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Media Mythmaking of Punishment and Safety

Changing the Narrative on Race, Crime, and Reform

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TRANSCRIPT: Panel 3

Reform and Retrenchment: Media, Fear, and Policy Rollbacks that Impede Safety

(This transcript has been edited for clarity.)

Moderator: Ames Grawert (Brennan Center for Justice)

Speakers: Nazgol Ghandnoosh (The Sentencing Project), Chenjerai Kumanyika (NYU Journalism, Empire City podcast), Mark Joseph Stern (Slate)

Katy Naples-Mitchell: This panel is on reform and retrenchment and our panelists are Ames Grawert, who is senior counsel and John L. Neu Justice Counsel in the Brennan Center's Justice Program. He leads quantitative and policy research focused on trends in crime and the collateral costs of mass incarceration. Additionally, he advocates for criminal justice reform policies at the state and federal level. Previously he served as an assistant district attorney in the appeals bureau of the Nassau County District Attorney's Office where he reviewed and litigated claims of innocence in addition to his appellate work. And before entering public service he was an associate at Mayer Brown where he represented criminal defendants pro bono and postconviction litigation.

Nazgol Ghandnoosh, Ph.D., conducts and synthesizes research on criminal justice policies. She has written about racial disparities, lengthy sentences, and the scope of reform efforts. In The Lancet Infectious Diseases, she explained why people serving long sentences for violent crimes should have been included in COVID-era decarceration efforts. Her report, "A Second Look at Injustice," is a comprehensive analysis of

a growing, powerful tool to curb mass incarceration: second look policies that enable extreme sentences to be re-evaluated. She regularly presents to academic, practitioner, and general audiences and her work has been featured in outlets including The Washington Post, The New York Times, and WNYC's On the Media. She also edits The Sentencing Project's Race and Justice Newsletter. Dr. Ghandnoosh earned an undergraduate degree from the University of Pennsylvania and a doctorate in sociology from the University of California, Los Angeles. Her dissertation, "Challenging Mass Incarceration: A California Group's Advocacy for the Parole Release of Term-to-Life Prisoners," was an in-depth study of a South Los Angeles-based group challenging extreme sentences.

Chenjerai Kumanyika specializes in using narrative non-fiction audio journalism to critique the ideology of American historical myths about issues such as race, the Civil War, and policing. He has written in scholarly venues such as Popular Music & Society, Popular Communication, The Routledge Companion to Advertising and Promotional Culture, as well as public venues such as The Intercept, Transom, NPR Codeswitch, All Things Considered, etc. Kumanyika is also the co-creator, co-executive producer and co-host of Uncivil, Gimlet Media's podcast on the Civil War and he is the collaborator for Scene on Radio's influential Season 2 "Seeing White," and Season 4 on the history of American democracy. His work has been recognized with several prestigious honors including the George Foster Peabody Award (2018) for Uncivil and The Media Literate Media Award (NAMLE) for Scene on Radio. He has received other awards that you can read more fully in his online bio but most recently he has produced the new podcast Empire City, about the history of the New York Police Department, which we're going to watch a trailer of at some point.

And finally last but not least Mark Joseph Stern is a senior writer covering courts and the law for Slate Magazine. Based in Washington, D.C., he has covered the U.S. Supreme Court, federal appellate and district courts, and state and local courts for more than a decade. He's a native of Tallahassee, Florida and holds a J.D. from Georgetown University Law Center and a BA from Georgetown University. He is a member of the Maryland Bar. His areas of expertise include LGBTQ+ equality, reproductive rights, criminal justice, and Supreme Court jurisprudence. Welcome to our panelists.

Ames Grawert: Thank you. Thank you all for being here. It's a real pleasure to be at Harvard with the kind invitation of this organization to speak about a really important subject. So perhaps you all have heard there was an election last week? Yeah Okay Good. We're on the same page. So I can hardly think of a better time for us to gather and talk about fact and fiction around crime, criminal justice policy reform and what the media's role in that conversation is and can be. And I want to underline the word policy. I know all of us

put a lot of thought into policy especially and I think that's one thing that we especially want to talk about here. So I'm honored to have the moderator's chair for this panel of all stars. Great to be here with you.

There's a lot to talk about so I'm going to jump right into it with a couple questions. Just a quick note. I work at a nonpartisan organization, so I'm not going to weigh in on good or bad of various elections, but the panelists are more than welcome to. In terms of structure, I'm going to try to do a couple questions about what's just happened in the country to the panel as a whole and then some individual questions about each of my colleagues excellent work. So to start us off, for the whole group, how did narratives about crime and justice show up during the election? And I also want to add a gloss on that. I think we've increasingly heard talk not just about crime but of disorder as a sort of phenomenon that's associated with, but not always co-terminus with, crime. How did those narratives show up and what did the media get right and wrong and what can we learn from that conversation? We'll start to my right.

Nazgol Ghandnoosh: Wow, thank you for that question. I'm really excited to be here as well. So I think I would just start with just laying out some what may be agreed upon facts of where we are in the landscape of crime and kind of street crime that we're I think generally focused on and where we are with respect to criminal legal reform. It does feel like in the past year, but also just we're sort of writing off this four-year period since the pandemic when it feels like we've entered a completely different world than in the before times. In the before times before the pandemic, there was really a lot of growing interest in criminal legal reform. And what happened during the time of the pandemic is that there was an uptick in some of the most serious crimes and there was a dramatic uptick in homicides and that came after homicides, homicide rates and other crime rates had reached historical lows. Like 50-year lows in homicide rates, violent crime rates, and property crime rates. A lot of people didn't know that, since as we were talking about polling numbers and a majority of Americans believing that crime rates have been increasing every year. For a while it was exciting that poll numbers were showing that a declining majority of Americans thought that crime was increasing every year. So that was the progress that we were measuring. But in the pandemic there really was an objective issue that our country was facing an objective problem of an uptick of homicide -- a really dramatic uptick -- as well as growing feeling of disorder and unease that people had in their communities with respect to homeless encampments. And then we had the backlash that happened as a result of the racial reckoning that happened from after George Floyd was killed. And so we find ourselves now in the time, and especially in the past year, where the sort of window and oxygen that's given to discussions about criminal legal reform has really closed up quite a bit and there's much less willingness to think about those issues. And it's really unfortunate because when you look at what where

we are in terms of criminal legal reform, what happened was, starting in the... I'll talk more about sentencing than policing. So we had the prison population increased, starting in 1973, and it did so for over 40 years and it increased by about 700%. And it reached its peak level in 2009. Between 2009 and now there have been some years, some off years, but there's been a dramatic decline relatively speaking within this period of time. It's been about a 25% decline in the prison population but that's after a 700% growth. Right. And so even as crime rates reached really record lows, we barely made a dent in scaling back the prison population. And now we find ourselves in the situation we're in now, where the kind of crime coverage that we saw really elevated the sort of super-predator type narratives about youth that we saw in the 1990s. Really prevalence of news stories about youth crime. Stories really highlighting particular very emotional cases of carjackings and car thefts which were factually increasing but really giving people a very exaggerated sense of those things. And the response to that, even from elected officials that know better, is in terms of what actually helps to solve these problems and address these problems, is "Well I need to do something to address this perceived perception of widespread rampant crime, even if I know the thing I'm doing is not really effective." And that's been really disappointing to see that even folks who know better are still feeling like they need to deliver this. And I won't talk for too long. I want to turn to others. But one other quick point that I just want to make is, there is this consistent struggle that we have in this space in terms of the language that we use. And in the before times there was a move away from language like felon, even questioning terms like the word prisoner, trying to use human-first language to humanize people and not use these labels that stigmatize them and suggest that that's all they are so that other people can relate. People who have not gone through the criminal legal system can relate. There's also just a broader language issue where within the criminal legal space a lot of terms that are about being very punitive have been packaged and labeled in a way as to help to promote them. So for example, "tough on crime." Right? And we all use that adjective, "tough on crime." And a lot of us use it in a critical way but the term sort of sells itself. We want to be tough on crime actually. There was a period of like, well, let's be smart on crime, but it it's really a promotional term. In addition to that there's a term, "sentencing enhancements." Enhancing sentence. It sounds great but it actually is not very effective, right? Truth in sentencing. Truth is a great thing, right, but we're very pro-truth. But again it's these kinds of terms that really help to promote the thing that we're talking about. And when we echo them, we help to sort of reiterate that. And public safety. Even in recent years we've come to realize... I learned during the period of campus protests that on some campuses, public safety just is synonymous with police. Like they're the public safety department, right. And so we've moved towards more using terms like community safety to think about that issue a little bit more broadly. But also so during the campaign in the past year we saw a

growing embrace of the term felon in talking about one of the political candidates who had felony convictions, right. And so the willingness of media outlets who had grown to be critical of some of these terms to re-embrace it when it seemed to fit their preference of which side to lean towards.

Chenjerai Kumanyika: Yeah, I just also want to give a quick overall shout out to Katy and Sandra and Brian and everybody that behind the scenes put this together. I'm learning so much and I'm just so excited about this about this conference.

I guess I would start out by saying that thinking about the election, I saw very many journalists who were trying to debunk ideas about what kinds of crime was not rising, what kind of crimes were rising. But in doing that, they were very earnestly paying attention to the details in the in the data, right? And this for me was... I'm deeply appreciative because I think when you're talking about the rise in certain kinds of violent crime that happened, for example in 2020, like I live in, I have a home in Philly and that stuff affects people for real. And I think that... I don't know any abolitionists who dismiss it, but sometimes when I hear the larger discounts like "Oh crime is going down. It doesn't matter." I'm like "Yeah, but if you live in a community where you're seeing that harm, it does matter." So I think that's important. The problem, right, is that I think that the tools that I saw a lot of journalists using in the election lacked explanatory power. For example, in this election the dominant narrative was that the city is in disorder. Our cities are in chaos, right? Chicago, New York, Philly are a mess, right? All racially coded, etc. And then with immigration as an even larger lens over top of that, this is now being intensified by the influx of immigrants. “Venezuela is dumping their prisons into our cities.” So if you're trying to attend to the details of that how it looked in 2024, 2023, 2020, what you cannot quite explain is, why was that discourse the exact same thing in 2016 before the pandemic, right? Donald Trump's narrative was “our cities are in chaos,” right? And what's intensifying that is the fact that immigrants are coming to our city. "Mexican rapists" and so forth, right? The same discourse. So I found journalism unable to grapple really with those continuities.

And then looking to my work. Why, you could go back to 1897 in New York City and pull out a big page of the New York Times that says, “our city is in chaos.” The reason why is because “immigrants are coming in.” Those immigrants happen to be not so much brown people but like Russian Jews, right?

Ames Grawert: Or Irish, who would soon be police officers.

Chenjerai Kumanyika: Well yeah, right, 1897 the Irish were already embedded, but for sure, yeah. And, or as they called the Italians, “the degenerate sons of the Caesars,” right? So to me it's the inability to grapple with historical continuity, right? And again, I'm not saying this to sort of critique journalists, right? I'm saying

that as somebody who came to journalism through other kinds of scholarship, I was like just amazed at the way in which people would keep continue to tackle these problems anew. And I think that I just want to say that the beats that we sometimes cover, they have a determining effect on how people talk about stuff. If you put the mic in front of someone's face in a community and they say "My concern," like Queens for example in New York, right, which voted 41% for Trump and they say "My concern is crime. My concern is the economy." The question I think you have to ask though is are they actually talking about crime and the economy? Are they, when they say crime, are they talking about public safety, right? When they say the economy, what are the some of the historical discourses that go all the way back to what was said in 1897 and further that are actually operating at work there while being true to what people are saying. We don't want to discount people's interpretation of their own lived experience. But this is for me the question, why history has to be a part of how we're doing this and the lack of that I think failed us in the election.

And then we saw, and I would I would just lay the last part that was I think is pretty obvious is that Democratic politicians kind of decided, well we're going to tack to the right and embrace the exact same narrative that conservatives are because they also are… Let me just say, I just saw a recent headline coming out saying look at the horrors of Tom Homan who Trump has selected as his immigration czar, right? And all these articles and he's saying, yes I'll avoid deporting so I'll avoid separating families by deporting the whole family. And it's like oh my lord. But what was buried in the bottom was this was Obama's immigration person. So I think, anyway, I just think that historical continuity is necessary.

Mark Joseph Stern: Okay, I'm sorry. I've sort of lost track of the question, which would… it leads me normally to ramble about things that annoy me, which I'm happy to do. But could you just briefly reiterate what I'm supposed to be talking about.

Ames Grawert: How did narratives about crime, disorder…

Mark Joseph Stern: Singing my song! Okay, I'll just, let me just give an example of something that we've seen unfold in DC. I don't want to talk about the crime bill yet but I want to talk about a dynamic that's been present that shows the dismal state of journalism reporting on crime. So, some years ago, the DC council decriminalized fare evasion and made it not a criminal offense but a civil offense. Still against the law to jump the turn style on the metro but you get a fine instead of going to jail. And immediately local news began to go to metro stations and just pummel the public with footage of people -- mostly teenagers of color -- jumping the turnstyle and using it as like a synecdoche for broader urban disorder and decay and saying what a disgusting state our metro has fallen into. Lawlessness. And this is full-on like broken

windows implications. What are these children, these super predators, basically going to do after they skip the fare. That's just the beginning. What crimes will they go on to commit? Huge vilification of not only the relatively small number of people who are jumping the turn style but also of the council for decriminalizing fare evasion, which to my mind is like some of the lowest hanging fruit on criminal reform out there. Putting people in jail for jumping the turn style and not paying like a $2 strikes me as an appalling misuse of public resources. But this was the narrative that the public was presented with. And we ended up spending tens of millions of dollars replacing those turn styles with new gigantic gates that are harder, though not impossible, to jump. Which, the replacement process cost way more than Metro was losing because people were skipping the fare. But all of which was presented as a perfectly rational response to an alleged epidemic of lawbreaking in the media across the board. And I think everyone here is smart enough to understand the absurdity of accusing the media of having just this persistent liberal bias; that the media is pummeling us with progressive narratives. But this is even in journals, articles, newspapers, blogs that should know better, that I would hope would have some rational approach to this issue. It's just, it was across the board. Now, more recently, the District of Columbia has taken some very modest steps to protect the new roll out of bus lanes in the city. Lanes that are priority bus. If you are not in a bus or on a bike, you are not allowed to use them. You are certainly not allowed to park in them. The city has rolled them out. Who takes the bus in DC? Disproportionately minorities. Disproportionately low-income people. Who is affected when the buses continue to get slower and slower because they're stuck in traffic? These same people, who can't get to their jobs, who can't get a paycheck because they're stuck on the bus for an hour in traffic. So the district said, "We're going to roll out priority bus lanes and we're going to tell people you're not allowed to park in them, you're not allowed to stop in them, you shouldn't be driving in them." No one followed those rules. It was just completely ignored. And so the city said, "We're going to start putting cameras on the buses and we're going to start charging people $100 if they are parked in a bus lane or they are wrongfully driving directly in front of a bus and slowing it down." So suddenly, for the very first time ever, people who have spent years illegally parking in the bus lane are facing consequences for it. They're getting $100 tickets in the mail for slowing down the bus, for parking in the bus lane, for making it harder for people who ride the bus to get to work. How does the local media respond? I think that everyone can probably foresee what I'm about to say. The local media interviews zero riders of the bus but goes to the houses of drivers who got these tickets; knocks on doors; does endless series of interviews and articles and blog posts, tweets, YouTube videos; interviewing drivers who illegally parked in the bus lane who got a $100 ticket, who say we are victims of an overzealous justice system. All of the empathy in the media coverage ran toward the drivers, the people who slowed down the bus, who parked, who did significantly more

damage to actual people's ability to live their lives and go to work than anyone who jumped a turn style on the metro. But the turnstile jumpers are the villains. And the people who illegally park in the in the bus lanes? They are they are wronged heroes. They are the real heroes who walk among us, who deserve nothing more than to be able to slow down buses and park wherever they want because that's their god-given right as essentially a rich white person, because that's who all these people were. When I look at how our media is handling lawbreaking -- this is lawbreaking across the board, right, whether you're jumping the turnstile or parking in the bus lane, it is against the law. When I look at how the media handles that, what I see is an extraordinary bias toward a very specific kind of narrative, which is that cities are always in decay. Urban centers are always under threat of lawlessness. But lawlessness is never something that rich white people do. It is in fact categorically impossible for rich white people to break the law. If rich white people are doing something, it can't be against the law. That seems to be the presumption from which so much media coverage springs, and I'm only talking about DC. But this problem is somehow even worse in places like San Francisco and New York, which actually have more robust local media and ends up producing even more biased coverage of who is breaking the law. And so, I really think that if I could just abolish all crime reporting and rebuild it from nothing, I would strongly prefer that to trying to help people and specifically journalists understand what they're doing wrong, because I think a lot of them are beyond help. I think they themselves view themselves as being part of this sort of upper caste of people who definitionally can't break the law. Who when they do something against the law and they get punished for it it's a grievous injustice. But when someone that they don't like or someone that they don't trust gets punished, that's well deserved. And if they aren't punished, that's bad news. We need to do whatever possible to punish them, because they're the kind of people who seem to deserve punishment. And so I don't want to repeat too much of what was said in the first two panels, which were fabulous, and I definitely generally endorse, but like this problem is so serious, because everyone who is worried about crime, in my view, or most people who are worried about crime... Yes, some of them are personally experiencing crime -- and that is an issue and I don't want to downplay that -- but most of them are reading it on their phones. They are getting terrified and radicalized on their phones, seeing tweets and reading articles and watching YouTube videos about how they're the next ones who are going to fall victim to this lawlessness and disorder. And if we can't fix that, then we're going to continue to have disasters like Prop 36 in California -- which I think we'll talk about -- where people who have basically the right view about the criminal legal system end up voting for horrible laws and representatives who support horrible laws, because they think, in a very misguided but earnest way, that's the best way to protect themselves and their families.

Ames Grawert: Yeah, this is, you are absolutely right, by the way, and we could have like six other panels on this. You're absolutely right that there's a very similar discourse in New York City. Something I struggle with and something I'd love to get into if we have the time. I don't know is there's a real challenge between, I find, talking about the reality of crime and acknowledging people's fears of it. Like you want to, for example, in New York City, I've looked at research on this transit crime -- which people worry about a lot and I understand why they do. You're in a subway in a confined environment. To measure it you have to measure it on the order of offenses per 100 million rides. Y'all might know in ordinary crime research we talk about offenses per 100,000 people, so it's very, very rare. It's just, it's a very hard needle to thread and I want to come back to that if we can.

But I want to turn us back to the election briefly. So one thing I know we've all been trying to do in conversations like this and our work with the media and our work with policy makers is to disrupt some of these myths about what crime is rising and where. As we heard from Professor Smith at the outset, no, bail reform isn't causing crime to rise. No, immigration is not behind increasing crime. No, crime might not in fact be rising, depending on which offense you you're talking about. In fact, murder dropped by a historic amount last year. Did that… This is the question for you all: How did we do? Did that work? Were there audiences that we missed? Were there experiences we failed to speak to? Were there outlets where our message was not heard? And to add a gloss to that, what can we do to make sure that the messages that we have about research, evidence, about the reality of crime and the reality of accountability and punishment in the country is told credibly to the people who need to hear it?

Nazgol Ghandnoosh: Sure. So, I think thinking about what Mark was just describing it reminds me also of -- in addition to educating people about what actual crime trends are and which kinds of crimes they should be thinking about and agitating for reform on -- there's also the question of what are the solutions that we're asking for. And so when there is an uptick in homicide during the pandemic, when there are problems of cars getting stolen, when there are problems of people driving dangerously, or so on, why is police and incarceration so often the go-to answer? And when there are examples of injustice… Also, sometimes there's sort of a category of cases I've sort of trained myself to think about working at the Sentencing Project, which is a case where you… it started a while ago, one of the exemplary cases of this was, many years back, with affluenza. I don't know if you guys all remember this, right? Or there was the also the young man who was accused, was convicted of sexual assault on a university campus on the West Coast and that resulted in the sentencing judge being recalled. So there are some examples of, “This is outrageous. This is a wealthy white person (often wealthy white male) who's getting away with it,” right? And these examples

are used often by people who might be interested in this convening, right, as “This is not fair. This person is not getting the same kind of sentence as what a person of color would be getting.” And so then the question is, well then what? Should the solution to that be to ramp up their sentence and penalty to bring it up to what we know is outrageous that everybody else is getting? Or actually do we need to think more carefully about whether the sentence and penalty they've received is adequate and should we be lowering the bar for others to make sure that there's fairness in that kind of way. But I think another question is when we interrogate these kinds of cases that happen in the criminal legal system, whether they're extreme or seem to be light handed, where is a similar level of interrogation for the lack of infrastructure that we have for preventing crime from happening in the first place? We don't have that and often those kinds of stories and those issues are not even thought about being related to public safety or community safety. So now there's sort of growing research and recognition that access to affordable health care is important and helps to reduce crime. Why aren't we getting the constant drum beat of, “Where is this? Why isn't this policy getting passed as a community safety measure?” So those are some things that I think we're missing. And thinking about Sandra Susan Smith's introductory remarks about “it can't just be the police and the media other institutions to think about.” And I think about, where do reporters have their biases that they're bringing? And we're talking about folks that went to college, right, have higher degree, higher education experience, and what are they learning on college campuses? How do we create safety on college campuses? There's a lot of segregation from communities and being closed off from the local communities. There's police officers and guards on campuses. During the recent protests that happened related to the Israel and Gaza war, we saw police officers coming and being called in by university administrators to create order, reinstate order on campuses. And so the way it used to be that in my work, I would encourage people to think about the institutions that they're in and how to bring change within those institutions. So, for example, does your employer have a ban the box policy and let's reconsider that so that we can create second chances for people that have been incarcerated or have a felony conviction. But now I also think we need to think more broadly of, how does your organization and how do universities create safety? And how are they investing in safety and lobbying for safety on their own campuses? Are they demonstrating to students -- now we have a growing number of classes that really are educating students about the problems of mass incarceration -- but are they actually living that in the work that happens to create a safe community on campus and in the neighborhood, neighboring areas. What's the university's role and how is that communicating to people on campuses about how public safety happens.

Amers Grawert: I want to go to Chenjerai immediately, but I want to put an exclamation mark on one thing you said Nazgol. It has been very frustrating to me to see all the research come out about the connection

between healthcare and crime and it just not get covered. So I want to put an exclamation mark on that and have us like, when you all get home or on your phones now, please look up "Medicaid expansion crime." The research is extremely clear. It's extremely compelling and yet we have many states in this country that haven't undertaken the Medicaid expansion and we have many policy makers have not taken the cue. Soap box over. Chenjerai.

Chenjerai Kumanyika: Yeah. I guess... I don't want to take up too much time. I'm curious to hear what other folks have to say. I think we -- this was discussed in previous panels -- we have to get in touch with who the real storytellers are in a lot of communities. I think... I repeatedly... I understand why a lot of us are committed to a sort of vision of how educational change happens in which people go to their media, read the facts, and as long as the narrative is presented right, they take the rational data and then – oh! – they learn. I'm sorry, but a lot of the stuff on misinformation, to me, and disinformation functions, to me, in a world where I'm like, is this how you think people's really minds work? Like, everybody's earnestly going to seek the real information and then they're like, "Oh wow! This challenges my belief. I'm glad I had the correct information. Now I'm going to change my view." As opposed to... So I was talking actually to my colleague Paula Chakravartty and she summed it up by saying one of the problems with disinformation and misinformation is that it treats it as a *content* problem instead of a *structure* problem. And I, even as someone who makes like podcasts, which I really try to make strong persuasive compelling content, I still think that this we are talking about a structure problem. It's not about getting the right podcast out. Although, I say, the right has done kind of an awesome job of that. If you look at the top 10 podcasts, they've deployed that quite well. But I guess one other point I'll make is that we were earlier talking about PR and I just would like to slow down on that. Looking at the NYPD, NYPD has 86 plus PR employees that we know about. Yeah, that's like a massive apparatus. A huge number of resources. Which by the way, my friend Astra Taylor was like, maybe in this new world we need to reclaim the discourse of efficiency to kind of like peel back, like, we really need 86? Can't someone write some code and get rid of PR agents? But anyway, but the point is that I think is a major factor, right, like we're talking about, we talk about the police department and don't acknowledge that as a media institution. These police departments are incredible media producing institutions themselves that -- and I think that they are savvy. They know that. And like again, not to keep going to New York, but that there's a whole population of people in the state of New York who never set foot in New York, but who are watching these streams you talk about and becoming outraged. So yeah, I think that until we grapple with some of those structural issues we're not really going to do better. I don't actually think we've done very well, but that doesn't mean that people weren't doing their best.

Ames Grawert: I love the line about finding the real storytellers in communities. I think that's something that we need to put a lot of thought into.

Mark Joseph Stern: Yeah, I think everybody here is very well aware of just how good police departments are about spinning media and putting out copaganda. And I won't belabor that point but I'll just note another example from DC that I think illustrates one of these issues so well. Which is, the DC council has enacted some very modest reforms, criminal justice reforms. The mayor has refused to fund some of them. So for instance, we do not yet have a database of officers who have been found to commit misconduct and violence because the mayor refuses to provide the funding for it. But there are public hearings that are open -- ostensibly open to anyone who can figure out how to how to join -- where you can actually watch officers be interrogated for alleged misconduct. There are some restrictions on high-speed chases and choke holds, although we -- unfathomably to me -- relaxed those recently because we decided that choke holds are the kind of thing that officers should be able to do again when it's really, really necessary. There are some restrictions that are at least on the books that don't exist in neighboring jurisdictions in places like Virginia and Maryland. And so I think a very documented phenomenon right now is that the DC Police Department wants to hire more people. They have the funding from the council to do it but they can't do it because they can't convince people to join the DC Police Department. Why is that? Because people want to join the departments that have fewer rules, fewer restrictions and less accountability in Fairfax and Lowden and PG County. They don't want to face the possibility of a [gasps in mock horror] public hearing when they have been credibly accused of misconduct. They don't want the looming, though still distant, threat of having their name added to a public database where people can actually look at the misconduct they engage in if we ever get a mayor who is willing to follow the law and actually fund it. And so they end up joining a police department like PG County where there are notorious problems of endemic violence and misconduct and all of the horrible things that, again, people in this room are very well aware of and say, “I don't have to follow any rules here and so this is the route that I'll choose.” The way that this phenomenon is presented to citizens of Washington DC is not, “Hey doesn't it seem troubling that police officers would rather join a force where they're more unaccountable and don't face consequences for breaking the law?” But rather the way it's presented to us is, “Doesn't it seem troubling that these modest criminal reform measures are preventing us from staffing our police departments? Shouldn't we consider repealing those reforms so that we can get more cops on the beat?” That is the logical sort of chain that we see over and over again that's promoted by the mayor, that's promoted by the council, that's certainly promoted by the police department, that ends up in the media and in people's brains. And my husband very recently ran for like a super local office and ended up talking to voters -- the mythical voters -- and actually got to hear what

people think about this and he heard he heard that kind of thing. Talk to many people in DC and you will hear like, “We have a problem. We need more cops and we can't get them because the rules are too strict.” I truly don't understand how anyone could see what cops are doing all day and think we need more of them. We must have like the highest number of Candy Crush champions on our police force based on how often I see them in their cars on their phones crushing that candy like it's their job, often getting paid overtime for it. Yes, there are many programs we can no longer fund in DC because the police have unlimited overtime and have taken such advantage of it. But people think that we need more and they think the solution is to repeal those reform measures. Which actually, a bill to nullify those reform measures passed both houses of Congress and President Biden thankfully vetoed it. But in the next administration everything is very much on the table and that gets into an issue of home rule that I think we'll discuss soon. But the deeper problem here is, of course, the problem that everybody in this space ends up running into which is people not thinking rationally about crime. People hearing the grizzly details of a murder or a violent carjacking and immediately going in their heads to the place where it's like, “There should have been a cop there. If there had been a cop there this wouldn't have happened. Therefore we need more cops. The problem is not enough cops.” The simplistic solution that is being offered very generously and consistently by the PR department of our law enforcement agency that people are highly susceptible to. And so I think that people like me... And again I agree we shouldn't just be talking about like cops and journalists. There's so many more people in institutions in the space, but we've got to break that chain in people's heads that, “Oh, a violent crime occurred. The answer is more cops.” It's, what we're doing now is not working. *That* narrative is very much winning. I would say that in this election cycle, if you look at state and local measures, *that* narrative won. And I kind of worry that time is running out to help people learn how to think more rationally about this and that if we can't break that chain in people's heads, then we're going to be looking at another '90s era of mass incarceration that takes more decades to unwind if it ever does.

Ames Grawert: You actually -- to underscore how troubling this is -- If you do public opinion polling, and the good people at Vera Action have done a lot of really interesting research on voter opinions on criminal justice policy, there's actually a lot of support for alternative solutions to crime. Like voters believe that mental health and drug treatment -- pretty overwhelmingly believe -- that mental health and drug treatment will reduce crime. They believe that better schools will reduce crime. They believe that more housing will reduce crime. But somehow that's not what ends up on the ballot. That's not what ends up getting the funding. But I think that's definitely something to think about.

We are running... time is going fast. So I'm going to turn to questions for each of you. I want to give a note of hope. So Nazgol, are there specific criminal justice reform campaigns that you've seen defy these sorts of headwinds and succeed in the face of some of the rather daunting odds that we've been talking about today that criminal justice reform can face? Give us some room for hope.

Nazgol Ghandnoosh: Sure. So I'll give just two examples. One of them is in Oklahoma. So we as an organization have been helping local organizations in that state to pass a law that's basically a domestic violence survivors justice act modeled after New York's law so that in a in a red state like Oklahoma we can make a dent into extreme sentencing, because extreme sentencing is something that's a priority for us to try to scale back prison terms and try to limit prison terms at 20 years. That's a goal that we have. And so in a state like Oklahoma it's possible to do this with only a particular population and that would be women and, but also men, who are domestic violence survivors. And it certainly didn't happen without a fight but the process there was to really make it clear that this is a state that has a really high domestic violence rate. It's also a state where we can show with research by a person who was formerly a police officer -- so it makes him more of a trusted voice in the media landscape -- that a lot of women who are incarcerated for violent crimes have been victims of abuse or coercion with respect to their crime. And it also really feeds into sort of this paternalism of like, let's protect women and victims broadly of crime. These are very much crime victims themselves. And so to try to successfully create a media narrative around that, we did a lot of elevating voices of people who were considered trusted voices on this issue. So I mentioned the former police officer who's a researcher but also it's really important in criminal legal reform efforts to make it clear that there are crime survivors who support this reform, so that because otherwise prosecutors will speak on behalf of them and present them as monolithic and opposed to reform. And so having a lot of folks be able to say, “I'm the mother of this victim and I support resentencing for the person who killed them” is a big deal and has a big impact. Being able to reach out to editorials locally... editorial boards in that state and be able to get them on board, all of that helped to pass the law which ultimately the governor vetoed and but then another version of it was able to get passed. And so we're very excited about that reform. It certainly didn't happen without a fight but it's an example of -- in a state that just has one of the highest incarceration rates in the world -- it's possible to get people to realize that okay there are certain situations of serious violent crime where maybe we're incarcerating people for longer than we need to be. And so that's some progress and thinking about scaling back sentences for violent crimes.

The other example that I want to just talk about is in... so one thing that we did in DC in the most recent round of efforts to roll back some criminal justice reforms was to also add in there an effort to try to get

someone on the sentencing commission who's formerly incarcerated. And so I think there's going to be a panel later talking about elevating the voices of formerly incarcerated folks, people who cause caused harm in their communities. But this is something that also we're really trying to support as well and trying to get formerly incarcerated folks on sentencing commissions around the country. And so this was someone in DC who was a really prominent individual, had been convicted of homicide, had served about 30 years in prison, was resentenced, was actually released to the parole board. Many like him have been resentenced in DC because of a law that allows people who were convicted under the age of -- for a crime that happened under 25 -- to be resentenced after they served 15 years. And so where's there's sort of a growing community of people who have been resentenced under this law -- almost 200 people -- who anytime there are efforts to either expand this law or scale it back can become excellent spokespeople for “who are we really talking about?” We're not talking about the people that you're looking at in mugshots who've recently been convicted of a homicide, because there's very little empathy for that population. But we're talking about those people 20, 30 years later and here they are. We can put them in front of the editorial board. We can put them connect them with reporters and get people to realize that these are people that cause considerable harm, but they're very different people, and actually come to believe that from hearing them and learning about what they've done with their lives. And so there was almost a media frenzy about -- with a headline of some outlets of like “Convicted murderer is gonna…” What was it like, “a fox is going to guard the chicken coop” or whatever and headlines like that, right. And he did one interview with the Washington Post and it was written up pretty well and otherwise he just did not speak to press. Just that was it. He went on the record. There was plenty of information about him and in the end we managed to sort of contain the frenzy and he was appointed and a law was passed in DC to require someone who's formerly incarcerated to be on the sentencing commission. So those are just some examples of how it's possible to sort of break…

Ames Grawert: Yeah, that second look bill in DC is really quite a success story. I've looked into the recidivism data and it's shocking, by which I mean it rounds to zero. That the people who come out of this law go on to be members of their community and this is what I think many of us would intuit. But it goes against the public narrative and I think more work like that… So, Chenjerai, you mentioned on the NYPD publicity team, one thing that I've seen a lot of is something coming out of that organization, often, is about how bail reform is the cause -- the single cause -- of crime in New York City and why crime rose during the pandemic, etc. Certainly wasn't the pandemic. We know that's not true from the research that we've all seen; from the work we've all done. But how do you fight narratives like that, especially when the data or when the claims are coming from law enforcement?

Chenjerai Kumanyika: I'll answer the way that... I fight with history. So I'll just say, first of all, let me just say when it talks about answers, there's so much answers, so many answers in this room. I think everybody knows that, but I'm just going to say the Captain Obvious thing, which is I really do hope we all get to... When I looked at like the people that are at part of this conference, the projects they have going on, I hope we do a lot of work of connecting and getting to know each other. So let me just say that, because I really have respect for that.

So, one of my contributions is a podcast and I'll just set up this clip here -- I'm going to play a quick brief clip -- by saying that I have a 5-year-old daughter. We're living in New York and my wife and I were having all these conversations about what we were going to say to her about the police. And then I suddenly realized the police are actually like already in her world, right? They're like at her school. She's getting toys. Paw Patrol movies. And so that was part of the motivation for me to make a historical podcast about the origins of the NYPD.

[Video clip of the Empire City podcast trailer was shown]

Chenjerai Kumanyika: *So, Eniola, may I ask you a question? What do you think the police do?*

Eniola: *They they they keep people safe.*

Chenjerai Kumanyika: *I'm Chenjerai Kumanyika and this is Empire City, the untold origin story of the NYPD. At a time when we're debating where policing is going, we're going to tell you where the police came from.*

Daniel Czitrom: *The first person to use the term organized crime. He didn't mean it in the sense of Don Corleone and the mafia. He meant it in terms of the police department.*

[End of video clip]

So I hope everyone listens. I think it's very compelling and it kind of makes the case historically in a way that I think brings a lot of people in. But as I said earlier, I actually don't think it's a content problem primarily. So for me, we did some things, like, one thing we did was get money for an impact kind of grant which in my mind -- this is being recorded but it doesn't matter -- I'm like, I know some of the media companies were like, “How can we get more people to engage with the content?” I was like, how can we take that money and give it to community organizations. That's for me what that's about. And so we're building partnerships with groups like Cure Violence, with... and also there's a group called We Build the Block that I'm hopeful to work with and other folks. And I think that it's in those partnerships where the thing emerges that's

powerful, right, is the way in which the text allows people to be together, but with a common text that they can then sort of say this relates or not, etc. that historicizes the conversation and so forth.

The other thing I want to say is when we talk about... I love this question about what are the other institutions? We know it's the police; we know it's media. I don't know if this is too adjacent to the media but I do think that journalism schools are a problem here, right. I was able to sort of be accepted into, infiltrate, however you want to look at it, NYU Journalism, where I now teach Intro to Journalism and I try to explain to the journalists and make the case that these critical studies of history, right, things that are in the humanities, these are absolutely necessary if you want to talk about harm -- even to deconstruct the category of crime. Because I think what we've seen up here is a very strong argument that anytime someone's even invoking the word crime, there's already a propaganda project at work, right, as opposed to the other kinds of things. So that's important.

And the last thing I'll say is that we often talk about how people deeply want unbiased media -- and that is a language that you use -- but I also think that what people want is anti-establishment media. And when you look at how right-wing media and disinformation functions, it's not like... You know, I just saw someone just making this point. It's not like people are deeply in there really talking about tariffs when you go into there and there some deep weedsy discussion. No. It's like what is attractive about this media is that it's a kind of secret knowledge. You're being told something that the main media won't tell you. So we tried to position our show like that. But I think that's a thing that I think is also a challenge for our media institutions is that people are sort of biased once they know it's coming from an institution. We have to think about how to tap into people's desire for like a hidden story.

Ames Grawert: Yeah, that's really powerful. I really like that. Mark, we're running close on time. I do want to save time for like maybe one or two questions. I'm going to do my do my best Katy, if I can. All right so I want to close it with a quick question for Mark. There's so much we could talk about, especially more about DC, and which I would love to, but I want to close on something of a hopeful note. So the criminologist and law professor we know, John Pfaff, he has a warning that he used to post on Twitter when he used to post on Twitter, that criminal justice reform can't be seen as a luxury for low crime times. It has to be part of how we actually build community safety. It has to be something we talk about even when crime is rising -- as it did during the covid 19 pandemic -- as part of the solution rather than part of the problem. So how can we take that advice and talk responsibly and work towards solutions in that conversation about crime when crime is rising?

Mark Joseph Stern: And I have like 90 seconds for this? [laughter] Look, there's some brilliant proposals have already been discussed today. One that I'll just note is I think breaking the prosecutorial strangle hold on representation of crime victims and their families -- which I call the victim industrial complex -- and allowing victims to, and their families, to speak openly and honestly, not mediated by a police department or prosecutor's office that has a vested interest in promoting a certain narrative. That requires teaching journalists how to do better journalism in this area and not again simply being stenographers for prosecutors and police. And this is an important thing whether crime is low or rising because there will always be victims. Crime is, again, a problem that I don't want to delegitimize or downplay. People have real deep fears about this, and hearing from those who don't support trying to arrest and incarcerate our way out of the problem can be, I think, a very powerful tonic to the propaganda that they're getting pummeled with.

The other thing I'll just note is like, so many people -- and maybe I'm focused on journalists because I am one , but it's bigger than that -- need to be educated in how the law works. And this was a problem that I encountered when covering this other criminal justice reform bill in DC. It wasn't even a reform bill. It was a revision of the criminal code, which countless cities and states have undertaken to make the code modernized, and to make the sentences more rational and scaled to the offense, and to reflect how sentencing is actually working. It was just a modernization thing. But that meant reducing on paper the sentences for certain crimes, because in reality no one was being sentenced to, for instance, 25 years for a first offense of carjacking. So why on paper should the sentence be 25 years? Well, try explaining that to someone who does not know how sentencing works, period, and you get a little bit of sense of the scale of this problem. So I think educating the public in how all this stuff works -- the stuff that we live and breathe that seems like second nature to us -- just teaching them the basics of how it works, of how criminal code works, of how sentencing, sentencing enhancements, work. That is often, I think, the first step, so to speak, toward then introducing people to the idea that this isn't working for anybody and it needs to be -- and can be – fixed. But it requires standing up to some very powerful bullies who want to perpetuate the current system because it helps their own malign causes.

Ames Grawert: I like the first step pun. If we can go to I think do we have… how many questions do you think we have time for?

Katy Naples-Mitchell: Let's maybe take two questions.

Audience question: Hi I am a researcher at the CUNY Institute for State and Local Governance and we are the research partner for the Safety and Justice Challenge, which is a MacArthur Foundation funded project looking to safely reduce jail populations and with a lens on racial and ethnic disparities. And I'm just providing sort of an example of what we've already talked about, but we collect case level data across criminal justice agencies in almost 20 jurisdictions now for this project that started in 2015. And we've shown really wonderful reductions in jail population overall in these jurisdictions. And also COVID hit and then all of a sudden these reforms that were put in place, a lot of the jurisdictions have played a lot of damage control with the rise in violent crime in communities. We've done research to basically follow people who've been released pre-trial in each of these jurisdictions under the reform efforts to see if rates of returns are increasing as you're letting more people out of jail under reform. There's no evidence to suggest that's true. And this is quite extensive. This includes Philadelphia, Cook County, New Orleans and probably not many of you, if any, in this room know about this report. And so we try to place these... especially this came out with the election and rise in crime, chaos everywhere. It's really hard to place those stories even -- and we don't have a big comms firm. But yet you have a jurisdiction -- Pima County, Arizona, which is one of our safety and justice challenge sites -- that has a local series that came out called "Free to Kill." So you can imagine what that might be. It's the examples, the horrible examples, that are just very small numbers of people who go out, have been let out on bail or whatever, and commit a crime and it's sensationalized. That becomes the reality, not the data that clearly shows no relationship and that 99% of these people are actually, you see harm reduction and they're able to go back to their families, their communities, their employment while their cases are pending. So I guess my question, and we've kind of talked about it is, and in earlier panels, you can't just use a positive story to combat that, but is there a way and how do you do it authentically to kind of create a series in a local news station or in New York Times of those positive stories that are showcasing the wonderful reform work that is working and that is helping individuals come back to the community in a way and that they're able to thrive? So if any of you can...

Ames Grawert: It's a great report. But, yeah, who wants to take it?

Mark Joseph Stern: Everybody's looking at me. I'll just reiterate, like the Second Step Act in DC is doing so much work to push back against the fear-mongering narratives because, again, these are individuals who have served at least 15 years in prison, who committed their crimes -- as the majority of people do -- at a young age and they're leaving prison in their 40s and they are not experiencing any meaningful rate of recidivism. It's an extraordinarily uncommonly law-abiding group of citizens. And they've been very public,

very active. Every time the mayor or the council thinks about rolling back the Second Look Act they are there by the dozens saying, "We are the counter-example to this fear-mongering." And I think the more folks who we have on the ground who can actually show up and say, “You should believe us. You should believe in us and this cause,” because the data tells us that crime is something that people age out of, that recidivism is not actually a serious problem when you undertake these targeted reforms to reduce prison populations. The more people will believe it. They see it not just as data on a chart but as a human story that can be told by real people who are involved.

Nazgol Ghandnoosh: I would just add one quick thing which is... Well one thing I just want to note is that Mark, I think your reporting helped with the passage of the Second Look Act in DC. So thank you for that. And I just want to just put in a plug for what I wish existed, which is sort of like a Pulitzer shame list on stories like that. Whenever there are multi-part series of like, “We've got it. This is some terrible crime stories and we're going to get to the bottom of why this happened,” I just cringe. And I know what they're going for. They're going for the awards. It happens in DC too. The elected officials need to respond. They want to then cover the response that they've been able to create. And sometimes like with... In 2020 -- I just jotted this down earlier -- Pulitzer gave an award to the Courier Journal in Kentucky for a series that they did about gubernatorial clemency. And the governor at the time was pardoning some campaign contributors and friends but also pardoning and commuting sentences of people who legitimately deserve to be commuted. And this newspaper just sort of cherrypicked a couple stories there to get people really outraged about why are these people getting shorter sentences and sort of put this all together as a package and was rewarded with one of the most prestigious prizes. And so in terms of again thinking about who are all the different institutions that are coming in and that could play a role in changing this landscape, we need series like that to not get awards at the very least.

Audience question: I want to go to a point, Chenjerai, that you brought up earlier about this session overall is about news media, but we're working within a larger ecosystem of media that is heavy in copaganda from young ages: Paw Patrol, even if you think about like Guardians of the Galaxy, right, they're police of this this universe, Batman, literal examples, Law and Order, the obsession with true crime. All of these are very carceral law enforcement narrative driven things that really shape the perceptions that we have about the way that crime or public safety are impacted. And the way to impact it is by throwing more police at the problem the thing that we've been talking about. I'm interested in how you all think news media can be helpful in widening the imagination of what is possible or possible solutions outside of that carceral frame

that I think works very well for storytelling, simple storytelling, that people can follow but doesn't follow the data of our complicated world.

Chenjerai Kumanyika: I'm going to try to say this in a helpful way but first I'm going to nerd out a little bit. So if you look at, for example, the way that podcasting is deeply -- even narrative podcasting of the kind I do -- is deeply part of this pop cultural carceral complex, right? The true crime genre is big. It drives a lot of podcasting industries. But that's also happening in a moment where after you have various kinds of deregulation and various kinds of neoliberal policies have defunded public media, right? So people are really relying on advertising and then some of that advertising -- you think about it like, people think of a company like Crooked Media, which I'm working with, as a progressive company. The first ads you hear on there are for Simply Safe, right? And that's not... Bar Stool Media, right, is like... They had a series of ads in which literally like they had -- it was a it was for taser -- and it was like the hosts were tasing each other in the thing showing you how the tasers work. So you have that sort of breaking down and then in the void you have all this media advertising sensationalism, etc. Right. So in some ways that same kind of neoliberal process that Alec was referring before, policing the crisis, Thatcherism, Reagan, years, decades of telling people, "Government is not the solution. Government's in the way. You're all by yourself. Don't trust any collective institution." Fear and anxiety, that's kind of what people are in right now. I think that's actually, by the way, what unifies all these different groups who sort of really were attracted to Trump, those two things are working together and they're receptive to this kind of media. But what I would say that's hopeful is these media institutions are sites of terrains of struggle at places -- we talk about places like the New York war crimes or whatever -- but even in those institutions, we're not talking about the same terrain it was 10 years ago. There are young folks who are in there -- I don't want to make it all agist -- but there are folks who really do want to change, there are folks, you know what I'm saying, like the people doing right here, what I'm saying, in this room and I think that we have to treat those institutions and talk about them as terrains of struggle. It's not just about like labeling this institution or that as -- and I say this my show was produced at at Wondery and Crooked Media, who are both complicit in this -- but the folks that came on my team were like, "We trained in media to make this kind of project and we never had the opportunity." So I think that's one answer.

Ames Grawert: I wish we had time for so much more. I literally have like another page to go through with this amazing group of people. But I just want to thank you all for your time. It was a really great conversation. [Applause]