNK SCIENCE"

A Conversation With Lynn Paltrow, Dinah Adames, Sabra Jackson, Emma Ketteringham, Carl Hart, Robert Newman, and Kasia Malinowska-Sempruch

* * *TRANSCRIBER'S NOTE: child regularly CHATTERING in background. unfamiliar names spelled phonetically.* * *

ANNOUNCER:

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LYNN PALTROW:

I'm Lynn Paltrow. I'm executive director and founder of National Advocates for Pregnant Women. And I'm so grateful to the Open Society Foundation for-- hosting us here tonight as we premiere-- a video-- and have this amazing discussion.

It's a little overwhelming to be here because so many of you have made our work possibly all these years and this is a room, you may not know it, that really bridges-- just looking around the room I see people-- who have made our work possible because of their incredible academic work that has informed us.

People who are reproductive rights advocates-- who work with us. People who do drug policy reform. People who care about civil child welfare system and have more board members and staff members and former interns, and maybe some future interns. (LAUGHTER) Even the filmmaker, Angela Tucker, is here and I'm so honored that you're in the audience. Tonight would not have been possible without-- the organizing of amazing staff, (UNINTEL) staff, and-- and (UNINTEL) you-- Patrick Gallahew, Jamie Woods, Alisa Sadler and Laura Husk.

And-- the-- the impetus for this-- evening is kind of an opportunity to really talk about aspects of the drug war and reproductive justice that often don't have an opportunity to get discussed. When we think about the war on drugs we often think about its implications in the criminal justice system, which are absolutely huge. But there are also enormous implications-- in the child welfare system, which is particularly targeted to women-- in the cases we work on, pregnant women. And disproportionately so women of color and low income women.

There's an organization called Project Prevention. It was originally called-- CRACK. Child Require A Caring Kommunity with a K at the end. (LAUGHTER) And-- the reason for it-- a woman named Barbara Harris-- decided she was seeing a problem with pregnant women using cocaine.

And she went into the California state legislature and said, "Well, why can't we get these women arrested?" And, fortunately, the California legislature listened to-- the medical community, all of whom say, "Don't respond to problems involving pregnant women and drug use through the criminal justice system. It will deter them from getting what help is available. It won't help us find out what kind of support they actually need. And it's just bad for babies."

And the California legislature, like most others, listened and didn't pass her law. So she thought the next best thing would be to start a private foundation in which, in those days, they offered \$200-- for drug using men and women-- alcoholic using men and women to get sterilized or use long acting birth control.

And the original name, again, was CRACK. Children Require A Caring Kommunity. Their outreach was targeted to low income African American communities. National Advocates For Pregnant Women was one of just a handful of groups that responded.

Among the others was a group called The Center On Population and Environment, a woman of color-led organization, that did inter-sexual race and environmental issues, and a group based in Seattle called The Black People's Project, Communities Against Rape and Abuse. So we were among the few groups that were willing to speak out against them, along with these others.

And I was always puzzled. I mean they focused on crack, as-- America did, as a drug that was associated with low income African American communities. Particularly-- talked about in terms of pregnant women and that drug use. And people were willing to believe the nonsense, the non-science that was at the core of claims made about the drugs and women because it was associated with African American women, who's motherhood has been under attack since the beginning of American history.

But I've also wondered since, you know, why focus on any illegal drug? It's-- all the risk factors that-- occur during pregnancy, using of illegal drug is the smallest. Between 4% and 5% of pregnant women use any illegal drugs. Most of them are using marijuana. And that's less than the number of women who drink alcohol, smoke cigarettes-- experience-- intimate partner violence-- and experience obesity and don't have access to prenatal care. And yet we focus so much attention on-- those particular women who actually represent the smallest number-- statistically

and overall.

So I also wondered why, if they really cared about discouraging people, through the offer of money, from doing certain things, why they hadn't formed something called, for example, SMOKE. Stop (LAUGH) Making Offspring Knowing The Effects of Cigarettes (LAUGHTER) or DRUNK, Don't--

(MALE VOICE: UNINTEL)

LYNN PALTROW:

--Reproduce Under Negative Konditions. (LAUGHTER) We have a few possibilities. We're gonna start by showing the video. And what's important about this, Project Prevention, if you go on their latest website, they were formed in 1994. They seem to be in a bit of lull. The-- they haven't gotten a lot of recent attention, but they seem to sort of be this stealth organization that periodically reemerges-- and gets a lot of attention.

And our feeling is that in addition to the many different kinds of critique you can make of a group that says, to certain people, "We don't value your reproduction." Now, you know, it's our belief that when you say about a certain group of people, "You're not worthy of reproducing the human race," it's the same as saying, "You're not worthy of being treated as a human being."

MALE VOICE:

Fair. (THROAT CLEARING)

LYNN PALTROW:

But they started to spread their work-- overseas. They started opening offices in the United Kingdom and colleagues at Release and other-- organizations asked us for information and how to challenge it. And we had written-- there's-- a *Law Review* article talking about its greatest threat being as a vector for misinformation.

Promoting the kind of junk science, stigma and prejudice that led to the eugenics movement in the United States of America. And some of you may or may not know, the United States invented the eugenics that the Nazis attempted to perfect.

In-- in-- so they expanded to the U.K., which, unlike the United States, had a pretty strong reaction. But we also sat around and we said, "How can-- how can we get across the message of what's wrong with them? They are, in the United States, given so many opportunities in-- popular media on TV to tell lies, really, about women, drug use, their children, how they should be valued in society, how can we answer them?"

And we went to the experts. We-- we were working with WORTH, Women On The

Rise Telling HerStory-- an organization led by formerly incarcerated women. We were introduced to-- several women who began-- began to do internships with us who we asked to analyze and carefully evaluate-- the Project Prevention, (UNINTEL) a new name for the program Project Prevention. And asked them to tell us what they thought was wrong with it.

And out of that came a video in which women-- and their children talked about how they felt about what Project Prevention was saying. And it is a specific response to the organization, but it is also an answer to the very same claims that are used to justify child welfare interventions in states all across the country.

And it is the same arguments that justified the arrest of-- Alicia Beltran in Wisconsin-- through a child welfare law there where even though she's talking about her past drug use-- and she's only 12 weeks pregnant, five police officers showed up at her home, took her into custody, brought her into court in handcuffs and shackles where she discovered a lawyer had been appointed for her 12 week fetus and none for her.

And she was ordered to go to-- 90 days of residential treatment-- because she had admitted, had been honest with her doctors during prenatal care about a history of past drug use. And she went-- by going into that treatment she took the bed of somebody who might have actually needed it. And as one of the experts who's here suggested, that if she looked at the medical rationale for putting this woman in the program she would worry that there was Medicaid fraud going on.

So these cases also raise the issue of what we force people to do in the name of treatment. And when the-- the treatment-- we force on individuals is a (UNINTEL) maybe of social control that's unrelated to what middle class people can get in terms of private, confidential treatment that's denied to other people who we're gonna fix instead of addressing the societal issues that create the reasons why they're subject to state control in the first place. So these are messages that we think have bearing far beyond just Project Prevention. And we will follow the brief video with our panelists, who I'll introduce after the video. (MUSIC)

FEMALE VOICE (ON VIDEO):

In 1994 Barbara Harris founded a program called Children Require A Caring Community. (MUSIC)

(BREAK IN AUDIO)

LYNN PALTROW:

Angela, could you just stand up for a minute? Angela Tucker. If you need to make a movie about a really complex--

MALE VOICE:

Oh yeah.

LYNN PALTROW:

--hard subject-- (APPLAUSE) (LAUGHTER)
(OFF-MIC CONVERSATION)

LYNN PALTROW:

Our first speaker-- appeared in this-- movie that we have premiered here. I have to admit, it has been shown first in-- Cuernavaca, Mexico, and Vilnius, Lithuania. And this is the first U.S. premiere of this (LAUGHTER) video. Thanks to the Open Society Foundation and our first speaker. Now, as somebody who ha-- who really sh-- helped shape-- this entire endeavor, and who has made working-- on these issues her life's work-- Dinah Adam-- Adames from-- who's a parent advocate with Bronx Defenders. (APPLAUSE)

DINAH ADAMES:

So-- I have to be honest. I didn't write anything for tonight. (LAUGH) But I just-- first of all, I wanna apologize, 'cause that was many, many cookies ago, (LAUGHTER) that video. And I hope you guys all enjoyed it. So I just wanna say that I did a lot of research on Project Prevention when I was interning at-- NAPW.

In fact that's all I did throughout my time, was research Project Prevention. I watched every single commerc-- I mean-- commercial. Every single interview she did. Every single-- time she showed up on TV. Every-- every-- I knew Barbara Harris inside and out.

And I actually got the chance to debate her. And she's just that ignorant. (LAUGHTER) She really is. So-- you know, it-- I-- I was looking forward to debating Barbara Harris because I couldn't believe that there was somebody out there that thought like that, until I started doing the work that I do now. It's-- it's-- to me it's unbelievable that somebody could actually think about taking our children away from us.

You know, my son is in the audience. J.J., can you stand up for a second? He's grown since the video. (LAUGHTER) (APPLAUSE) And I have two other boys. My oldest is 21. He's in the Army. And my middle one is 19. Just made me a grandmother. And J.J. is 16. And I could never be more proud of my children.

FEMALE VOICE:

Hooray.

DINAH ADAMES:

And had they been taken away from me or had I not had the-- the option of being able to have them, I don't know where I would be today. I would probably be in the throes of addiction. So if you're wondering what an addict looks like, this is what it looks like.

And these are the people that you see every single day. Right? So you can't judge. And this is-- you know, this is why I got into the work that I got into, because I-- there's-- some way or another I have to be able to show people or prove to them, with my own experience, that, you know, you just can't judge a book by its cover.

You just can't, you know, throw us away and-- and think that we can't-- you know, we can't redeem ourselves or we can't change or, you know, we're always gonna be addicts. I mean, yeah, we're-- we're-- I'm an addict by nature and I'm proud of it. But you know what? I've geared my addition towards advocacy work. And now I fight for my clients as hard as I fight-- I fought for my own children.

(MALE VOICE: UNINTEL)

DINAH ADAMES:

My personal experience, I basically was a heroin addict and I was a heroin addict for about 10 years on and off. And I battled with it oh so many years. So many years I needed-- you know, I wanted help. I just didn't know when I was gonna be ready to stop. And I came out pregnant with my fourth child, my daughter that I always wanted. And-- I knew then that I-- I had to stop. I knew then that I was ready to stop, because, you know, this is the-- this is-- I mean I love my boys to death, but, you know, little girl. Right? (LAUGHTER)

And so-- I knew-- I knew then that this was it. Right? And so I went to my OB/GYN and I-- and I told him, "Listen, I'm-- I'm an addict and I'm pregnant. And I wanna stop. I want a healthy baby. I want-- I want to be able to, you know, just offer my child everything."

Although just-- just-- let's not get it twisted, right? I was a good parent even when I was using. Just so you know. But-- then my OB/GYN told me that I should go out and find treatment and then come back to him. So I go out and I do research. And I said, "Oh, Methadone. All right. Well, you know, this is not gonna hurt my child. I'll get on Methadone." Not that he helped me. I enrolled in a methadone program. And when I went back to my OB/GYN he then told me, "You should have just stayed on heroin. I'm not gonna treat you."

And this is the lack of education that even our physicians have. Okay? And just-- again, judging you-- throwing you away as if, you know, you're-- you're nobody. And so eventually, you know what, I went ahead and I found somebody else that would treat me. And I just started weaning myself off of methadone, which is the worst thing that you could do while being pregnant.

And my daughter was put up for adoption, so she's not with me now. She's 12 years old. But I still have my boys. And, you know, that was very painful for me. But that, again, was something that pushed me even more so to do what I do today, which is fight every single day with, you know, the powers that be, I call them, that just don't understand and don't get it. And I feel like this is gonna be a never-ending battle and a never-ending struggling-- until everybody understands that, you know, an addict looks like me.

LYNN PALTROW:

Thank you. Thank you. (APPLAUSE) I-- I-- whoop. I think I should say that we are-- the beneficiaries of the wonderful noises of a young, happy child. That was the be-- I believe that was the baby--

DINAH ADAMES:

Yeah, that's the baby.

LYNN PALTROW:

--in that-- in the video that you saw, who's now, I am sure, walking and running and-- (OVERTALK)

LYNN PALTROW:

--here with-- some of his family members. Yes. Loui-- is Louis-- (FEMALE VOICE: UNINTEL)

LYNN PALTROW:

--is Louis in the house? (LAUGHTER)

FEMALE VOICE:

Louis is here?

MALE VOICE:

Yes. Louis (UNINTEL PHRASE). (LAUGHTER)

FEMALE VOICE:

Yay. (APPLAUSE)

LYNN PALTROW:

I met Sabra Jackson when she was working for the Child Welfare Organizing Project-- thanks to Kasia and the Global Drug Policy Project we got to go to Beirut together for an international harm reduction conference. She's now-- working as a parent advocate with the Center for Family Representation.

SABRA JACKSON:

I everybody. I'm Sabra. I-- I can remember meeting Lynn at a conference and-- she put this idea out to me-- and she said-- sitting the floor and said, "Do you like this?" And I said, "Yeah, this is fabulous." So many years later we began to-- see each other and so forth. But then one day I get this email that says, "Wanna go to Beirut?" And (LAUGHTER) I said, "Oh lord." (LAUGHTER)

But it was a phenomenal experience. I got a chance to tell my story to about 1,000 people, many of them were many who looked like me, but spoke different languages and had the same story that I had. But unfortunately many of them were not able to regain custody of their children. And that was just horrendous. But we did have a good time. It was very purposeful.

You know, when-- when doing this work, and when you are affected by child welfare, all of us say, "What is the what next?" In my case, I had to regain custody of my two children, Payton and Sabra. SaySay, stand up? (APPLAUSE) And-- and-- and, you know, I had a pile until (UNINTEL) about 25 years in-- doing case practice. You know, in-- in child welfare, on the preventive side. And I had this, like, double life.

And unfortunately I was involved in a very emotionally-- abusive relationship. And as I talked about in the video, you know, I was the PTA president. And-- and very involved with my children. And then-- then I had this other life. And then when I became pregnant with my son, Payton, who's now nine-- they were removed-- from me due to neglect.

So going back to the original statement. You-- you ask yourself what is the-- the "what next." And the "what next" is you continue to tell the story. You continue to-- to tell the story that others cannot tell. You continue to tell the story that those of us who are addicts still remain to (UNINTEL).

Those of us who are-- are addicts tell the stories for others who can't say it. Those-- we continue to fight, fight, fight for families every day. We as parent advocates sit at tables in conferences and hear the horrendous things that they say to families about their substance abuse.

And-- I know I-- and I'm pretty sure Dinah does. You know, we kindly stop them and we tell them that there's wonderful work that's being done around this-- this-- this topic. And that they need to find out. But right now we're here to talk about the immediate matter at hand.

So, you know, when I was looking at the video I know that there's a perception that many people feel. "Oh, that was just a one time thing. That was a show. It was a spectacle." And in fact not. You know, we're still standing. That's first and foremost. (LAUGH) We're still standing. Say, who is now 16, an aspiring designer-- she had her first showing in-- the Bronx at a small venue of her own designs. I don't know where she got it from. I can't draw a stick figure. (LAUGHTER) And-- and-- she's an honor student at (UNINTEL) High School in-- in New York City.

And the little guy, who's Payton. He's nine years old. He's a gifted student. You know, he goes to private school in Westchester county. And-- continues to-- hold me accountable every day. We cannot-- it-- it is our moral-- and I-- I think I can safely speak for most parent advocates. It is our responsibility to continue to speak for those who can't speak.

It is our moral obligation to tell the story of what an addict looks like. It is our moral responsibility to keep telling the story every time that you can. And that, when it is possible-- in my case, if my-- my baby had a chance to speak, Sabra had a chance to speak so many times and tell her story. And so what I say to you is-- is just-- just listen to the story, 'cause those of us who are--

(OFF-MIC CONVERSATION)

SABRA JACKSON:

Those of us who do this work, we-- we ask you to listen to the story and remember our story in doing the work moving forward. And I just take this opportunity to thank you to just listen once again. Thank you. (APPLAUSE)

LYNN PALTROW:

Our next speaker is Emma Ketteringham, who I had the privilege of meeting and working with when she was-- legal director at National Advocates For Pregnant Women during the time that we had the opportunity to-- make this video. And-- she is now managing attorney at the-- in the family defense practice of the Bronx Defenders.

And-- and I might suggest-- we start off by just posing to you one of the things--

Barbara Harris started out making all sorts of claims about the damage that prenatal exposure to certain drugs can do. The science, as we'll hear later-- does not find that nay of the criminalized drugs-- pose specific, inevitable-- irredeem-- irremediable harms.

That they have risk factors similar to cigarettes. And I always say my-- I am a nicotine baby. My mother smoked cigarettes. And maybe if she hadn't I'd be a for-profit lawyer. I-- (LAUGHTER) but she sort of still makes those false science claims but now says the reason to s-- have-- women stop using-- to-- to get sterilized and not-- and you-- and use long-acting birth control is to keep their-- keep all these children out of the child welfare system. And this is a mechanism for keeping them out of the child welfare system. So I'm hoping you could address that, and how the child welfare system replicates and advances-- the (UNINTEL) and-- and the punitive nature of the drug war that we're in.

EMMA KETTERINGHAM:

Okay. So-- oh, thanks.

(OFF-MIC CONVERSATION)

EMMA KETTERINGHAM:

I'll start, though, a little bit-- I mean I just wanna explain, many of you, unless you've been on the receiving end of the child welfare system or you're an advocate within it might not really know what happens there. And I think there are grave misconceptions about what happens in family courts and dependency courts across the country.

I think most of us think that's a place where a parent is asked to appear if they've done something harmful to their child or their have hurt their child. That they're child abusers. But in fact the vast majority of our clients are women and men who are there charged with neglect, not abuse.

And their charges sound in poverty. You really can't distinguish between neglect and poverty. And the family court where we are, that's where they take the children from these mothers and fathers. And the vast majority of our clients have been-- are there because they've either continued a pregnancy, despite having used an illegal drug, or they are parents who have tested positive for an illegal drug. And that can be marijuana. That can be cocaine. That can be heroin. And they are then called child abusers.

So I think, you know, one of the sort of really striking things to me about Project Prevention and what it claims about women who use drugs is that it presumes, first and foremost, that someone might be using an illegal jug-- drug because of just failure of will, just because they can't-- they don't want to stop, rather than maybe they are dependent or cannot stop or have something going on in their life-- that they

are self medicating.

It perpetuates the myth that women-- and men, actually, if they've used a drug cannot parent. That their maternal or paternal instinct is gone completely and that they are choosing drugs over their children. That is a myth that-- that perpetuates our courtrooms. I think another one--

LYNN PALTROW:

Raise your hand if you've parented and used a criminalized drug? You don't have to really, (LAUGH) but-- (LAUGHTER)

EMMA KETTERINGHAM:

And now don't ever tell anyone until your children turn 18.

MALE VOICE:

Right. (LAUGHTER)

EMMA KETTERINGHAM:

I'm telling you. Don't ever do that again. So-- you know, but if you walk into family court in the south Bronx you wouldn't think that it's the place where the welfare of children is promoted. I think what you would think is what we see every day, and I am thankful that some of my colleagues are here tonight. Some of the lawyers who-- and social workers and parent advocates who I work with every day, including Dinah-- in Bronx family court.

But if you walk into that courtroom it's hard not to think that this is the place where mothers and fathers, almost all of whom are of color, are picked apart piece by piece to determine whether they're fit. An unfitness is presumed. They're all asked to submit to a drug test, and if they test positive-- and just testing positive. This is not-- there's no fact-intensive inquiry as to whether they're depended or when-- even when they last used.

There's such misconceptions about drug use in that courthouse that honestly most of the judges think if you test positive you're under the influence in that moment. Visitation with your children can be suspended because you test positive for a drug, even if you try to explain that, yes, you relapsed two days before but you're-- you're good now. You're back in your program. They might suspend your visitation or make it supervised when you're enjoying unsupervised visitation.

So, you know, while there's a lot-- a lot of-- publicity that's necessary to how the drug war is perpetuated in the criminal legal system, very, very little attention is paid to

how the drug war is perpetuated in the family-- court system. And the child welfare-- child welfare system is largely sort of hidden from view. Like I said, unless you've been a victim of it, or you're an advocate in it, you really don't know what happens. So what is of-- thought might be helpful is if I just tell you two stories-- of our clients. And these were not picked because they stand out in any way. They really actually were picked because they're sort of replicated 1,000 times over every day-- in our courthouse.

So-- Glaremar gave birth to her son Emmanuel at the public hospital Bronx Lebanon. And her son was born healthy and ready for discharge. But after a nurse-- noticed in Glaremar's prenatal records that she had admitted to smoking marijuana to ease morning sickness, she was drug tested. And so was her son, Emmanuel.

No one asked Glaremar for permission to drug test her. No one asked Glaremar for permission to test her son. And in fact no one told her that she or her son-- were being drug tested. Glaremar actually-- her test came back positive for marijuana, as she expected it to. Emmanuel's, however, was negative. And that alone prompted a hospital social worker to call the state central registry in Albany and report Glaremar as a child abuser. And this set the system that I work in into motion.

So without going to court, or getting any court order, the Administration for Children's Services, known as A.C.S., told the hospital to hold Glaremar's son. Even though he was medically ready for discharge they said, "Don't let him go home with his mother." And they sent Glaremar home with an empty carseat while Emmanuel remained in the hospital. When she went home, she found a municipal case worker at her door and the case worker searched her home. Examined her cupboards for appropriate food and provisions. And lectured her on not nursing since she was a drug user.

Glaremar's older daughter was then questioned about her mother's drug use. She was separated from her mother, brought into a bedroom, asked if she knew what drugs looked like, asked if she-- if there were strange people coming in and out of the apartment, asked if she-- you know, asked all sorts of questions that-- she was seven years old. She'd never-- she didn't really know what the case worker was talking about, but she went through this extensive interview process.

And then the state offered the deal that our clients are offered almost-- you know, all the time, which is agree to treatment-- quit whatever job you might have. Agree to full-time treatment. Even if you're just the mother of a newborn and your plan was to stay home, agree to full-time treatment for marijuana use. And your children will stay with you.

And if Glaremar were to refuse, both of her children could be removed and placed in foster care with strangers, if she did not have family members who could care for them. And if she fails to complete her per-- her treatment, or if she ever failed to keep up visitation with her children if they had been taken from her, for any reason, it-- it wouldn't need to be-- I mean it could be lack of transportation. It could be just an inability to get there. Doesn't matter. Under federal law her rights could-- her

rights to her children could be terminated forever.

So that's the system that we're talking about. And within that system the same misconceptions and presumptions about drug use that underscore per-- something like Project Prevention's approach underscore this approach. That these women, mostly women, and men, cannot parent just by virtue of having used an illegal drug. That abstinence is the only way to prove fitness as a parent.

Just Google-- I-- I-- I don't know have enough time really to go into how much evidence of the racial disparities there are in this, but hopefully those are obvious to this-- this audience. And if they're not, you know, just go Google pot smoking mamas. And you'll see (LAUGHTER) how marijuana smoking mothers who live where I live in Park Slope, Brooklyn, are treated, where it's thought of as, you know-- sort of a healthy, fun substitute for chardonnay and something that really enhances your play dates. (LAUGHTER)

Versus this, of like causing you to have the threat of child apprehension hanging over your family for over a year. And Glaremar, that's a pretty benign example. I'm giving you a nice example. That's an example where no one was taken and put in the care of strangers.

Glaremar kept her children. And, ultimately, because she found a lawyer who would fight for her-- we ended up filing a big motion, with the help of Carl Hart-- and said, "Look, you can't prove harm. You have to show harm. You can't prove harm. You cannot show that her testing positive for marijuana at the birth for her child equals harming her-- her child."

And we're not sure what happened. A.C.S. never responded to the motion because I think it was just, like, really, really big. And-- (LAUGHTER) they just dismissed the case. But it was-- it took-- I think it was-- oh, I wrote it-- I think it was seven months that they lived believing that-- any knock on the door could be someone coming to take their son or daughter.

And then just one more story, if that's okay. So my-- another one of our clients is-- Shaniq. She's a Bronx mother of five children. Her children are Rondelle, who's 19, Chastity, Destiny, Shamiah and Kayla. And Shaniq has lived, in her life-- in the Bronx her entire life. She's always lived in the same building in her neighborhood. And-- and she-- she's just-- one of the nicest people I've ever met. But-- they live in a neighborhood where there's a lot of drug activity. And buy and bust operations are just commonplace. They occur regularly in her building. So here we have one aspect of the drug war sort of intersecting with child welfare in an interesting way.

One day in the late fall of last year-- Shaniq was at home with her two-year-old daughter, Kayla. And Kayla was next to her on the bed, you know, playing a game on her mom's phone when all of a sudden sort of seconds after Rondelle, her 19-year-old, walked into the apartment, there was a loud banging on the front door and half a-- dozen men busted into the apartment and ordered everyone to the floor.

The men were not in uniforms. They were in sweatshirts and jeans-- but they pulled badges out from behind and flashed them around and immediately Shaniq knew

what was happening, which was that she-- her home had become the target of a buy and bust operation.

An undercover officer claimed that he had bought drugs from someone in their apartment. So they searched the apartment. They turned it upside-down. They even-- you know, they tore apart the mattresses. They looked under-- you know, behind the headboards. They pulled out all of the drawers. They tossed all of the children's clothes everywhere. And in the end they found a half smoked marijuana joint in Rondelle's jacket pocket.

So Shaniq and Rondelle were taken to the precinct. And-- to central booking. And the arrest child was one count of selling marijuana to an undercover officer with a child in the home. Kayla's two. So it's a pretty serious-- she's charged with child endangerment. She's charged with a sale. It's a pretty serious criminal charge.

But the police really never much evidence that Shaniq was selling drugs. Right? The undercover officer, when-- when buy and busts happen, they use marked bills to buy drugs. None of that-- no marked bills were recovered from Shaniq's apartment. No scales were recovered. No stashes of cash. No drugs except this half smoked blunt in Rondelle's pocket. Nothing. So the-- the D.A. tossed it out and said, "This is not a good case. Goodbye. Go home." She spent probably less than 24 hours in jail.

So in terms of the criminal justice consequences, it's not a good-- I mean I would certainly be traumatized by that experience. Unfortunately it's not that-- you know, a lot of our clients experience that often. Way too often. And so she wasn't that phased by that.

But the problem was that when the police came they called-- the Administration for Children's Services and told them to come and get Kayla, who was two. And Kayla was taken to the Children's Center, which is a sort of nondescript building in lower Manhattan where children who are removed from their parents are taken. And she was brought there.

Then an A.C.S. case worker went to Shaniq's older daughter's school and picked up Shamiah and Destiny and Chastity. Picked them all up and said, "Come on. You're coming with us. You're being removed from your mother." So all of them were placed into foster care.

They were questioned, just like Emmanuel's older sister, Glaremar's daughter, about whether-- you know, what kind of drug activity was going on in the home. Whether selling was taking place. Where strangers coming in and out of the home. All that. You know, asked tons and tons of questions. They were embarrassed in front of their classmates at school because the case worker came in and it was really obvious to all the kids in the class what was happening. And they just-- you know, they leave one morning after breakfast for school and then they go home to strangers. They don't go home. And they-- no-- and they don't know where their mother is.

So ace-- basically all of the girls ended up finally in one foster home, but it took quite a while to get them there. And I met Shaniq wandering around Bronx Family Court, upset and crying. And, you know, I said, "Hey, you know, what's going on? How are

you? You look like you might need a lawyer. I'm a lawyer." (LAUGHTER)

And she said, "Well, I just had this conversation with this lawyer and they told me that my kids have to stay in foster care because no one's ever gonna believe me over a cop." And I said, "All right. Well, let's take a second look at this. Let me see if I can get the case." And I found out who the lawyer was who had spoken to her and told her that and kind of made it so that I got the case instead, which was no easy task.

And immediately asked for a hearing to get her children returned home. That's your due process right. Your children get taken, you have the right for it-- to have a hearing to get them home. But-- but the reality of what happens then is that in this case-- Kayla, Chastity, Destiny and Shamiah, they served three months and 21 days in foster care before we were able to get them home. Before the officer ever even came to court to admit that, you know, he hadn't-- you know, he-- he couldn't really say for certain that he had bought from that-- from 2L versus, you know, 2R. And that was it.

So what I try to explain to people who wanna know what the drug war consequences are in family court versus the criminal legal system, 'cause it's not to say that the consequences are not drastic in that system. But the parents are the ones taken away. The adults are the one taken away in the criminal legal system. But in the child welfare system it's the children who serve the time.

LYNN PALTROW:

Thank you. (APPLAUSE)

(OFF-MIC CONVERSATION)

LYNN PALTROW:

Just wanna mention that-- L. Wallace Pitt, can you-- are you here? Can you--

(MALE VOICE: UNINTEL)

LYNN PALTROW:

--(UNINTEL) by yourself?

FEMALE VOICE:

Yes.

(OVERTALK)

LYNN PALTROW:

I just wanna say that-- Wallace flew in today from California having just filed some lawsuits addressing some of these very same issues in that state. So lest you think this is only here--

FEMALE VOICE:

Okay.

LYNN PALTROW:

--or-- or just in one county of New York, these are practices that are happening all over the country. So if we don't get a chance to hear from you now, I want people to know you can go talk to-- Wallace afterwards about her new lawsuit. But I wanna-- 12-- 12 states-- or-- 13 have statutes that specifically equate-- evidence of drug use with an inability to parent.

CAPTA, the Child Abuse Prevention and Treatment Act, a federal statute that-- gets money to the states-- for-- child abuse and neglect issues, said, "If you want this money you must send us a letter explaining how you will have a mechanism for reporting drug-affected newborns to child welfare. (CLEARS THROAT) We're not saying you have to define it as child abuse. And, by the way, we're not defining drug-affected," which means nothing.

"And we aren't gonna to-- give you any money for children who might treatment, if that is actually what's going on. But we're going to enmesh, we're going to insist that you have a relationship with the child welfare system that sees children and families as situations of abuse and neglect, not love and care." And that don't have the resources those families need, which often isn't treatment, but is housing and healthcare, including dental care.

And transportation and things that very often are not available to them, because, you know, we have to spend so much money drug testing. How many of you, by the way, have s-- been subjected to drug tests for a job or something. Could you raise your hand, look around the room?

FEMALE VOICE:

Insurance.

LYNN PALTROW:

Yeah. And for insurance. (LAUGHTER) Right. That--

MALE VOICE:

Those are the ones who know they've been tested.

LYNN PALTROW:

In terms of--

FEMALE VOICE:

Right. Yeah.

LYNN PALTROW:

--well, I usually ask students, you know, "What job was it for?" "Folding shirts. Working at Target. (LAUGHTER) Cleaning a bus." And we're all doing this. I just think that there should be a tax. And I'll just give my money--

(MALE VOICE: UNINTEL)

LYNN PALTROW:

--directly to the drug testing industry and skip the testing that everybody's going through. But Dr. Carl Hart is going to be our next speaker. He's an associate professor at Columbia University. He's the author of an amazing book called *High Price*. I'm very disappointed it's not here for you to buy and for him to autograph, but I'm s-- I know you can get it in bookstores (LAUGHTER) and on Amazon.

So Dr. Hart has been-- one of the few people who has been willing to use his academic credentials, ex-- extraordinary expertise, to pre-- bring that expertise to the court. Typically what happens in a child welfare case is a child-- a case worker-- or somebody like that will be allowed to testify that evidence of drug use, a positive drug test, is the same thing as evidence of child abuse.

I'm embarrassed. I usually keep-- a urine cup with me at all times just in case, (LAUGHTER) so I can say, "This urine cannot tell you how I parent. That's not what it tests for." I complete-- the pharmaceutical industry would make-- really even more money if they had (LAUGHTER) had a test for good parenting. Or even adequate parenting. So I just wonder if you could talk about what you've learned. And I know that one of your issues in practically every environment is the extent to which the science, the actual science-- of drugs and their effects-- is ignored.

CARL HART:

Good evening, everybody. When I was asked to do this, Lynn said, "Just show up. Don't worry." (LAUGHTER)

LYNN PALTROW:

He's right.

CARL HART:

And then I get up here, everybody has notes. (LAUGHTER)

MALE VOICE:

Not me. I'm not.

CARL HART:

Not Bob. He has a book (UNINTEL). (LAUGHTER)

ROBERT NEWMAN:

This is my book. This is comin' next.

CARL HART:

You know-- one of the things-- as Lynn pointed out that one of the things I do is-- I actually give drugs to people in the lab and I test their performance, their cognitive performance, the-- the effects on the behavior in the brain. The-- those sorts of things.

And it-- it used to be kind of nice, living in a bubble in that-- the work you do-- really didn't have to see or hear these stories that were just said up here. So many of the people who study drugs don't really know what's goin' on out here in the real world-- because it's just easier to live in a bubble and publish our papers. And you-- you could be extremely productive in that way.

But hanging out with these women, they-- they-- (LAUGHTER) have a gave me-- they have given me quite an education. And they make me think about-- I'm gonna talk about my experiences in the court, but before doing that-- one of the things that they make me do is think about the kind of person that I think I am or the person that I want it to be.

And I think now that we are-- I think about this in the context of being in 2013, 50 years removed from the March on Washington. Fifty years removed from Martin Luther King's Birmingham letter. Fifty years removed from James Baldwin's *The Fire Next Time*. So when I think about being 50 years removed from those sort of important events, I think about how the good folks in 1963 thought they were good people.

And then I think about me and I think about you. And I think about our society. We have the luxury of segregation. Many of you all do. So you don't have to see the consequences of what's happening in the courtrooms. But it's happening and it's happening and your name.

And you are a participant, particularly when we think about things that we made light of, things that we laugh about. Think about the mayor of Toronto, rob-- Rob Ford, the guy who admitted to smoking crack. Nearly every night on the television there are comedians making adolescent jokes about his crack cocaine use, people who I once respected. Jon Stewart, Stephen Colbert. All of these folks who are actually thoughtful.

But what they're doing is that they are making sure that the environment that was just described up here continues because their characterization of the effects of crack cocaine is so fucking wrong. (LAUGHTER) The-- the important point there is that this mayor had a job, he was responsible and he was doing his job. He was a jerk before he used co-- cocaine. (LAUGHTER)

That is-- that doesn't have anything to do with his cocaine use. And people get it twisted. And so we don't know what we're laughing about and what we're laughing at. Marion Barry, the guy from D.C., who got arrested as a result of his crack cocaine use. Well, it wasn't even for the crack cocaine. They arrested him for the crack cocaine use but he was never convicted of that.

The guy was doin' his job so well that even after he served six months in jail the city reelected him. And the bottom line is that these people were doing their job, just like the vast majority of people who use drugs. That's the bottom of the line. But we laugh at the comics when they make these stupid adolescent statements. And our laughter reinforces, bolster the con-- the environment that creates these conditions that we find abhorrent. So we are being participants in that.

And so as our goal in these courtrooms-- and I hear what the charges are against these folks, against these parents, and then I hear the ignorant statements of the lawyers about, "She was-- she tested positive for marijuana. Twice in the same year. (LAUGHTER) Clearly, clearly she is addicted." No understanding of the fact that they are probably testing positive for a drug, alcohol, right now as they're makin' these statements. (LAUGHTER) And that that sort of testing positive has nothing to do with their performance. There's no understanding of that .

And so my job in the courtroom is so simple, because the level-- the-- the sort of-- understanding is so low, all I have to do is say that, "This urine test tells you nothing about performance. I've tested thousand-- or hundreds of people on marijuana. And

here are the facts. And here are the people. They are good white folks just like you."
(LAUGHTER)

And so it becomes really easy. But one of the things that has become also clear in my participation is that what we are doing in our court system, family court system, is using this as another t-- another tool by which we further marginalize these people. That's the bottom line. We dress it up however we want. We say we care about the kids. We say whatever we want. But it's just another tool by which we separate ourselves from them.

And as has been said, they are primarily black and brown women. It looks like slavery all over again if you go to your courtrooms. You have the black and brown whose children are being taken. The young, inexperienced white lawyers on both sides. And the white judge and the black overseers who are the house negroes.

FEMALE VOICE:

House ne-- yeah.

CARL HART:

It's slavery all over again. Thank you all. (APPLAUSE)

LYNN PALTROW:

So we have a system in which low income people, black and brown people, pregnant women are essentially not entitled to the rules of evidence, the qualified science and experts or due process. So that if any pharmaceutical company was accused of giving somebody a drug that caused them not to be able to parent, you bet they would be in court.

And this case can't get to trial unless you have s-- years and years of peer reviewed research showing how this drug causes somebody not to be able to parent. That evident isn't even-- that-- that-- the-- it's not even asked, except we're starting to. And one of the positive things is the-- the assertive-- positive cases that are being brought, with the benefit of Dr. Hart, although there aren't enough Dr. Harts to go around. We need to not have to make him go to court in the first place.

Among the cases that we're dealing with-- is our cases in New Jersey. Several years ago a woman-- tested positive for cocaine. No one up here is suggesting that if somebody really can't parent, if there really is abuse-- that the state doesn't have an interest in coming in and protecting those children.

But they went in and they looked-- up and down and all over and found that these children, her chil-- child was well cared for. There was no abuse. There was perfectly good parenting. But she had had a positive cocaine test. And the state of New Jersey

argued that that alone was enough to make a determination that she was-- an abusive and neglectful parent. And we filed amicus briefs with experts, including Dr. Newman-- and Dr. Hart and some of you in this room. And the court said, "Well, yeah, we can't just say that a positive drug test is harm."

So the next thing that happens is that a court of appeals in New Jersey said that a woman who had been addicted to opiates and got herself into methadone treatment, the treatment that is recommended, urged, begged for pregnant women-- could be found to be-- an abusive and neglectful parent because the child born to this woman experienced transitory and treatable neonatal abstinence syndrome.

And that is a form of harm to her newborn and therefore, for having gone into the treatment we want her to go into, she can be punished. And that case is now being considered-- will be considered by the-- New Jersey Supreme Court. And I wonder if-- Dr. Newman, if you could comment on that? And how-- and what happens to people who, in effect, try to do what-- the government tells 'em they should do.

ROBERT NEWMAN:

Thank you, Lynn. Fir-- first, I should say that-- I was happy to have Lynn-- ask me to participate in this panel, but-- then-- then I find out this evening that there was presumably another panel like this-- for the same film in Vilnius (LAUGHTER) and-- and in Cuernavaca. And did she invite me to those? No. I mean I-- But anyway, I forgive her for that, 'cause I really am glad to be here, especially because-- it-- it's-- it's jointly sponsored by NAPW and also-- Open Society Foundations, which-- which-- I'm privileged to-- work also with, to whom I'm very grateful for the support that they give-- to-- NAPW.

It-- it-- it's reassuring to me, after my decades of-- experience and all this cynicism-- that that has-- generated in me, to be able to listen to Emma and to others, Carl, others-- on the panel, and still get absolutely outraged (LAUGHTER) by what I hear. I mean today I-- you know, sorry. You wanna say, "What else is new?" And then, "Oh, no. I-- I should stop this." But-- it-- it's just-- it truly is infuriating.

And-- and I want to-- you know, just mention the-- the-- extent, the pervasiveness of the stigma against drug using, formerly drug using, formerly drug using people in treatment, and particularly against-- pregnant women and-- and mothers. And-- and I'll give you an example of how perva-- it's not just the Child Protection (UNINTEL) Agency. It's not just the judges. Not just the cops.

A few months ago-- at NAPW's request, I flew down to-- Nashville. And the case down there was it was a-- couple. They had a-- four-year-old-- child. When the child was two years old-- the mother-- they-- they had not, at that point, been married. The mother decided-- it was really time for her partner and herself to-- get into-- methadone treatment, 'cause they had-- both had a problem with-- Oxycontin.

And to just facilitate things during that period of turmoil, the mother of the child-- asked-- her mother to take custody-- of the-- then two-year-old-- child. And I've seen

the-- in preparation for this-- parents down there, I saw the-- records. Both the mother and the father had the most unbelievably compliant records you could imagine. I mean they didn't miss a day. And the-- this is in a program for the first 90 months after coming every single day seven days, never missed a day. Never had a dirty urine. Absolutely perfect record.

And when the boy was four years old the mother says, "I want my child back." And the mother's mother, the grandmother, goes into court and said, "I'm not givin' up this boy to a pair of methadone addicts." And the court was gonna go along with that.

And when I appeared-- the-- the-- later on that day, they were scheduled-- the parents were scheduled to appear before a so called family treatment court in the same building. And it was unequivocal that that court was going to demand that they both detoxify from this prescribed, eminently successful treatment as a precondition to get the boy back.

I mean that's-- that's how insane the system is. And that's how pervasive that this-- the-- the-- the grandmother refuses to give up the grandson-- to her daughter because the daughter for two years has been eminently success methadone-- methadone maintenance patient.

So-- I mean it's-- it's really a societal stigma. Barbara Harris is an example of that. But it's really-- the challenge is to address that stigma really across the board. Not only in court, not only before child protective agencies, but really-- across the board.

It's easy-- what-- to become particularly outraged when there is such insanity in a particular case. For instance, the case that Lynn mentioned in Wisconsin. Here's a woman who's pregnant. She goes into her-- in-- she-- early on in the pregnancy-- goes to a prenatal-- facility. Acknowledges that she had been using-- I think it was Oxycontin, one to the prescription opiates. Said that she was-- almost completely detoxified by herself with buprenorphine. That clinic had no problem with that. Said, you know, "We'll take good care of you."

She then had to move to another facility. Went to-- into another prenatal-- clinic. And the physician assistant-- by that time she had been off of everything. Everything. The physician assistant said, "Oh, well, you've got a record of-- of-- you know, a history of being an Oxycontin-- Oxycontin addict. You have to get into a buprenorphine treatment program."

And the woman said, "But I just got off of that stuff. I don't wanna be on that stuff. I think it might harm my baby. I don't need it. I don't want it." And they literally-- and-- this-- I think through Lynn's-- efforts-- got into *The New York Times*. This woman also was brought into court in shackles and the judge-- because she refused to go into either methadone or buprenorphine treatment, locked her up for three months.

Now, the important thing is that it's-- the-- the fundamental problem is removal or denial of autonomy for the woman who's pregnant. And the consequences of that denial-- of autonomy is-- the consequences are really secondary. We-- we had an

example earlier where-- a court-- refu-- where-- an OB/GYN doctor refused to treat a patient who was on legitimate prescribed, highly recommended methadone treatment. Said, "You're a methadone addict. I'm not gonna treat ya."

And what I want to stress to you is that if it had been the opposite situation, where it was an OB/GYN doctor who at least knew the pharmacology, knew the evidence, had some semblance of intelligence with regard to opiate (UNINTEL), had said to this-- to this-- said-- had said to this lady, "I demand that you go on methadone. And if you don't, I'm gonna report you. I'm gonna get the cops. I'm gonna get the Child Protection Agency. I'm gonna make sure you never see your kid again." Even as somebody who's the most ardent advocate of methadone treatment I think anywhere in the world, that is just as offensive to me as a court that says, "We're not going to permit you to have the prescribed treatment."

So it's not a question of what is being foisted upon a woman-- because she is pregnant and, ostensibly, to protect the child. It's the denial of autonomy that pregnant women, whether using drugs or not using drugs, are entitled to just like-- everybody else.

So-- the-- the problems are enormous. It requires people like Dr. Hart, like Emma, like others to continue fighting the battle in court before state agencies, but it also requires all of us to do what we can to try to convey to friends, neighbors, colleagues, whatever-- just how unjust and how contrary to the interests of the babies, as well as the parents. I mean that's one of the ironies. I mean this-- this woman in Wisconsin was locked up for three months. I mean I can only imagine what kind of services she got while she was locked up in that program.

The consequences-- the adverse consequences of these supposedly well intentioned interventions, the consequences are horrendous. And, like-- denying somebody continued access to methadone maintenance, I mean that could be-- that could have lethal consequences for the baby. And yet the de-- the OB/GYN doctor-- (UNINTEL) an OB/GYN doctor says, "You gotta get off that stuff." It's just horrendous. So the challenge we have is enormous. The good news is we got some really terrific people who are fighting the battle, fightin' the challenges. And-- it's a never-ending process, but by god, we gotta prevail. (LAUGHTER) Right Lynn?

(OFF-MIC CONVERSATION)

LYNN PALTROW:

Those-- those times when we do get to prevail or when we get, you know, extraordinarily, positive thoughtful, frame-chanin'-- changing coverage in places like *The New York Times* are always the result of enormous collaborations and generosity. I forgot to mention that-- Dr. Newman is a national and international expert on methadone. Also-- in some places known as the--

ROBERT NEWMAN:

The pope.

LYNN PALTROW:

--the pope of methadone. (LAUGHTER)

ROBERT NEWMAN:

I-- I-- I-- I just gotta say, 'cause my mother wouldn't forgive me if I didn't. I-- I literally-- in a headline in a German newspaper years ago was called The New Methadone Pope. And my (LAUGHTER) mother always said-- you know, "Other Jewish mothers having a son that's a doctor, you know, is a lawyer. So on. Yeah, I have a son who's the Pope." (LAUGHTER)

LYNN PALTROW:

So--

FEMALE VOICE:

Nice.

LYNN PALTROW:

--so-- so in particular for the-- the Wisconsin case, I'm just very proud to say that I'm-- my co-counsel, Sally Burns, and Abu Frey from the n-- new NYU Reproductive Justice Clinic are here. And Dr. Sharon Stancliff I think might have just had to leave, who was one of the experts-- is here.

And-- and so much of our work has been made possible by the Open Society Foundation. In-- in many parts of it. And in fact the video would not have been possible but for the International Harm Reduction Development Program, Daniel Wolfe, and the Global Drug Policy Program, Kasia Malinowska, my-- my-- hero and friend. (LAUGHTER) She is watching out for the whole world and recognized that it was important to link what we were doing with the rest of the world.

Not only did Project Prevention go to the U.K. and try to-- get a foothold there-- and I think partly why they were invited there and funded by Rich Mellon Scaffa-- a billionaire, is that part of the message of Project Prevention is-- one that is very much against human rights and social welfare programs.

In other words, if we could just stop certain bad people from having sick children we

wouldn't need to tax you and have a national health system and have a system of fairness, because the problems are really all very individual and we can blame people.

It wasn't well received in the U.K., and I think it's been tried in some of the other-- Western European countries. And the next thing we heard was that she was in Kenya-- offering women who were HIV positive \$40 to get sterilized or use long acting birth control, to prevent them-- from bringing to life children who would suffer.

Not to ensure that women didn't get HIV. To ensure that they got the medications they needed not to transmit it. Not to ensure that children who are born-- HIV-positive get the help they need. But rather to target for \$40 a group of women to-- be sterilized or get-- already stigmatized and vulnerable women to be sterilized or use long acting birth control. Kasia, would you--

* * *TRANSCRIBER'S NOTE: speaker's accent difficult at times.* * *

KASIA MALINOWSKA-SEMPRUCH:

Thank you, Lynn. It really is a pleasure to-- be here-- with all of you. I have been, I think harassing is the right word, Lynn for 10 years or more-- (LAUGHTER) into-- into some international engagement-- partially because I think that-- that your initiative-- exemplifies-- in some sense a really impressive and inspiring response to-- sort of the-- a perfect storm of-- of disregard for women's rights, of racism and also drug policy.

So-- and-- and I think that, you know, those three-- those three awful-- pieces coming together-- to result in much of what we've heard about disable (?)-- is not the specialty of the United States only. And-- and that's why I think it's really important for-- for-- folks here in the U.S. to engage internationally.

And to A-- show how it's possible to push back-- but also we need to help people identify-- those areas in their own spaces and in their own countries. So it's been-- it's been very educational for me to learn about the work that happens here in the U.S. and to try to-- and to try to talk about it in the international-- arena.

Carl was making fun of me for making a list, (LAUGHTER) but I-- but I wanted to-- I wanted to give you just some-- some examples-- of-- of how-- how that perfect storm come-- storm comes together in-- in other places. So if one goes to the former Soviet Union-- where HIV-- epidemic is really a huge problem due to injection-- of-- of heroin-- very many women will report that they've been counseled in the abortions.

They've been told that, "There's no way you're gonna have a healthy baby-- so abortion is really your only option." Now imagine being in a situation where you're vulnerable with-- where you-- with your healthcare provider. Maybe with a police officer standing outside. How much choice do you really have when that is presented to you?

If you think about China-- one child policy, well, that child surely shouldn't be a child

of a woman who is a drug user. So-- so while China is now-- questioning its-- one child policy, women who are drug users clearly are counseled not to have any children.

If you-- one of the issues we talked about-- was-- availability of-- substitution therapy. Again, Russia-- a country with over a million people affected with HIV through injecting drug use, no substitution treatment. Now imagine giving birth-- in a situation like this. Imagine-- trying to get out of the hospital as soon as you can because there's no relief for you. There's no substitution of any sort. And imagine coming back to the hospital six hours later and your child already in process of adoption because you have abandoned the baby.

So these are the stories that we-- we hear-- we hear-- continuously. Women who lose custody of the children only because they're registered-- as drug users. In order to access drug treatment you have to register as a drug user. That in itself is grounds for you losing-- custody of your children. Again-- many of the countries of the sove-- former Soviet Union.

In the film we heard about women who are basically saying, "I'm willing to go into treatment if there's space for me. If the-- if treatment is in fact appropriate." Again, if you think about-- if you think about places where there is no treatment, if you think about places where treatment is entirely inappropriate.

I come from Poland. Treatment for heroin-- addiction in Poland? Two years of therapeutic community, somewhere out there in the woods. Imagine, you know, as a parent-- I'm a parent of two children. I mean how-- why would I ever go to such treatment if-- if I needed it?

So-- so I think all to those are examples of how, again, sort of policies of total disregard for women-- of awful drug policies and racism, classism, poverty-- come together to-- to cause a lot of misery. If one looks at the trend that we're now seeing through Latin America about imprisonment-- imprisonment of women, again, these are young women who are very often the sole providers for their own parents, for their own children, who are now being left out.

What happens with the kids? What happens with them when-- when they end up in prison? I looked up some of the information from-- arvanise (PH) and it's really quite concerning. 80% of all women detained at the largest women in prison in Ecuador-- incarcerated through drug offenses. Out of that, 70% for pure possession.

In Argentina, the percentage of women in prison or incarcerated for drug offenses ranges between 65% to 80-- 80%. In Mexico, right here by the U.S. border, 80% of-- women in prisons are there for drug related offenses.

So-- so I think the experience and the push back that you are able to-- to-- organize here I think is extremely instructive for us in the international arena. I-- I think the example that you're showing is-- somewhat insidious, but-- but it's also very inspiring to see there is a way to-- to respond. And-- and I-- I think that's why-- that's why your experiences shared in the international community are so warmly welcomed--

LYNN PALTROW:

Thank you.

KASIA MALINOWSKA-SEMPRUCH:

--because-- because somehow, you know, drug policy and-- and the ability of people to take drugs-- there's some agreement-- I think-- broadly, but once you talk about women and mothers, that's when even our very progressive allies start, you know, feeling extremely uncomfortable. So I think we need to push back on that and-- and keep on having a reasonable conversation. Thank you. (APPLAUSE)

LYNN PALTROW:

Which is the perfect-- end-- we-- I-- I wanna say that we are winning cases. That gender and women's studies programs are gonna start showing this. That there's a coalition in New York-- Chris Gotlieb at NYU and Emma-- Ketteringham bringing together reproductive justice and drug policy people to-- develop case work. Bronx Defenders, Brooklyn Family Defense Project are winning cases. People are winning cases in California. People are using model briefs.

We definitely need to have some protests outside of child welfare-- courts and the A.C.S. with lots and lots of people of-- especially white middle class people saying, "When-- test us. Decide if-- if you're gonna make these judgments-- you have to make them about all of us."

So there is a lot of action we haven't even tried yet that could make the difference. And I'm gonna end before we open up for questions by saying I-- I was recently at the drug policy conference-- International Drug Policy Conference in Colorado. Where there-- and a lot of progress, particularly around marijuana use.

But there was a comment that I heard over and over again, that, "We're not gonna study marywan-- marijuana and pregnant women because, you know, that's a third rail of our issue. And we're not gonna address the child welfare issues because, you know, pregnant women and mothering, third rail." But I-- I kind of had the observation that you can't-- the trains don't run without the third rail, (LAUGHTER) so-- (APPLAUSE)

(OFF-MIC CONVERSATION)

FEMALE VOICE:

Good evening. And thank you for such an informative-- video and-- and panel. I'm really grateful for all the information I received. As I watch the video and then listen to all of you speak-- what kept resonating with me was Project Prevention.

And I wonder if there could be a different spin put on that, namely by-- this may be incredibly naive of me, but educating the decision makers, the judges. Are they totally resistant to being better informed and making decisions that makes more sense for everyone involved? And has their (UNINTEL) any kind of work towards educating the judges?

LYNN PALTROW:

Yes. One of the things that we've been able to do with support from places like OSF is-- judicial education, continuing legal education, and then-- the-- it's-- it's a funny thing. And you should comment on it. I mean we've done a series of education pieces that-- that said, "Look, you're trying to do-- you have work to do around pregnant women and drug use, but your information comes from the popular media. We're gonna give you an opportunity to meet the experts. The experts who are the mothers and the experts who are the scientists."

And it-- and it has sparked a great deal of-- things that are good and better. But the problem is-- there's not enough education to go around. There's not eno-- there's not enough of this. And we fly Dr. Newman to places. Where did we send you?

(OVERTALK)

FEMALE VOICE:

Tennessee.

ROBERT NEWMAN:

Nashville.

LYNN PALTROW:

Everywhere.

ROBERT NEWMAN:

Yeah. Birmingham, Tennessee. I mean I didn't know there was anything.

LYNN PALTROW:

And-- and-- (LAUGH) and so there is a value to this, and we will keep doing it, but the--

(FEMALE VOICE: UNINTEL)

LYNN PALTROW:

--problem is these courts should not be empowered in the first place--

FEMALE VOICE:

Yes.

LYNN PALTROW:

--to be--

FEMALE VOICE:

Exactly.

LYNN PALTROW:

--that the purpose of a child welfare system it to protect children from actual harm from parents who are abusing them, not from parents of a certain color or class who happen to use an illicit drug. That's not the purpose of the courts.

And somehow they're-- and-- and there probably aren't enough lawyers and there aren't enough-- public education programs. We'll also be part of the social justice movement. That Michelle Alexander says we have to be part of-- every case has to be in the service of movement building to say these systems cannot operate this way anymore.

FEMALE VOICE:

But in the meantime.

EMMA KETTERINGHAM:

Yeah, I mean I would just add that-- one of the challenging things that makes it really sort of interesting in family court is that the New York statute is good law for us. I mean it actually does require the judge to find harm, which means there is a causation question. As Lynn mentioned, New York is not one of the states that says, "Positive drug tests equals lose your child." We don't have that statute. Other states

do.

But judges are still very, very resistant. I mean I was at a meeting recently where one of the head judges of New York family court said, "You know, the problem is we're not getting our drug tests fast enough. We shouldn't be letting those people who are testing positive leave with their kids."

MALE VOICE:

Jesus.

EMMA KETTERINGHAM:

"Leave the courthouse with their kids. And we-- if we could just have them, (SNAPPING) you know, in moments, then we would know not to let them go home." So it-- there's a lot of work to do. I was telling-- Dr. Newman that a judge recently-- expressed her concern that my client was a poly drug user because she tested positive for marijuana, cannabis and THC. (LAUGHTER)

When I, you know, tried to point out that I think-- you know, and we do it very humbly. But, "Judge, you know, I'm pretty sure that that's one drug," the response was, "Don't testify, Ms. Ketteringham. You're not an expert in my courthouse. Don't testify." And, you know, really shot me down.

(FEMALE VOICE: UNINTEL)

EMMA KETTERINGHAM:

I mean they're so resistant and so angry to the new information. But that said, you know, Brooklyn Family Defense Practice, the-- lawyers from and social workers from that organization are here. C.F.R., the Center for Family Representation-- and us at the Bronx Defenders are really trying to push it.

And there's resistance-- but we're having a lot of-- I have to say that it's-- it's empowering to start to do it. And we never had. I mean before I met Lynn I really-- I did these cases completely differently. I didn't know how to litigate these cases.

Honestly, when I got a drug case I thought, "Oh, let's get into treatment. Get-- get a good track record of some negative tests, because that's all we can do. You know, bring-- just make sure your urine, or whoever's urine you bring in, (LAUGHTER) is negative. 'Cause that's the only way you're gonna get your kid back."

Now the advice is different. And it's much more we can give our client options about fighting the case. And we can bring in experts, just as we would in an abusive head trauma case or any other kind of case. It's the exact kind of case. And, you know, if you think about the kind of defense that a big organization-- a big corporation gets, right? When they're accused of putting a drug out into the market that might be

causing harm. The way we look at it now is, like, our client fighting for custody of a child deserves just as good of representation, just as scientifically based, just as based in truth and science as that corporation gets.

That's said, what we need are allies. We don't-- oh, we need people outside the courthouse protesting. We really do. We really do. It's a lonely place, family court. And we are all alone there. And I-- I-- you know, we just recently all got together and gathered in New York for what we're calling strategic advocacy day, to sort of get all of us who represent the parents in these cases together in one room, because we all litigate, you know, in sort of these lonely (CHUCKLE) courtrooms where we're the only person in there saying, "I wanna bring in an expert," in a marijuana case.

And the judge just looks at you like, "You're wasting my time. You're wasting the court's ti-- you're wasting resources. What are you talking about?" So we need judges to look outside their windows and see that other people care about these cases. It's not just the lawyers who refuse to sit down. It is also (LAUGHTER) the people.

We also need allies. We need organizations to file amicus briefs. We need our judges to understand that this is an issue of reproductive justice. This is a public health issue. That we need-- we need more allies. We need other cl-- law clinics to file, you know, amicus briefs in these cases, just like their big civil rights cases, because, you know, they're making law as we go.

LYNN PALTROW:

And-- but I do wanna say, if you are a judge or you know judges who are-- (LAUGH) who might wanna hear from us, please let us know.

MALE VOICE:

I'm neither. (LAUGHTER)

FEMALE VOICE:

And I don't (UNINTEL).
(OVERTALK)

FEMALE VOICE:

And I don't play one on TV. (LAUGHTER)

FEMALE VOICE:

Yeah, (UNINTEL) doctors.

FEMALE VOICE:

Thank you guys. This is really incredible. Two questions. First, with the decriminalization and legalization efforts, I wonder if-- you expect that we will see any impact in the family court system? Second-- as a second year law student-- in criminal procedure-- you know, we are learning about the incredible battles that-- the sort of Goliaths, the A.L.I., ACLU, NAACP have been fighting for-- you know, procedural protections for criminal defendants. And I have-- as I hear you, Ms.-- Emma--

FEMALE VOICE:

Emma. (LAUGHTER)

FEMALE VOICE:

--you know, speaking about these children in foster care for three and a half months, I'm wondering where are these procedural protections? So-- those are my two questions.

EMMA KETTERINGHAM:

Okay. Well, just quickly, I mean that's what's so interesting or so awful about our area of law, is that there are actually a lot of rights. There's just very, very few remedies for them. So you do have due process rights. I mean they can't take your child wrongfully. And if they do, and you can prove that they never should have done so, you can sue them in retrospect and win a lot of damages and maybe get a good ruling.

Of course I think any mother or father would say, "The damage has been done. (CHUCKLE) My child has been away from me for that long." So the protections unfortunately, because they are enforced after the fact, are very difficult to-- feel like they're real, true remedies. That said, I think there are proactive lawsuits that could be brought, not in a particular case. Just challenging this practice affirmatively. That has not been done. And-- where the goliaths are, you know, love to meet them.

PAT ALBRIGHT:

Hi, I wanted to first thank the panel. This is fantastic. Very informative and it's helping to put s-- important pieces together. I'm Pat Albright. I'm with the Global Women's Strike-- which is formed-- it's-- on the year 2000 to-- to change society to invest-- what we say invest in caring, not killing.

And I'm also with the Every Mother Is A Working Mother network-- that formed to oppose the welfare reform that was passed in 1996. And-- and as a result of the welfare reform, which has been so devastating to our communities, has caused extremely poverty-- we have-- in our women's center-- we're all volunteer center in Philadelphia, we've received so many calls from mothers trying to get their kids back, we formed a group called DHS, Give Us Back Our Children-- which-- is an action and support group, both to work on individual cases and to change policies.

And-- one of the cases just-- to mention really briefly right now that we're working on, is an aunt who is trying to get her nieces back who were taken away from her because they didn't consider her adoptive material because she doesn't have her GED. And the-- they were-- kids were put with a distant relative with a higher income.

So-- we-- we're-- right now we're-- we're very excited because we have an opportunity that we haven't had in decades to address the poverty part of this question-- which is-- right now there's actually-- we formed-- and actually we're part of an international working group-- in-- a grassroots group that is working on the issue of poverty and-- and how-- and dealing with it by-- gettin' the payment and support for caregivers internationally.

And so what we're doing-- in the U.S. is supporting a bill-- called The Rise Out of Poverty Act that was introduced by Gwen Moore from Wisconsin-- from Milwaukee, who was-- who was-- who was pressed to do this, she's a former welfare mother herself, by the welfare (UNINTEL) in Milwaukee that have been active for 20-some years.

And this bill would start to-- make ending child poverty the goal. It would increase benefits. It would make states accountable for re-- reducing the number of kids put in foster care. It would also mean that-- if you had a drug felony you would-- they would end the lifetime limit on ben-- getting-- or a prohibition of getting benefits if you had a drug felony.

So we're-- so we're trying to address some of the root causes of what we're talkin' about here and bring that into the picture. We're very much involved also in our work with-- with the-- it was-- it's part of how we're addressing mass incarceration, the whole solitary confinement.

I mean and-- we've mentioned-- when Carl mentioned earlier about the movements of the '60s, one of the movements that's very rarely talked about these days is the welfare rights movement. And so now I think another in-- so that another part of the stigmatization that mothers face is-- if you're poor, especially, is a stigmatization placed on mothers on welfare, as if we're moochers. I'm a former-- welfare recipient

myself.

And there were-- you know, we're tired of being treated-- treated as moochers or charity cases. We wanna be-- be-- we wanna reestablish that we should-- be entitled to support and resources for the important work we do as mothers. And I think that would change-- you know, that would be an important way to change the discussion-- on mothers.

And so I just wanted to raise that. And also that we are concerned about the-- the foster care to prison pipeline where we've gotten-- heard-- it's-- figures in from California recently where 70% of those incarcerated-- were in foster care. And-- and the growing number, of course, of mothers who are ending up in-- on jail because of the welfare reform.

So we wanna kind of add that into the picture here. And also-- I also-- yes, well, I'm-- I'm-- a single mother of-- of a black son. In part of the whole picture of seeing our sons, and children of color especially, being targeted by the police. And-- so, you know, I just think it's-- it's, you know, exciting that we can start to bring all these issues together and work to really build a movement to change it.

So I wanted to urge people to-- sign onto our petition, which I've brought. And we're also looking for endorsements of organizations to try to push this bill forward so-- we'd appreciate, you know, that as-- you know, being part of this discussion.

LYNN PALTROW:

Thank you (UNINTEL). (APPLAUSE)

FEMALE VOICE:

I just have (UNINTEL) to address this group, because I came from California and we have the largest child welfare population in the country--

(FEMALE VOICE: UNINTEL)

FEMALE VOICE:

--in the country. We have-- 100,000 kids in care. There's 500,000 kids in care in-- in the country and we have a hundred-- 100,000 of 'em in California. And here's a real serious problem. We have the laws that maybe you think you need. We had welfare reform and we had drug-- legislation and (UNINTEL) both for 25 years.

And it says that you cannot drug test a mother if she's having a baby unless you have the (UNINTEL) that you had in the Ferguson case. Okay, that law's been goin' on for 23 years. And we also have-- we have laws that state that the fact that you have a positive toxicology screening at birth cannot be reported in California. That's the law.

(OFF-MIC CONVERSATION)

FEMALE VOICE:

But it's not followed.

FEMALE VOICE:

Right.

FEMALE VOICE:

And it's not been followed for 23 years. We put more than a million people in the foster care system over the past decade. We have the laws but they're not working for anybody because of the court system. But what I just wanted to share with you, that what I think has to happen is not legislation.

We need to do a huge international documentary. We have to do that. It's time. It's too late as a matter of fact. I've heard wonderful stories here. I need to talk to everybody at this table. Especially that beautiful (STATIC) woman back there who made the documentary. (LAUGHTER)

So I just wanna say we have to keep fighting. We know what's going on. We have judges in California, if you have a positive drug screen they will not allow you to have a trial. The courtroom doors are closed to women and children in California and they've been closed for 25 years.

That's why I flew out here. I just got off a plane and came here. I'm feelin' a little nervous about this. (LAUGHTER) I am completely preoccupied with this dilemma, because it is easy to cure this. We have to get the word out. It-- it's hermetically sealed. We have to change that. How do we do that? We can't get into that bubble, which is the courthouse.

So we need to get the word out. We need to write some music. Have the children write some poems. Talk about their personal problem. We need to do like they did with slave narratives after the Civil War. The federal government went to the South, talked to slaves, got all their stories.

We need to do that now. Nationwide. I'm so nervous about this. I'm-- I-- ooh. But we have to do this. You're interested people. I feel your passion. I'm consumed by your passion. We have to keep fighting because we can get there and we can get there now. This is the year of the woman. And we all know it.

FEMALE VOICE:

Okay. All right.

(OVERTALK)

FEMALE VOICE:

And we're gonna get there and we get there together.

MALE VOICE:

Say that again. (LAUGHTER)

FEMALE VOICE:

Can we say that again. (LAUGHTER) We're gonna get there to what? Together. There. Thank you.

FEMALE VOICE:

That's good. (APPLAUSE)

FEMALE VOICE:

Thank you.

LYNN PALTROW:

I think we're-- our time-- is up, is that right, Patrick? Do we have to-- and so I-- I wanna end just with-- you know, we have lessons to learn from South Africa. When Project Prevention went there to try their program of paying people, women who were HIV positive-- not to get pregnant, the director of the government's Department of Maternal, Child and Women's Health publicly denounced it. Oh, wouldn't it be (LAUGHTER) nice if that happened here.

And this is what he said. "We cannot accept a situation where organizations come and exploit poor and defenseless people. And we find it unethical that they are asking people to, for a certain fee, give up their reproductive rights. Why are they specifically targeting people who are drug users or living with HIV? They are no less people." Thank you for coming tonight. (APPLAUSE)

* * *END OF TRANSCRIPT* * *