



Event Transcript

Changing Carceral Systems through Compassion, Practice, and Research

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Harvard Radcliffe Institute

Description

Racial disparities in our carceral systems are profound and troubling. As a society, we appear to be at an inflection point where racial justice is a core priority for the incoming Biden administration and a majority of the public. This program will bring together the compassionate work of a practitioner on the front lines with the expertise of a world-renowned researcher in criminal justice policy. Together, they will discuss the key challenges of racial inequity in carceral systems along with potential solutions that could help realize justice.

Each session in this series will focus on a single topic area and will consider current policies, barriers that impede progress, and ideas for meaningful policy change, all with an eye toward promoting racial equity. We will gather experts from academia and practice communities to facilitate dialogue that brings together cutting-edge research with real-world challenges and solutions. These programs—concentrating on education, public health, and carceral systems—will explore proven and new ideas that offer solutions to these pressing issues, with particular emphasis on those that reduce racial disparities.

SPEAKERS:

Greg Boyle, Jesuit priest; founder, Homeboy Industries

Sandra Susan Smith, Carol K. Pforzheimer Professor, Radcliffe Institute for Advanced Study; Daniel & Florence Guggenheim Professor of Criminal Justice and director of the Program in Criminal Justice Policy and Management, Harvard Kennedy School

MODERATOR:

Andrew Manuel Crespo, professor of law and director of the Program in Mass Incarceration, Harvard Law School

Transcript

KAIA STERN:

- Welcome. Thank you for joining us. My name is Kaia Stern. I am the cofounder and director of the Prison Studies Project, a faculty member at the Harvard Graduate School of Education, and the first practitioner in residence at the Radcliffe Institute. It is my honor to welcome you to our program today titled, Changing Carceral Systems Through Compassion, Practice, and Research. This event, the last of a three-part virtual Radcliffe series, is being held at a time when critical public policies are being re-examined. Over the past two weeks, we featured panels that focused on inequities in education and public-health questions for 2021, with particular attention to closing and reopening schools and workplaces. Videos of both events will be posted on Radcliffe's website shortly.

Each topic in this series explores current policies with particular emphasis on those that reduce racial disparities. What are barriers that impede progress? What are ideas for meaningful policy change? Radcliffe is grateful to be in a position to gather practitioners and experts from academia to bring together cutting-edge research with real-world challenges and solutions. Before we begin, I would like to acknowledge the members of the Radcliffe Institute Leadership Society and our annual donors who are watching this afternoon. Your generosity keeps Radcliffe programming free and open to the public, and we thank you. I also want to especially thank Sarah Bleich, Carol K. Pforzheimer professor at Radcliffe; and Professor of Public Health Policy at the Harvard TH Chan School of Public Health who led the organizing committee for this series.

Racial disparities in our carceral systems—jails, prisons, detention centers—are deep and abiding, indeed, soul-stirring and legacies of what Reverend James Lawson calls, plantation capitalism. As a society, we appear now to be at an inflection point where racial justice is a core national priority for policymakers and the public. Today we are joined by leading thinkers and doers who will help us unpack some of the key challenges that we face when we pay attention to the people who are directly impacted by the ways we punish, the ways we enact what we call justice.

We are fortunate to have two speakers and a moderator with us today who are influential leaders and stellar human beings. They will offer their visions for where we need to go to realize justice, they will share their perspectives on how we might get there. Their conversation will underline the importance of new research, innovative practice, and steadfast compassion, to foster meaningful change.

Our speakers are Father Gregory Boyle, founder of Homeboy Industries in Los Angeles; and Sandra Susan Smith, Carol K. Pforzheimer professor at Radcliffe Institute for Advanced Study; and Daniel and Florence Guggenheim professor of Criminal Justice and director of the program in Criminal Justice Policy and Management at Harvard Kennedy School. Our moderator today is Andrew Manuel Crespo, professor of law and director of the program in Mass Incarceration at Harvard Law School.

We will first hear from Father Greg, followed by remarks from Professor Smith. Professor Crespo will then moderate a conversation with the speakers, and we will conclude with audience Q&A. We encourage those watching to use the Q&A feature on Zoom to submit your questions at any time during the program, and the speakers will address as many as they can. Since we anticipate a lot of questions, we ask that you please keep them short. This will increase the number of questions we can answer.

It is now my distinct honor to pass the virtual floor to a tried-and-true drum major for justice Father Greg.

GREG BOYLE:

- Thank you, Kaia. It's a privilege to be with all of you and with Sandra and Andrew as well. I'm an expert on nothing, but for 37 years, I've worked with gang members. And so I've been privileged to be a part of Homeboy Industries for 33 years.

It started during a time I was pastor of the poorest parish in the city of Los Angeles, Dolores Mission Church, which was in the middle of two public-housing projects, Pico Gardens and Aliso village. It was the largest grouping of public housing west of the Mississippi. We had eight gangs at war with each other. I buried my first young person killed because of this sadness in 1988, and next week, I will bury my 240th, a young man named Anthony.

So we did a lot of things. We started a school, and we started a jobs program, and we are now the largest gang-intervention rehab reentry program on the planet. So 15,000 folks a year walk through our doors trying to reimagine their lives. And I suppose that initially, in the first 15 years—even our T-shirts used to say, nothing stops a bullet like a job—but then somewhere in midpoint, we discovered that, in fact, what was the reality was that employed gang members may or may not find their way back to prison, or educated ones may or may not. But then it became our contention—in fact, our guarantee, that a healed person will not go back to prison and will not reoffend.

So everyone who comes through our doors comes barricaded behind a wall of shame and disgrace, and the only thing that can scale those walls is really tenderness. Homeboy kind of wants to be the front porch of the house everybody wants to live in, a place of kinship and connection.

Mother Teresa, I think, diagnosed the world's ills correctly when she suggested that the problem in the world is that we've just forgotten that we belong to each other. So how do we stand against forgetting that? How do we imagine a circle of compassion and then imagine nobody standing outside that circle?

So together, what we're all trying to do is dismantle the barriers that exclude. No kinship, no peace; no kinship, no justice; no kinship, no equality, no matter how singularly focused we may well be on those worthy goals. It's our contention at Homeboy Industries that we need to address the thing that's undergirding that keeps us from each other—that separation is an illusion—and that somehow, we need to find a different way.

Every homie that comes through our doors comes with what psychologists, I suppose, would call a disorganized attachment, you know, mom was frightening or frightened. And you can't really calm yourself down if you've never been soothed. So it's not so much about surviving as the fittest but thriving as the nurtured.

And it insists that we belong to each other. And just as gang members are working side by side in nine social enterprises—bakeries, and restaurants, and recycling centers—that they're also getting a chance to move beyond otherizing and demonizing. So Homeboy wants to stand with folks at the margins and so that the margins erase, and to stand with the demonized so that the demonizing will stop, and stand with the disposable so that the day will come when we stop throwing people away.

I suspect that the heartbeat of racism, really, is denial. And yet, the question that I think is posed, really, is, what are we in denial about? How do we find this toxic thread that is really woven throughout the fabric of this nation? And how do we address it effectively? How do we diagnose things correctly?

They say that things that go unexamined will not be unearthed and overturned. But part of what I think we do as a society is we misdiagnose, and we're not entirely sure about how we are to name things. And so at Homeboy, it's not so much about moving toward solutions but moving towards each other so that we can have a community of beloved belonging, and that as a society, we can address a severed belonging, and so that we can live all in the same house, as John Lewis used to talk about.

He didn't say, some live on the third floor and some live in the basement. He says, we all live in the same house. It wasn't aspirational. It wasn't one day, we all may live in the same house. He said it straight out—it's about a discovery that we live in the same house. And so we choose beloved belonging, and we choose a kinship where there is no us and them. There's just us. So now I'd like to, with great pleasure, pass this on to Sandra.

SANDRA SUSAN SMITH:

- Thank you so much, Father Greg. Good afternoon, everyone. This afternoon, I'd like to focus my comments on pretrial detention.

By now it is well known that in the United States, 2.3 million individuals are incarcerated on any given day. Of those incarcerated, roughly 30% are being held in our nation's local jails. Importantly, the majority of jails' inhabitants', disproportionately Black and Latino, have not been convicted of the crime or crimes for which they are being held. Instead, over 60% are defendants awaiting trial or case disposition.

Most are held because they cannot make bail. Pretrial detainees are often the poorest of the poor, arrested as much, if not more, for being offensive to the broader society than for having broken laws of any significance. Although most are released on the day of arraignment or within one week, the average stay is roughly 26 days.

It is difficult to imagine how much damage just a few days of jail can do to the life of individuals and the communities to which they belong. But recent research indicates that spending any more

than one day in pretrial detention can have devastating consequences. We now know that pretrial detention causes significant harm to an individual's physical and psychological well-being, diminishes their labor-market prospects, increases an individual's likelihood of conviction on current charges, leads to more severe sentences with conviction, and increases the financial burdens from legal fines and fees.

Pretrial detention also significantly and substantially increases the likelihood of future penal-system involvement. In other words, we're literally creating recidivists out of people who, if not for detention, would likely not have further contact with the criminal legal system. It is safe to say that pretrial detention has produced far greater cost to society than benefits to our public safety.

So how do we reduce these harms? Given time constraints, I will only discuss four recommendations that I have. They all center around significantly reducing our pretrial detention populations without increasing threats to public safety. The first is to reduce arrest by decriminalizing behaviors that are more offensive than they are criminal.

Oregon is the first state to decriminalize the possession of small amounts of drugs. Residents found in possession will now get civil citations instead. New York decriminalized marijuana possession a couple of years back. Arrests were replaced with citations. Crimes became violations.

Michigan plans to decriminalize traffic misdemeanors. They're going to expand eligibility for citation in lieu of arrest. They're going to reduce the issuance of bench warrants, among a list of other noteworthy reforms to their criminal legal system. We can expect jail admissions and incarcerate in each of these contexts to decline significantly as a result—and also, is a hit to this kind of error of mass criminalization that we are currently living through.

My second suggestion is that we eliminate cash bail across the nation. DC did so almost 30 years ago with none of the poor outcomes that critics predicted. Indeed, last year, 94% of all the people that were arrested were released without using money. 88% made every court hearing. 86% were never arrested for any criminal offense after. And of the very small percentage of those who were arrested in DC that the court had released, less than 2% were rearrested for a crime of violence.

Here's the third suggestion. Let's provide much greater support for pretrial defense typically only available to defendants with means. In October of 2017, San Francisco Public Defender's Office launched its pretrial release unit, which provided legal advice and advocacy to indigent arrestees during the critical period between booking and arraignment, including direct representation, early case investigation, attorney notification, parole advocacy, contacts to family and friends, in-person arraignment, recruitment, in-jail referrals, and bail advocacy. Individuals who received this kind of intervention were twice as likely to be released at the arraignment when compared with similarly situated nontreated arrestees.

And finally, for the significant minority of pretrial detainees who are frequent users—these are individuals who cycle in and out of jails, shelters, and hospitals—let's provide a set of social services to address the root causes of the problems that eventuate and continue penal-system contact.

Last night, I moderated a discussion about the Jamaica Plain Hub launched by Keyla Jackson of MassHousing. The hub is a strategic partnership with the Boston Police Department and community partners to provide residents who have had frequent contact with the police and who present with multiple serious risk factors the much needed resources and services tailored specifically to address their needs. The effort is intended to help prevent violence and crime within communities. And in its short time in existence, this program has met with a notable success. There are a growing number of such efforts in the state of Massachusetts and beyond, but we need so much more.

Despite the tremendous harm that pretrial detention has done to individuals, their families, and the communities, we have seen the system grow by over 400% these past 50 years. Recent noteworthy declines in jail admissions give us hope that we are turning the tide, moving away from reliance on an institution whose cost to society are far greater than its purported benefits. The reforms I have mentioned, as well as others that have emerged in recent years, will help us to gain momentum toward dismantling one of the most pernicious aspects of America's carceral apparatus. It is now my pleasure to pass the virtual floor to Professor Andrew Crespo, who will lead our discussion.

ANDREW MANUEL CRESPO:

- Thank you both so much for those remarks, and it's such a pleasure to be here with both of you. Already, you've given us a sense of the big-picture forces that got us to where we are and a detailed account of some of the very particular harms that our penal system inflicts every day. We are having this discussion—and this is part of a series that Radcliffe has been hosting—at this moment of national transition. We have, as everyone has noticed, a new president. He is taking office at this time of just incredible turmoil in the country—raging pandemic, and impeachment trial of his predecessor, a dire economy, and most relevantly, for our discussion here, widespread national protest against the racial injustices that have long-plagued our penal system.

As a way of thinking about this moment of transition, I'd like to just invite each of you to imagine—this is probably not that far-fetched of a hypothetical—that President Biden wants you to offer him your private counsel, to give you advice. What would you encourage him to do to address these injustices? And more broadly than that, what is it fair of all of us to expect him to do? What is within his reach at this moment in time?

And I think Father Boyle—I'm sorry—Professor Smith, I'll ask you to take that first.

SANDRA SUSAN SMITH:

- Thank you very much, Mr. Crespo. The two—there's so much that comes to mind, to be honest with you. It's a bit overwhelming to think about the possibilities. But if I had to sit down with President Biden today to offer my suggestions about what he can and should do, I think the first thing that would come to mind, frankly, is to address the decades of harm done to, especially low-income Black and Latino communities because of criminal-legal-system policies.

These communities need to be made whole for the devastation wrought by our criminal legal system in part, as a result of some of the very policies that Biden himself helped to bring into existence. Many communities across the country have been devastated by America's war on crime and drugs, and we've now come to understand that our excessive punitive practices have done far more harm than good, especially so in these low-income Black and Latino communities. What we need to do is to essentially, make those community whole for devastating them. There are few policies, or recommendations, that are floating about as to how we might address this. But I have to tell you, I think this is another area where we need to be thinking big.

My colleagues at the Houston Institute suggest something on the order of a Marshall Plan, a plan that aggressively invests in communities hard-hit by the war on crime and drugs, and use these resources to rebuild the social and economic infrastructure so that these communities don't just survive, but they begin to thrive in ways that they have not been able to because of the attention that they have gotten from the criminal legal system, at least in part, but also, the limited investments that we've made in these communities, generally speaking. In my mind, nothing short of this will bring about the changes that we want to see, I definitely want to see, and that residents of these communities deserve. I think I'll stop there, but that would be my push.

ANDREW MANUEL CRESPO:

- Father Boyle?

GREG BOYLE:

- Yeah. After working with gang members for 37 years, I've come to see that then everything is, generally speaking, about something else. And nobody's ever met a treatment plan that was born of a bad diagnosis. And so we've spent a lot of time trying to leverage the criminal justice system to address all of our society's ills.

And it's sort of like in 19th-century medical history when they had all these vexing diseases, and they just did the things that they always did. They applied hospitals, and doctors, and nurses, and medicine. And the diseases didn't go anywhere until somebody inadvertently addressed the water supply in the sewer system, and then, quite by accident, the diseases started to dissipate. And so things are about something else.

The Black Lives Matter movement sort of supplied us with an awakened language that's going to help us try to reimagine solutions, but also, to diagnose correctly what this is about. And so it matters what the president says, certainly in terms of policy, et cetera, but how he frames this so that no otherizing, or demonizing, or distancing happens, so that all hands on deck, and that we belong to each other, and that we are connected. But the language becomes quite heightened. And if you believe that separation is an illusion, so you try to counteract that by inviting people to something that's larger, to a community that's connected to exquisite mutuality, that there is no daylight that separates us.

But I think we get our diagnosis completely wrong most of the time, and then we strike behind moral distance that separates us. And then we're surprised that we really can't find solutions. I mean, when I started Homeboy Industries, gang members were the most demonized there were in Los Angeles. And we had death threats, bomb threats, and hate mail for the first 10 years

because it was a short hop for people to demonize folks who were helping those who were demonized. But we've come a long way since then.

And once you frame it differently—you know, like in the old days, it was tough on crime or soft on crime. And everybody embraced tough until people started to talk about it as smart on crime. And then people were falling over themselves to be smart. So language matters, and how you speak about these things matter, and how you invite people to be part of what solutions might look like.

ANDREW MANUEL CRESPO:

- It's just such a terrific way of framing it. And you're focusing us on both the power of leadership at a almost cultural level and the moral level. Lawyers like me, perhaps academics like me and Professor Smith, we sometimes focus on the policy-type solution—what laws can we change, how can we change laws on the books? But the nature of systemic racism is that it runs so much deeper. And at its root, it's in what you're talking about—the sociology and our public morality.

I wanted to ask you a follow up question along those lines, Father Boyle, because it tees up a question that has occurred to me some time before about two facets of our society in which the United States is a bit of a—more than a bit of an outlier. One, of course, is what we're talking about—mass incarceration. We incarcerate more people than any other country in the history of the world by a substantial margin, with intolerably outsized harm inflicted on Black and Brown people in particular.

We're also an unusually religious country. According to the Pew Research Center, the United States is the only country with both above-average GDP and above-average daily prayer. And in the philosophy of punishment, which is something that I teach my students at the Law School, it connects to what you were saying, Father Boyle, this idea of the tough-on-crime era. It was also an era of retributive penal philosophy, sometimes called an "Old Testament" theory, of justice that's punishing the wrongdoers.

But in your ministry, Father, and the idea of communion you're inviting us to, you offer kind of a different account of the way that religion should play in all of this. And I just wonder, as a champion of social justice and also, as a man of the cloth, as a priest, what role do you think American religiosity has played in creating this crisis? And what role do you think faith leaders and religion should play in helping us out of it?

Well, I think there was kind of a dominant White Christianity that needs to find itself complicit in an almost total way in allowing racism to not only hide in systems, but to be played out in our daily lives. How did that happen? Because what could be more antithetical, to say, for example, the gospel of Jesus?

And so we try to find an authenticity that can take seriously what needs to be taken seriously—inclusion, and nonviolence, and unconditional loving-kindness, and compassion, and acceptance. These are the things that matter. And the more that we can, again, invite people to embrace things that matter, all the better. But moralizing has gotten us into so much trouble, and it's always been foreign to, really, the truth of things.

Reconstruction was 100 years ago. I mean, 100 years after that, you had Emmett Till, and you had a Civil Rights Act and the Voting Rights Act, and then you look at, why did it take so long? And you can say that a third of the country just didn't believe in equality. And somehow, they could line that up with their own faith statement, which is outrageous.

But then 55 or so years since then, we've had Proud Boys, and a white supremacist, and QAnon, and Donald Trump, and Charlottesville. And so people still—we would say, maybe perhaps a third don't believe in equality. And yet, what would be our diagnosis of that?

And in my take is that this is about health more than hate. No healthy, whole, integrated, well person can be anchored in such a belief. And so how do we help people?

In Los Angeles, they had a campaign in the LA County mental-health department. And it said, none of us are well until all of us are well. And how do we bring people along? Otherwise, it's all about winning the argument or somehow addressing something head on without knowing that this is more descriptive than explaining. And we settle for description when we should hold out for explanation.

The poet Wallace Stevens says, we live in the description of the place and not in the place itself. And I think faith is supposed to get us underneath. The homies at Homeboy Industries always say, find the thorn underneath.

How do we explain that racism continues to live in systems? How do we explain Charlottesville? Or how do we explain that? How do we explain January 6? Unless we can start to say, none of us are well until all of us are well, how do we bring people to wholeness and health. That love and kinship really is both strategy and outcome, and it's how we can get there. And authentic faith is anchored in that.

Professor Smith, listening to father Boyle talk not only about health but about the prior efforts at progress—it makes me think about you as one of the brave academics who is not only offering us some diagnoses about everything that's wrong, but some very specific prescriptions, policy prescriptions. And I say "brave" because we've seen multiple times before, when you point out in your opening remarks, there's no real panaceas here. And sometimes, the medicine carries its own set of problems.

So I'm hoping you can help us reflect on that a bit. You mentioned in your opening remarks some specific things we could do in the world of pretrial detention. And as you say, there are risks with these too. For example, with eliminating cash bail, I was struck in hearing you talk about DC because DC is where I practiced as a lawyer for a few years before becoming a law professor.

And you're absolutely right. It got rid of cash bail long before I was a lawyer there. And yet, multiple days a month, I would go into the basement of the courthouse and watch a parade of Black men with their hands shackled together—to their waist, their feet shackled together. And I watch a lot of them sent to jail, to the DC jail.

You say close to 90% of them get out, which is absolutely true. They get out eventually. But 20% of them, I think, are detained for a few days, half of the ones with felonies. And as you say, a few days in jail itself makes a big difference.

And I think that when we say we're going to move away from cash bail, a lot of people hold up DC as where we're moving to. And so I'm just wondering how you navigate the tensions between, what's achievable progress and the worry that today's solutions might become tomorrow's problems.

SANDRA SUSAN SMITH:

- I think that that's a great question. So here's how I'm thinking about this issue. I presented, because of time limitations, just four ideas. I'm not suggesting we take one or the other. I actually think we should go for all of them and then throw in a few others that can help us to address some of the factors that produce the rising rates of incarceration, and that includes mass criminalization.

So I started by arguing that I think that we should decriminalize a lot of the things that we currently think of as crimes, really petty things that should not be addressed by the criminal legal system that but that helps bring in so many individuals, especially poor Black and Latino men. So I think we have to start from the basics. Let's step back and decriminalize a lot of activities that, over the past 50 years, somehow have gotten on our books. And then we deal with the issue of allowing people—of removing the barriers to being able to get out of pretrial detention for those folks who end up there.

But it's just a set of steps towards liberating folks, in some way, shape, or form, at least in the short term. You mentioned those men that you saw every day, even after cash bail was ended in DC. And I actually cannot imagine how awful that must have been for you every day.

What I think about, too, though, is the number of men who would have been there had it not been for the end of cash bail. So when we think about New Jersey's criminal-justice reform, which essentially, eliminated cash bail in that state—not completely, but to some extent—what we know is that there's at least 6,000 fewer individuals—3,000 fewer Black men, 1,500 fewer Latino men, 1,500 fewer White men—I think about those men being home. And that is my focus, and it gives me some kind of optimism.

But I also want to be very clear. Mass incarceration, mass criminalization, to me, is only the latest institution of racial and class domination. So we start with slavery, we move to Jim Crow, we then go to hypersegregation. Mass incarceration, mass criminalization is what sociologists see as the next institution of domination. Even as we get to a place where we're thinking about dismantling this institution, I think we should always be mindful of what is going to come next because I don't think we've got anywhere near close to, in this country—getting to a place where we are thinking about truly releasing ourselves from this notion of White supremacy.

And so I have to think about and do what I think makes sense, in terms of releasing as many individuals as possible from a system that I find deeply corrupt and corrosive, especially from low-income communities of color. But I'm completely mindful that this is not the end. Even as I celebrate reductions in some rates of incarceration, I am very mindful that there is likely another

institution that will take its place. And so in 50 years, 30 years, another group of scholars and another Father will be talking about how we deal with that institution.

So this is where I get my hope from. This is where I focus my efforts. But my mind is also thinking ahead to what comes next.

ANDREW MANUEL CRESPO:

- So thoughtfully said. I want, to everyone who's watching us in the webinar, invite you to share questions through the question-and-answer feature in your Zoom browser. We have a few that have come in already. And I'm going to ask the first one to you, Father Greg. It's a question about the relationship between our mass-incarceration crisis and a mental-health crisis and particularly, a question about how you think these two problems ought to interact as we have presses to defund police or reallocate resources.

What should happen when there are mental-health crises? Should it be that there are social workers sent out with police officers? Sent out instead of police officers? From all that you have seen on the front lines of this, what is the role of mental health in all of this? And how ought we be responding if we're going to try to move away from using the police as a first-line response?

GREG BOYLE:

- Yeah. It's no accident that the largest mental institution on the planet is LA County Jail, which would indicate our inability and ineffective approach to dealing with folks who have an anguish of which I stand in awe at what they have to carry. It's an anguish they didn't choose. It chose them.

And among—or the gang population that we work with at Homeboy—you look at a lethal absence of hope, you look at trauma in people who have had difficulty trying to find their way clear to transform their pain, so they inflict it still, or delivery of mental-health services in a timely and culturally appropriate way to folks who need it. And so partly, that's a solution that they're trying to do here in Los Angeles, in terms of accompanying law enforcement, but also, allowing pet teams and emergency-psychiatric teams to somehow respond to situations so that they don't become lethal and they don't become moments that everybody regrets.

But again, that is part of the diagnosis. How is it that we're punishing the mentally ill? And how is it that we aren't delivering to them the kind of healing that's holistic? But we've dealt with homelessness, and mental illness, and the traumatized by incarcerating them. And so what if we were to invest in people rather than trying to incarcerate our way out of every social ill?

So I see movement in that, certainly that people are able to recognize mental illness when they see it and don't moralize and say, well, these are bad people behaving badly. No, these are people who, through no choice of their own, are crippled by an anguish that's quite deep and alarming. And so how do we help heal?

And right now, like in Los Angeles, we're trying—we've decided not to rebuild the jail, which is really a great moment of hope for me. And then so how do we imagine some alternative to incarceration that imagines community, and housing, and real, live access to the things that

people need so that they can thrive? So we're getting there. And I'm hopeful by, at least the scene in Los Angeles, where we are able to address the mental-health issues and not just send people to prison because they're plagued in this way.

ANDREW MANUEL CRESPO:

- Professor Smith, we have a question for you that I think is—someone in a similar vein of wondering about the potential unintended consequences of interventions. And this is from someone who is a researcher in artificial intelligence and has some familiarity with the risk assessments that are used in pretrial detention.

And the question I have is, how do we guard against the danger that, because these algorithms are training on, basically, the practices we're doing now, that they're going to entrench the existing biases that you're talking about? In other words, if we define risk for the computer as based on what we've been doing all along and there are racial biases that are in all of that training data, are we locking in those biases, is the question.

SANDRA SUSAN SMITH:

- I think that that's an excellent question and one that we should be incredibly mindful of. But there have been critiques about the ways that—the factors that are taking into consideration, with regard to these algorithms, actually, in some ways, are less about, in some ways, the individuals and their attributes that might make it so that they're more likely to engage in criminal activity, and more, really, a reflection, in some ways, of the ways in which the criminal legal system engages with people in some communities. And so we have to be ever mindful of this.

Part of the issue, of course, is that for many of these algorithms, there's very limited transparency. And so one of the things that we need to do, if we're going to rely so heavily on these risk-assessment tools for making decisions, is to have much greater transparency, in terms of the kinds of factors that are taken into consideration. And social scientists, for many years, have been thinking about these kind of endogenous effects and ways of sorting through them. So I don't think that this is something that we can't eventually overcome, but it does occur to me that this is not the solution. For me, risk-assessment tools are a pathway, a bridge to another way of dealing with folks who have been brought into the criminal legal system. And we have to make decisions about it.

And I have to be honest in saying that that is the only way that I have been able to accept the use of these tools because I do think that there are some inherent problems with them. It gets us to a place where we can begin to release way more people than we were releasing before. We don't rely on the biases of judges, prosecutors, et cetera, who have inherent biases that are driving the decision making.

I think it has been the case that moving to these risk-assessment tools has led to far more people being released from custody than would have been otherwise. But these are imperfect tools, in part because they're relying so heavily, still, on human error, human faults, human biases. So my sense is until we can get beyond that, this will continue to be an imperfect tool.

But my hope is that we don't have to keep relying on this tool. My sense is that they're just a full set, again, if we decriminalize a whole set of activities and then characterize a whole set of offenses as offenses that we, typically speaking, don't have to worry about—so in some states, misdemeanors themselves are released from—folks who are brought in for misdemeanors or are automatically not included in a pretrial detention for the population. I think, to the extent that we can begin to make these kinds of decisions, I think that would go a long way towards relieving us of having to rely so heavily on instruments that do have flaws.

But again, at this point, I have to admit, I trust the outcomes using these risk-assessment tools much more so than I trust the judgments of judges and prosecutors whose biases have, I think, contributed to the rising rates of incarceration that we've seen over this period of time. But to me, again, it's only a bridge to another place where we make decisions far more fairly, far more just, with far greater justice than we have been.

ANDREW MANUEL CRESPO:

- Father Boyle, we have a question that I want to direct to you because it occurs to me that, joining us from Homeboy Industries, that so much of your work is cognizant of the economic aspect of this. As you say, no, nothing stops a bullet like a job.

But there's powerful economic forces on the other side of this. We often hear of the prison industrial complex and of the role that there are a lot of people who make a lot of money off of the status quo and are invested in it. And I guess part of the broad-angle question for you is if you have thoughts, or if you've encountered in your work, particular ways in which you see that manifested, the profit motive of the carceral state, or frankly, whether you think that it's a distraction to talk about that?

President Biden has just ordered a close to some private prisons. And some of the pushback, frankly, from the left has been, well, this is perhaps a bit of a distraction. The problem is the prison, whether it's a public prison or a private prison. So I'm just curious what you think about the role of privatization and profit motives on the other side here.

GREG BOYLE:

- Once people invest in a communal sense of things, it's in our interest as a society to invest in communities that are overpoliced and underemployed. And I think people—that galvanizes people's attention to want to hire in a different way. I was talking to the other day with a background-check company that wants to do the right thing. And so how can we work together so that we can recognize that everybody is a whole lot more than the worst things they've ever done?

Then it's not so much about a profit motive of the private prisons or that system, but it's about people understanding how this makes communities healthier, and that's better for everybody. And so it seems to me that we're moving in that direction. It's a place to which people can feel invited.

And I think it's more holistic to be able to invite people to such a thing than to denounce, exactly, the profit motive over there, at least, I only know from LA County. We're closing detention

facilities, we're closing probation camps, or closing juvenile halls. All of this is quite good because it at least indicates that we're wanting to address these issues in a different way.

And I think that's the motivator. That's the thing that will lead people to embrace a new way of proceeding that doesn't include sending people away, or sentencing that is draconian or outrageous, or gang enhancements, or different ways of that prosecutions can proceed with impunity, where we can now take a look at a larger view and really see it from an aerial of place, where we—that this is better for community, for everybody.

ANDREW MANUEL CRESPO:

- Professor Smith, we have a question here that is, I think, getting at what a number of sociologists of scholars sometimes describe as a paradox in this space in that, a lot of times in these conversations, we focus on the intensive harm that prison does to communities and that mass incarceration does to communities. The paradox of it is that I think, oftentimes, sociologists describe the same communities as being overpoliced and underprotected, underserved.

In other words, it's this idea of, like, gosh, the police are all over me all the time, except when I need them, except when there's a homicide to be solved. Elliott Currie talks about this, I think, as a peculiar indifference, this idea of gosh, this paradox. And particularly, at a time when we are seeing a rise in a national homicide rate, I'm curious how you think people who are deeply concerned about the systemic racism of our penal system ought to engage with the challenge of violence and how we should be talking about violence and thinking about violence, particularly if it is itself having racially biased impacts and harms.

SANDRA SUSAN SMITH:

- So I'm sorry is the question, how do we deal with violence by the criminal legal system? [INAUDIBLE]. Go ahead.

ANDREW MANUEL CRESPO:

- I guess the question could be that. The question could be, how should we be responding to violence? But I think the question from both the person in the audience and the way that I'm trying to frame it is, how should we be thinking about violent crime when trying to think about how to decarcerate, or address the challenges of mass incarceration?

SANDRA SUSAN SMITH:

- Yeah. I think that's a terrific question. One of the things that I think that we should do is to think about what the roots of crime are—I'm sorry—not crime—violence, violent crime. So we know that violence emerges and proliferates in communities that are suffering, where people are socioeconomically struggling with poverty, they're struggling with unpredictability, they have access to relatively few resources that allow them to get through their days, take care of their children, et cetera. It's within these contexts where there is that kind of light. And I would also say not just the neglect, but an abuse by the state, where we can expect violence to emerge.

There are a number of recommendations that have been put forward about how we can deal with violence without necessarily having to rely so heavily on police who, by the way, are a source—a set of agencies that are, by the way, a source of some of the violence that we're talking about in these low-income communities of color that often experience so much violence. Some of that includes providing income supports in communities where people are struggling to make ends meet. It includes providing green spaces so that children—safe green spaces so that children can run and thrive. It includes providing access to resources like Eugene, Oregon's CAHOOTS.

They arrive on the scene with trained practitioners—a team of two folks, one that has EMT types of skills or training, the other who is well skilled to deal with conflict and to de-escalate. They've been found to have an incredible amount of success, not just with individuals who are struggling with mental-health illnesses, but individuals who are also engaging in real conflict. They bring down the temperature, help to resolve those issues, and do so in ways that don't lead to any violence or harm to individuals.

We have programs like Cure Violence that go into communities and help people to develop a set of skills around how to resolve issues without leading to crime, and in some cases, engaging with community members in such a way that they find out what issues are arising, and they head it off before it escalates into something more. We have a whole set of tools in our toolkit that we're developing that could successfully address crime, and violent crime in particular, in ways that can be quite effective and don't have to—we don't have to resort to the kind of aggressive policing tactics that are often deployed in situations where violence seems to proliferate.

In some ways, one could argue that at the root of these kinds of solutions is a love and sense of belonging that Father Greg has been talking about because if I'm approaching someone who is struggling with a mental-health illness, who is struggling because they are hungry and are having difficulties feeding their children, who—they're struggling with all sorts of other issues, and I approach them with the resources that they need to address the issues that they have because that's what I see, I think that that's a much better place to come from. And I think that does help to reduce the register and the temperature, and I think it will produce lower rates of violence.

So there's just a growing body of research that suggests that if we were to tackle the issues of violence in communities with these other strategies and back off from using the fairly aggressive policing strategies that are often deployed in situations in neighborhoods where violence is an issue, we'd get far more positive outcomes, both in the short term and in the long term. But as you mentioned earlier, we tend to be a fairly punitive state, and so often, our response is the more aggressive, especially when it comes to low-income communities of color. I think we have to change our approach altogether, and there's a growing body of research that shows us how we can do that. And my hope is that that's exactly what we do.

ANDREW MANUEL CRESPO:

- We're getting close to the end of our hour here, and I think as a last question to both of you, I'd like to just come back to this moment of transition we're in as a nation, turning the page on four difficult years to a new administration at the national level. And for many people, that's, I think, a source of some relief.

When it comes to criminal justice, though, it's also, maybe for people who follow this closely and care so much about it, a moment of caution, of even hesitation. Kaia opened our session by talking about how we're at an inflection point. And it, in some ways, really feels that way after this summer of the protests, after the killing of George Floyd.

But 2020 wasn't the first time we've seen national protests decrying these sorts of abuses. It's not even the first time we've seen it recently. The Black Lives Matter movement didn't come from 2020. That phrase became part of our national lexicon six years earlier, back in 2014, after Michael Brown was killed in Ferguson.

And there was a drop-off in momentum in our national conversation between those two. It's not like there was a sustained attention to it. There was a re-emergence of it when George Floyd was killed six years later. And in those six years in-between, I think it's safe to say that things have changed far less than they had stayed the same.

So my last question to you is simply whether you are optimistic that things will be different six years from now. If so, why? And if not, why not? And Professor Smith, maybe you could take us first, and then Father Boyle close it out for us.

SANDRA SUSAN SMITH:

- I am not optimistic. I have not been optimistic. And it's, in part, because we have been here before. We've seen this.

What's interesting is that the George Floyd murder became a kind of inspiration for what was a relatively short, but intense, movement. Unless we fundamentally dismantle our institutions of domination, the structural racism that drives a lot of the patterns of abuse and inequities that we see, I don't really see us making much progress. And so far, most of the reforms that are put forward are reforms that nibble around the edges. They never get to the source of the problem. So as long as we keep nibbling around the edges, I don't see how we will fundamentally change the hierarchy or remove from the institutions that we have, or create alternative institutions that are more equitable and just in their practices and processes. I just don't see how it's going to happen.

And so what we will do is to take our little tiny steps forward, and then almost always, I think, a few steps back, and do our best to try to address the issues as they come to the fore. But as a society, we have not truly confronted the deep racism and classism that exists in all of our institutions. And until we somehow confront that in a very real way—and it takes much more than hundreds of thousands of people being on the street protesting, even over the course of several weeks and maybe a couple of months—we're not going to get there.

And I've not seen any set of reforms out of any city or state across this country that has met this moment that we have been talking about in terms of transformational change. And so we won't have that. And so again, we all will likely be here in four or five years having a very similar conversation to the one that we're having now because we refuse to have those kinds of conversations. What will it really take to achieve justice? There are a lot of factors that are in our way. And until we knock those down, we're not going to get there.

ANDREW MANUEL CRESPO:

- Father Boyle?

GREG BOYLE:

- I think it's without question that we're swimming in a culture that is racist. And yet, I found—I'm never optimistic and hopeful at the same time, but I think it was the marriage of a pandemic and the Black Lives Matter movement allowing us to embrace a language that's more enlightened.

If you look at just punitive policies in this country, people have come to see that they're expensive, ineffective, destructive, and racially biased. That wasn't so true 20 years ago, 10 years ago. And so I don't know. I think there's a combination of these two moments—the pandemic and the movement—that have invited us to something that's more magnanimous, and spacious, and expansive.

So I'm usually not ever optimistic and hopeful at the same time, but I am.

ANDREW MANUEL CRESPO:

- Well, I cannot thank you both enough, and it's been such a pleasure to spend this time with you. I will hand the microphone back to Kaia Stern.

KAIA STERN:

- Thank you. This concludes our program today. Thank you most sincerely to our panelists for your inspired presentations and wise perspectives, and to our audience for your thoughtful questions.

Today's program has been recorded and will be posted on the Radcliffe website in about a week. For information on upcoming Radcliffe virtual programs and to see videos of past events, please visit www.radcliffe.harvard.edu.

And thank you, again, for joining us today, and take care. Thank you so much.