

ROUGH EDITED COPY

AST-NYPL  
LIVE FROM THE NYPL  
EMILY BAZELON WITH STACEY ABRAMS  
R# LC155371848NYPL\_PBLPRGM  
APRIL 10, 2019

REMOTE CART PROVIDED BY:  
ALTERNATIVE COMMUNICATION SERVICES, LLC  
[WWW.CAPTIONFAMILY.COM](http://WWW.CAPTIONFAMILY.COM)

\* \* \* \* \*

This is being provided in a rough-draft format. Remote Communication Access Realtime Translation (CART) is provided in order to facilitate communication accessibility and may not be a totally verbatim record of the proceedings.

\* \* \* \* \*

>> Please stand by for captions.

>> Hi, everyone. Good evening. I am the vice president of public programs here at New York Public Library. It is my great pleasure to welcome you to Live From the NYPL with Emily Bazelon and Stacey Abrams. I know that many of us here tonight are huge fans of from her work. We are honored that she launches her book her this evening. Approaches complex subject with intellectual rigour and offers a blueprint for change. I couldn't put it down. We are thrilled that the Emily law school classmate. Stacey Abrams is here to join the conversation. Stacey Abrams has been a strong advocate for criminal justice reform. Emphasizing among other things the need to decriminalize poverty and -- formally incarcerated people.  
[applause]

>> One of the things that charges us so well is to describe the day-to-day experiences and treatment of individuals who find themselves in crosshairs of criminal justice system. That is of great -- relevance to us. Our correctional services team which began offering jail and prison library services in 1980 with one rolling book cart operates in ten facilities included dedicated library spaces at Manhattan detention complex. We offer --  
[applause]

>> We offer circulating book services, early literacy programs, English as second language classes. Book discussion groups -- and each year we publish connections. Comprehensive guidebook. We check out about 3,000 books and periodicals to people in New York City department of corrections facilities. We consider access and books to information to be a human right when a person becomes incarcerated. And so we welcome conversations like tonight that shine a light on personal experiences of incarcerated individuals and on potential solutions to problems of mass incarceration. I will ask our guests to come to the stage. Want to tell you some about our exciting upcoming programs.

Coming weeks, we will have Jill Abraham with -- special sneak peek at Virginia Wolf archives. Henry Lewis Gates and -- we close the springs 2019 assign with special readings of the white card. We have a lot of wonderful free programming coming up with Barry Lopez. Erin Lee Carr. Much, much more. Stay tuned and sign up for our newsletter if you have not done so at NYPL.Org. If you have a question, please write it on one of the cards that should be on your seats. Staff will come by to collect it cards in 30 minutes or so. If you could pass the cards down the aisle, that would be truthful. There will be copies of Emily's book and Stacey's new book. Emily will be signing copies of your book. You can stop by your membership table and learn more how to be a friend. Live From the NYPL is made possible by our superintendent pours as well as continuing generosity of donors. Pressures tickets, you help make

possible events like tonight as well as hundred cultural programs in this building and library locations around this city. I want to thank you for being here and ongoing support of programming at New York public library. Join me in welcoming Emily Bazelon and Stacey Abrams.

[applause]

Stacey Abrams: You must be Niko. So you did it right. I did require adjustments. Hi. I'm -- hello.

[applause]

Stacey Abrams: I am very excited to be here with the extraordinary, the brilliant, the talented, Emily Bazelon.

Emily Bazelon: Thank you, Stacey.

Stacey Abrams: I read this book in less than a day. And in part because it is more gripping than any television show, more insightful than most reporting. Have you sold the TV rights?

Emily Bazelon: Would you like to buy them?

Stacey Abrams: I don't have any money.

Emily Bazelon: Now that you've suggested someone should buy them, they will go like hotcakes.

Stacey Abrams: Believe so. We have an audience that have a vested interest in this conversation. Give us a thumbnail explanation why mass incarceration matters to average person.

Emily Bazelon: Here is one number that for me is so important. 10 million children in the country that while their kids will have experience of having a parent who is incarcerated, that's a huge human cost that doesn't involve the people actually being locked up. And another statistic, 70 million people in criminal records. Same as number of people with college degrees. When you think about enormity of that system, in the moment of experiencing it and long after ward, I think it's easy to make a case that this is an important issue that affects so many Americans.

Stacey Abrams: What captured your imagination and made you decision that charge was the project that you needed to undertake.

Emily Bazelon: Years ago, I was working on a story about three strikes rule. I interviewed Steve Cooley. Supporting three strikes reform which was surprising. I asked him why. Told me a story as first year as a baby prosecutor. He said he was in the office and case file landed not on his desk but desk that was next to him. File of man named of Gregory Taylor. Unscrewed the screen door of foot food pantry at a church to get food. The colleague decided to charge this as a third strike and he got a life sentence for that third offense. Told me the story because he thought that was crazy. Never have chosen to bring that prosecution in the same way. Three strikes reform was needed.

I was stopped on the idea that the fact that this landed on one person's desk and not the other person determined the outcome of Gregory Taylor. I never thought of that in that breathtaking away before. I started to see it everywhere once I knew about it. I kept

thinking about this issue and then as time went on, it just seemed to be a kind of power that we should really be grappling with much more than we have.

Stacey Abrams: You take the stories of Kevin and Nora and you -- it's a finely wrought story and you didn't do what I expected which was part one, part two, his story, her story. Something to draw in the motion of reader -- emotion of reader and savage us with the story. You take their stories and run them in parallel. You do it with interesting tool that helps walk us through the process. Can you talk a little bit about how you came to the structure of the story and the structure of charge as you walk us through the lives of these two defendants?

Emily Bazelon: Yes, I would love to talk about that. I had two goals with structure and narrative. One was to use the story to thread through all the points I wanted to make and to use the narrative skills of a journalist to bring issues alive that I think often feel too dense and complicated with loots of legal -- lots of legal jargon and confusion that makes them feel like they cannot enter into this space. My main role is a translator and I see story telling as essential to that. I wanted in fine detail to take you through the life of a case. With each of the two stories, I, you know, I can talk about bail because Nora never had her bail set. So what did that mean? Kevin did try to pay bail. I looked for the hinges in each of their story that allowed me to take you through the criminal process.

Stacey Abrams: Without giving away the outcomes, part of what struck me was the hopefulness of the stories of these two protagonists. Very much tragedy but hopefulness. Why did you pick these two.

Emily Bazelon: Maybe this is my failing as a human being. So many stories about criminal justice system are hopeless. That's hard to read. I wonder if it would be off-putting to readers in some way. As I was investigating these stories, movement to try to elect new kind of prosecutors grew up under my feet. My book was about evils of prosecutorial power with no good things. I got to throw it out in a different way. These folks are trying to change how the job is done. I think that optimism fueled my sentence that information legitimate to tell stories in which the end is not hopeless. There is a big grassroots effort going on across the country in red and blue states to change things.

Stacey Abrams: Talk about how you came to discover this going around you.

Emily Bazelon: Some people I knew for years as sources were getting together to talk about how to try to convert their interest in ending the death penalty into a social moment. At time didn't seem hopeful except that use of death penalty was shrinking. I did a story about that how much more concentrated the death penalty has become. Some people tried to talk about unseat some of these District

Attorneys who seemed like the worst ones. Most tough on crime. Thoughtless about law enforcement. Suddenly interest not only of these local groups but big groups called color of change. And then I saw the donors get in. This whole congruence of forces that didn't exist two years earlier. What matters, in November 2016, night that Trump elected, 10 or 12 DA races that went to progressives. That was not the big headline that night. To me. It seemed inconsequential in the silver lining that local change can still be happening.

Stacey Abrams: Can you talk about differences in their approach and relative strengths and weaknesses and how they are thinking about this work.

Emily Bazelon: Eric Gonzalez, a lot of people knows that he's District Attorney in Brooklyn. Born and bred in Brooklyn. Encountered same problems with guns and fighting and gangs on the street that a lot of people he prosecuted encountered. Shot up the ranks when his predecessor was first African-American DA elected. Needed an insider in the office. Eric is Uber competent. I shouldn't refer him by his last name. I have gotten to know him though. Gonzalez rises up in this offices and then a tragedy happens. Boss and mentor dies in cancer suddenly in the middle of his term. Gonzalez has become interim DA. I referred to him as a politician. He winces is still not his self-identity.

>> We are not all bad. But go ahead.

Emily Bazelon: I'm surprised. He's a politician now. When he was elected, didn't fire anyone quickly. I mean there are some people who have left. He basically did an internal survey. His prosecutors told him that they supported his vision by 90%. He wanted to bring the office along rather than clean house. And has become bolder in moves that he's making, has a lot of cultural change to make. Because he inherited a system that is much better shape than Philadelphia where I grew up, he's been able to be more of an institutionalist. Larry came in to a situation. Incredibly unlikely person to run for DA, much less to win. Sued the cops 75 times and he said when he ran, look, I'm here to shake things up. So he got elected in the democratic primary which I shouldn't say he got elected. In Philadelphia, that determines the outcome of general election by really committed organizers. Different constituency decided he was their guy. Cleaned up about 30 or so people in supervisory left. He brought in his own team and my younger sister Dana. Much more willing to punch hard against the system and parole department and stirring up unrest as tries to make change. This is best thing ever. We have other models in other cities. Kim Fox in Chicago is important figure. Whole bunch of them. We are going to get to see in a few years which styles seems to be more effective. I think it's important to remember these are just different contexts.

Stacey Abrams: Should there be different justice systems based on where you live?

Emily Bazelon: That's a great question. I think state and local control of Justice Department is crucial. Maybe because I got more interested where it's possible to make more local change and Washington feels so stuck. I think there are tremendous disparities that go along with that. I'm sure that you see differences in Justice Department in Atlanta and other parts of Georgia. Yeah.

Stacey Abrams: I guess my question is -- if you look at HR1 legislation introduced by Speaker to say that we have state and local execution of our voting rights. There should be a federal imprimatur saying these should be equal as much as possible. Difference in how they are distributed. Federal standard no matter where you live, you have the right to vote. That is underlying idea behind motor voter. Boundaries within our countries should not determine the value of citizenship. That doesn't work out that way. That's the theory. Do you think this should apply to criminal justice.

Emily Bazelon: I think one tricky thing about applying this idea to criminal justice is that we don't have a model that we can clearly point to. It's so superior in this one place, right? I have to think more about this. Do you think with voting that there is a clearer checklist of okay, you need to have access to polling place and laws that allow for voter registration that is automatic. Maybe that's only because I'm thinking about it now since you asked the question.

Stacey Abrams: With voting, there is the essential nature of election. You should have ability to have your voice heard. If you live in rural Alaska, may not make sense for every community to have three polling places. There are ways that you execute against the intentionality that has to be done differently and accommodate the kind of community that you have and access that you have. I wonder if same thing should be true for criminal justice. You reference in your book, you talk about jumping turnstiles. Why do we send people to jail for jumping to turnstiles where if you get into HOV lane, no one comes to arrest you.

Emily Bazelon: I think it's a profound question.

Stacey Abrams: That's why I want you to think out loud. What is it about difference besides class that says this is a difference. Parts of your community where there is no transit. There is no turnstile jumping. If you are below a financial threshold, you can go to jail and lose your freedom, if above that threshold, you may get a ticket in the mail that may or may not pay or affect your ability to drive.

Emily Bazelon: I was working on New York times. 524,000 people every year in Texas who go to jail because they have unpaid traffic tickets. That seems nuts. It's crazy. He talked about this as jail credit. Some of those people are choosing to go to jail because they don't have a money to pay a fine. I was in court in Connecticut one day when I had a notion that this system is good. One of the reasons I realized it was wrong, people choosing to go to jail rather

than pay fines or do community service. Court had no way to help them to figure out community service. Seemed easier to go to jail for a week or few days. Jail is expensive. This is not what I good use of our resources not to mention it seems bizarre that we put people to this choice. This is going to sound naive. I try to hold on to my capacity to be shocked if not surprised as a journalist. Way our criminal justice system is shot through different systems because of race and class, it's everywhere. Once you start looking for it, it's everywhere. If we could figure out to have a federal standard beyond what we are to have now from our constitutional limits that are he -- eroding around us. That would be huge.

Stacey Abrams: I think someone is about to clap for you.

Emily Bazelon: My children.

Stacey Abrams: I'm primed to hear beginning of applause.

Emily Bazelon: I like that.

Stacey Abrams: One of extraordinary things about the way you write, you take these complex legal concepts and you deconstruct them and you put them into space with these real stories. So that we understand why these things are real. One of them is that when you are talking through the ability for appeal to be had and the federal law that essentially holds federal judges hostage, can you talk a little bit about why we are grown a system that no longer allows for remedy?

Emily Bazelon: Sure. Will make me remember being in law school with you if I get to give this mini lecture.

Stacey Abrams: Have fun.

Emily Bazelon: Law that was passed called anti terrorism and death penalty act that has made it difficult for federal judges to overturn state criminal charges. Idea is about finality. Idea is that federal judges being way too nosy prying into the reasons that state courts reach their conclusions that we have a state appeals process and enough already. And to cut back on what's called habeas corpus. One way to translate it. You have the body. The idea is that you are appealing to prison war Don outside the process assess. It's one more shot at showing you shouldn't have the body. You should be able to be free. Federal judges have more resources. They were sometimes doing more to look into the circumstances of conviction and to decide whether it's fair and constitutional than state appeals courts that tend to be much less well resourced and do their work more quickly. Federal judges cut off the knees. They have to reach a high standard to intervene. They have to find more deference, it's hard for them to overturn injustices. We have taken the supreme court in upholding has taken a principle to such an extent that Justice Scalia said that people didn't have the right to be freed. That's the principle operating there and it has had this dramatic effect around the edges of the system or prevented some of grossest injusts from being corrected.

Stacey Abrams: Can you talk about injustices that you didn't put into the story or some you frame in the book.

Emily Bazelon: One thing I don't think we think enough. In the way to hold prosecutors responsible. If one of them will do you wrong and you want to sue them or the office they work for, you can't do that. They have something personally absolute immunity. That is weird thing. Police don't have this. They have lesser still powerful shield qualified immunity. You are doing something in the way in the course of your job, no one gets to sue you personally.

And a case that was decided after we go to law school. We are not accountable for all the facts of it, man named John Connick who was wrongfully convicted. On -- death row. A paralegal worked for him that found evidence that exonerated him. And held against him in decades long prison sentence. One of these stories that makes you seize up inside. This is one of record with perhaps, one of the worst records for prosecutorial abuses in the country. Won \$11 million from the jury and supreme court took it away because they said that he had not proved a pattern of misconduct in the office where there were five instances coming off of death row because of hidden evidence. I don't understand that decision.

Stacey Abrams: Another dramatic injustice that you point out that has become so routine is police system. She is not a central character. She is important to Nora's story. Octavia. Can you talk about her story.

Emily Bazelon: Octavia, African-American woman in Tennessee. 91-year prison sentence. Received that sentence for home invasion that they did with is someone not quite her boyfriend. Time when she was 19. She was struggling with aftermath of a rape and abusive childhood. Boyfriend admitted that he planned the home invasion kind of persuaded her to come along. They did hurt the person who was in the house. They hit her with the telephone and -- yeah. There was some injury, not permanent injury to the victim. The male co-conspirator got a 25 year sentence. Octavia decided not to plead guilty. I only talked to her in prison. That's a limit setup. I talked to her a lot. She didn't believe it. Couldn't imagine that 25 years seemed like her whole life. How could things be worse. Things were much worse of her. If you make the prosecutors go to trial, everybody understands that they are going to make you pay the price for asking by steep sentence and judge will go along with it because everyone assumes that plea bargains that keep everything oiled. There is such high premium from the point of view of prosecutors and judges and often defense lawyers on plea bargaining that nobody seemed to have blinked an eye about her 91-year sentence. She has applied and run through all her appeals. Applied for clemency from Governor, nothing. She may be in prison for the rest of her life.

Stacey Abrams: For hitting someone with a phone.

Stacey Abrams: You referenced for how you talk to her. Part of what is interesting the story you tell is how rich with detail it is. Can you talk about the process of writing this book and talking to folks and trying to reach people who don't want to talk to you because they

are antagonists in the book who seem to be shying away from providing answers.

Emily Bazelon: Imagine that. You are a novelist when you are trying to tell a story, the richer the level of detail, the more you are creating a real picture of who someone is. Nonfiction journalists. We are not supposed to make anything up. Yes. I live in great fear of ever getting a fact wrong much less made up. I don't have it in me. What I try to do is ask people a million questions. Means that the main people I'm writing about have to be willing to talk to me a lot and hang out with me. Spend a lot of time. You don't say that you want to get married and spend years with this other person and ask them to let you into their life. That's what I need to do my work. When I'm writing about regular people about Nora and Kevin who are not talking to me in any professional capacity, I look at people who are good story tellers and want to tell their story. For Nora, I came around at right time. I had to write to her in prison. But then I think after we met, she felt like she was ready to try to trust journalists. She was burned in the past. It was hard. With Kevin, I was always on a tightrope. 20-year-old black kid from Brownsville Brooklyn. I'm a white middle aged mom. Unwillingness for me to come home with him. He's a really good describer of his world. Way in which some people shun journalists and I understand that. Some people find value in being able to tell their stories. I think the fact that I kept coming back was big for him. Yeah.

Stacey Abrams: One of the lines from the beginning when Kevin says, you need guns not because you want to use them but because you have to have them, how that intersects with your view on gun violence and whole not of conversation?

Emily Bazelon: Some ways, I think this is the aspect of book that is hardest for me to untangle. I never owned a gun or held a gun control in the form of gun permits and basic training makes total sense to me. I walked into this gun place that the mayor set up in an effort to prosecute the evildoers expecting to find an effort to address gun violence that seemed like a reasonable effort. When I started to talk to the defendants on the benches, I realized they were young men and almost all African-American. None of this in this gun court accused of using a gun or pointing it at someone. In New York, there is a menu of option -- menu of option for prosecutors if they catch someone with a gun. You could be in your house is three and a half year mandatory prison sentence. Distinct approach to dealing with guns.

I thought, this -- then I thought, well, if these are the evildoers, they must have long criminal records. I looked through 200 files to find this out. Three quarters of the people had not been charged with a prior gun offense. 70% of them had no felony conviction -- felony conviction. They were all young. Why young men in Brooklyn have guns I was trying to understand. Word that they almost universally gave me is protection.

What I learned from listening to them and trying to understand this, what do they mean by that? If someone threatens them, they cannot afford to be seen as prey. That's going to make their lives difficult. They have to seem like they could be a predator. They have a notion that they have a gun or access to a gun. Guns that don't belong to the same. If you needed one, maybe you get one. They have that idea that that means that in a moment where they are threatened, that gun will magically appear or maybe they are a person that has access to a gun and that will change their profile. Gun is never there in this magical moment. I talked to people who told me about getting shot while they had their gun. I both came to feel this, you know, sense that this was a defensive move for most of the people I was talking to. And also that it was supremely misguided, not making anyone safe. Donees are dangerous -- guns are dangerous. None of that convinced that mandatory prison sentence was right. Involved the health and the deep healthiness of the neighborhoods we were in. We were given this punitive response.

>> Let's --

Stacey Abrams: Let's talk about the antagonists in these stories or the foils for the characters. Prosecutor Wyrich who spoke to you once?

Emily Bazelon: Once. I tried.

Stacey Abrams: Is she a good person?

Emily Bazelon: Well, I mean, she thinks of herself as a good person. And she is coming from a world which she was awarded with being tough on crime. This is tough on me because I don't know her personally. I talked to people who know her. I think she can be kind to other people. Devoted mom on all accounts. She was willing to cross ethical lines as a prosecutor and as a child attorney before she become the elected DA in Memphis in a way that I have trouble squaring. This was true at Nora's child. There is a pattern of not disclosing evidence in her office. Striking thing about talking to her is how defensive she was in -- I mean, of course, I'm a journalist for The New York Times. I'm asking these questions that are not putting her in a good light. Never a moment where she says, we need to do things better. Every mistake in our office is human error. We have statistics how there are thousands of people that people didn't hide evidence. Right. You are not to have evidence not disclosed. That seemed to me like a punting that's not my notion of how an elected DA should answer those questions.

Stacey Abrams: Should DAs be elected?

Emily Bazelon: I would have answered no before I started working on this book. Four states in which they are not elected. Connecticut. New Jersey, New Jersey has interesting system for judges, prosecutors and defense lawyers. There are lots of enviable things about their system.

Stacey Abrams: Can you say that again?

Emily Bazelon: That's true. I feel like everyone's eyes roll. It's true having these centralized less political system that is

actually work together pretty well has helped New Jersey institute reform signed by Chris Christie. New Jersey is brought the pretrial, the number of people who are held pretrial down by nearly 40%. That's a big thing.

Stacey Abrams: Now are the DAs put into the pool?

Emily Bazelon: They get chosen by attorney general in New Jersey. To the extent nothing is ever a political. It's distanced. Connecticut is not enviable for our own messed up reasons. I think that here is about elected DAs, when you think about cities and suburbs, there is no reason why the city of Philadelphia would have a tough on crime hard charging prosecutor at a time where crime is dropping and two communities are having someone that wants to reduce mass incarceration. In some ways he's a miraculous person. That is not true for most of rural counties in America. The numbers are strange here. More than 2400 elected prosecutors in the country. If we think of many of them into progressive reduce incarceration folks, that seems tough. It would take only 125 new DAs to change criminal justice policy for half the population of United States. If they are in the big cities, they have a huge outside influence.

Because I have watched this movement to elect new DAs with center, seemed promising for civil rights group and black lives matter as something they deliver to communities. And DAs become a political force. They lobbied for tough sentencing law. What if we have a lobby of prosecutors that go is giving politicians state lawmakers core to roll back those policies. That's intriguing. What do you think?

Stacey Abrams: I share your skepticism of appointment because who is making the appointment and typically the more remote decision making, the more corrupt the outcome can become and particularly if you live in conservative state with city, like Georgia and Atlanta and Savannah, what I risk about is conservative person who is deciding the justice that could be allowed for a more liberal community. And so I really did want to understand -- I haven't done a lot of investigation of this whether there is a better system. Part of my concern and second part of my question is should we elect judges?

On one hand, it's more remote the appointment or more divisive the political structure of appointment, the greater tendency is not to reflect the needs of a community.

Emily Bazelon: Yes.

Stacey Abrams: Counterpoint though is that when you are elected, public pressure to respond to moment instead of real data and information is hard. People make -- dumb decisions because someone can see it. If you can point to 50 stories or 5,000 stories, one bad narrative can undermine someone. It's your job. If you can lose your job, people are going to try never to make any decision that could lead to that story.

Emily Bazelon: What you just raised, the bad headline has been most important influence in American criminal justice policy since

the late 1970s. It is toxic. As a member of the media, I have to say this is the media pushes this. All of those reasons, politics can be as you describe them. I would argue though that the District Attorney is more like the mayor than he or she is like a judge for this reason. Only one in the city. Which is different from whole slate of judges where when I have to used to vote for judges in past, I never knew who they were. Half the country doesn't know they elect District Attorney. You have five of them in New York City. Every bore Roe has in DA.

Stacey Abrams: Read about them first and then road.

Emily Bazelon: Stacey is right about that. I like the idea of prosecutors being actable to voters. Community that is care about criminal justice can have an he for mouse -- enormous impact. In the sense the jury is out. Do people like Kim Foxx and Santana -- there are a cast of them, can they get re-elected. We are seeing this with Kim Foxx. People are angry with her about the Jussie Smollett case. If that happens to re-elect here would be different about thinking about elections for me.

Stacey Abrams: You tell this lovely story about how it helped save a person's life. Can you talk a little bit about that story and what you think about the potential of restorative justice in our society.

Emily Bazelon: Story I tell in the book is from Florida, a republican conservative prosecutor as Melissa Nelson who came in as a reformer. She inherited this tricky death penalty case in which a young woman had been tragically murdered. Clear who the perpetrator was. Young man on drugs at the time and had a terribly abusive childhood. Victim's mother worked out own grief by investigating the background of her daughter's killer and decided that they opposed the death penalty. Deeply important to her that this man who had been raised in bad state homes is not be killed by the state.

When her daughter was murdered, the previous DA was involved in Trayvon Martin case. I'm going to pursue the death penalty. Melissa Nelson came into office and Darlene says I want you to accept a life sentence for James Rhodes the defendant instead of the death penalty. And Melissa Nelson willing to do that. What made it nervous, she wanted to meet James Rhodes and talk to him. Everyone was terrified about this encounter. What would it mean. He he's relatively low IQ. Was it fair for him to be in this meeting. No way that a journalist was going to come into this room. By all accounts, his lawyer and Darlene and her lawyer and the prosecutors, incredibly moving and meaningful encounter.

This is a distinct situation in which the mother of a victim thought hard about wanting this connection. Gives me hope for restorative processes. Because when you ask victims about their experience of criminal justice system, they are almost always tell you how betrayed they were by the experience. Confusing. Often not informed about the -- it's just really difficult. And I also wonder and this may be a little pi in the sky -- pie-in-the-sky for me. Is it

punishment that will make them feel whole. Or learn having a reckoning from the person that caused them harm would be much more.

In Brooklyn, you have common justice. Head of Danielle has a book out that I recommend. That program is trying to test this premise. This tends to happen around the edges of the system as opposed to being more organic part of it. I think there should be more energy around changing that.

>> Do we have justice system.

Emily Bazelon: It's very hard to justify how it works. That is not controversial and bipartisan. Your state of Georgia after many years of harsher and harsher sentencing laws started to roll back after priest -- previous Governor.

Stacey Abrams: He does not believe in criminal justice reform.

Emily Bazelon: Right. One other reasons why republican conservatives have agreed with criminal justice reform, we are spending so much money. If you think about it in this calculated returns on returns of investment, when you see the rates of people coming out of jail and going back in, even if we just are thinking about that and can community safety consequences, there is a term that has been running around criminal justice reform circles that I like. Idea that there is support for this that jail and criminal are carcinogenic. Jail and prison cause more jail and prison.

Stacey Abrams: These islands of mercy in the sea of cages. Do you foresee given what's happening, do you believe that there is actually a time where the landmasses will take over the sea and cages will sink? Terrible expansion of your analogy.

Emily Bazelon: That is the critical question. Starting to be District Attorneys who are talking this game. Talking about jail and prison as last resort. If they can succeed, they create models for others to follow. If you think of the system as a whole and misdemeanor of fences that cause all types of problems for people but mostly getting locked up. Then you can see a way forward. There is some already purchase for the idea that jail and prison is not always the answer. The problem, I think, is that while there is increasing consensus, we just saw Donald Trump sign a criminal justice reform -- Justin reform bill with fanfare. My folks in Texas with unpaid traffic tickets. The fare and subway jumping turnstile people. Majority of people in jail and prison right now have been convicted or pled guilty. I should say of violent offense. That does not mean that they are all murderers or rapists. Some of them like Kevin had a gun. In New York. Serious felony. They swiped someone's purse or iPhone. Robbery too. Breaking and entering into a dwelling and no one was home. Serious violent felony. Until we redefine violent crime, we are going to have the dynamic of many more cages. If we can look to see our way with reckoning.

Stacey Abrams: So you are in charge of the world or ta-da.

Emily Bazelon: Thank you.

Stacey Abrams: Give me five things you would do to create a justice system.

Emily Bazelon: We have to redefine how we think about public safety. We have been seeing law enforcement is the way we prevent and address crime. There is lots of research that most effective ways to prevent crime is making communities stronger. I like this example that comes from a sociologist. You have a have a can't lot and someone decides to turn into a playground. There are kids out there and grown ups out there and foot traffic and you have a neighborhood that is working better. You don't use the police to clean it up. You try to make things vibrant from within a community. And that -- those kinds of interventions, you can cause an effect with murder rate in a particular neighborhood or place. I want to -- for a minute set aside the courts and police in this conversation and think about the idea of turning safety into a value that we associate with the help of communities and also with trust in law enforcement. See, I brought them back -- a little too quickly. But there is a lot of evidence that when people see the law as legitimate and trust the system, they are more likely to abide by the law and value it and help police solve crimes. Nationally, we solve only 60% of murders in this country. Those are serious crimes that are causing this huge public safety threat. We created a system that people do not want to show up as corroborating witnesses because they have no faith that they will be treated well or that the system means well.

I think that is this huge shift not so much about don't prosecute. Not the don'ts but the dos.

Stacey Abrams: Should they close Rikers.

Emily Bazelon: Yes, they should. Rikers is most violent jail facilities in the country. Because it is so much associated with bad outcomes for people. And, you know, New York the Rikers population is coming down and criminal justice reform bill is going to bring it down further. Big next step that in order to close Rikers, some people are going to have to have lockup facilities in their backyards. That's ground that has not been broken on those facilities. That's going to be a big challenge. That's what close Rikers folks are concerned about. I'm in new haven, we have a jail and adult jail in new haven. It's on Waley Avenue. No big deal. People drive by every day. No jail in my backyard movement comes to your streets.

Stacey Abrams: Is it the elimination of Rikers as a symbol or that we should start downsizing our capacity to incarcerate.

Emily Bazelon: We should downsize. If we close facilities, we are changing the numbers game. This is wonky, I hope you will go with it. Local prosecutors their counties are build when -- billed when they send one to jail. Not true when sent to prison. The state gets that bill. That's a bad set of incentives. When you talk about funding for the prison industrial complex, you have to think about the

incentives there. If there are fewer prison beds, then there are fewer places to get this free lunch. This metaphor is failing. That is a way in which you can change the dynamic. There are huge forces on the other side of this because you have, you know, prison guard unions. You have whole towns in rural parts of the country in which prison or jail is major source of jobs and economic development and that is a terrible problem we have created. But the answer is not to keep them all open. It's to do something better.

Stacey Abrams: One of the other narratives that weaves through in particularly in Nora's story and you talk about it in with the plea deals. Notion that only way to save your life is to lie the lie about what the truth of the moment was but that it's the only way. Part of it plays out with Octavia. Nora is more acute example what this looks like. Can you talk about that?

Emily Bazelon: We know that 18% of exonerations are people that pled guilty. That's compounding fact. For a lot of us feels unimaginable. How could you ever admit to a crime if you didn't commit it. What happens is that people are facing these enormous sentences that this child penalty that makes rolling the dice like a pipe dream. For Nora in particular when Tennessee supreme court over turned her conviction. That was a spoiler. More to her story. She was still in jail and she had to decide whether to go and have another trial in front of a judge who made it very, very clear that he believed passionately that she was guilty. She was not even granted a bond hearing for -- I think, went on for nine or ten months after her conviction was overturned. People trade some measure of self-respect honestly for freedom. Hard for me to judge. I will tell you that Nora feels tremendous regret for number of reasons. Things didn't work out the way she wanted. People understand that this guilty plea is going to dog them. My answer is that limitless plea bargaining that we have where a prosecutor can threaten any sentence that supreme court made a big mistake when didn't set a constitutional limit on that threat.

>> We talked about what to do to reduce the harm on the incarceration side. What is the prescription for prosecution side? We are not going to eliminate elections. What are we going to do?

Emily Bazelon: I think we have to turn cities with new DAs and incredible energy for a form into models. One of most hopeful things are these organizations called court watch. Any of you guys heard of court watch in New York? All right. This is a model that I starting to spread where regular citizens are going to court and watching the proceedings. And if they see something they don't like or see someone with bail because they stole a bar of soap or going to jail or all kinds of conduct, once you show up, it's shocking. If you can understand what's going on. I have trouble. It's jargony and not really a public space. Those organizations have a lot of impact. District Attorneys in New York they see people pushing back. Creates a counterpressure against the narrative that you can get in trouble for

being unmerciful. More of a citizen action that I hope we see more of. That's one way of keeping prosecutors act accountable.

Stacey Abrams: Would you eliminate absolutely immunity.

Emily Bazelon: That's another clear wrong turn. That decision is called in blur. It's from the 1970s. Authors of that decision I think it's potter Stewart, I can't remember. I have a Powell that is interchangeable to me. It's bad. Sort of in the middlish. One of them wrote the opinion saying it was prosecutors didn't need to be sued because if they were corrupt or hid evidence, they would be prosecutors themselves or the bar, our profession or sort of for both of us are honorary profession that the bar would have their -- livelihood would be a threat. Neither of things have happened. There are two prosecutors who have gone to jail for a couple of days each like ever in the whole country for serious wrongful convictions. Bar disciplinary committees have really not wanted to play this role. New York has a new prosecutorial misconduct commission, in my view the state district attorney's association has sued to prevent from going into operation. It's an interesting idea to take this responsibility for policing prosecutorial misconduct away from the bar. My close-up view of this in Memphis is that when I was watching a trial, in front of bar grievance committee, all local lawyers, knew each other. Hard to sit and judge them someone who is effectively a colleague of yours.

Stacey Abrams: Was this Jones?

Emily Bazelon: Yes, exactly.

Stacey Abrams: Last question before I turn it over to audience questions. Thank you. I'm a daughter of -- my mom librarian and my parents were always social justice warriors. My youngest sister that went to Yale after me and around the same time as you came home and announced to she was going to be a prosecutor.

Emily Bazelon: I didn't know this story.

Stacey Abrams: You think that you were surprised. A younger brother that made us all program with criminal justice system from the inside. We couldn't understand. Leslie said, we need good prosecutors. That a black woman who understood the system because she had watched her brother. Helped her brother navigate it that you had to have people like that on the inside. Should there be better incentives to encourage more prosecutors -- not just the reformers but how should we think about the prosecutorial pipeline who comes into the system?

Emily Bazelon: That's a great question. Did your sister decide to be a prosecutor?

Stacey Abrams: Assistant District Attorney and now a judge. We are very afraid of her.

Emily Bazelon: It's crucial that people like your sister go into prosecutor's offices. This is controversial thing to say. Interesting law view article from a number of years ago, can you be a good prosecutor and a -- prosecutor and good person. The answer was no. I feel -- I mean, look, my sister Dana, I told you in Larry's office.

Having an experience perhaps like your sisters. Given how much power prosecutors have, seems like folly that we shouldn't -- who see the minister of justice part of the job as fundamental. It's like handing over the reigns of the system to people who do not have those values. For me. That seems like a clear answer. At the same time, I do not want my kids or siblings to work for every single prosecutor in this country. Individual discretion at the baby prosecutor or even more supervisory level goes so far. Depends on the office you are in.

Stacey Abrams: Leslie worked for Sally Yates. That's okay. Audience questions. Do you think the problems with prosecutorial overreach are in any way a consequence of poor ethics and education in American law schools.

Emily Bazelon: I think American law schools don't teach any of this. All the things that I knew what I was talking about hopefully, I didn't learn about any of those cases in law school. It's not that I didn't take criminal law. I did. I took criminal law and criminal procedure. I think law schools. They are trying to do so many things at once. You come out as a generalist not come out a better way. Less selected law schools do a better job of this because they train for government lawyers in general. There is a practical element to that education. As a rule, I do not think law schools are doing anything like what they should to be educating people on these issues.

Stacey Abrams: Can you talk about the impact of Trump Administration's judicial administrations on the appeals process. Take all the time you need.

Emily Bazelon: Things are going great in Washington if you've decided as Senator McConnell has that making sure you get all your judicial appointees through is main legacy that you want to leave the senate with. And that that is going to be this long-term way to entrench your party's power. This is absolutely -- McConnell made this move in blocking Garland's appointment that seemed like it was going to be toxic and had no bad consequences for him or his party whatsoever at polls. We are seeing conservatives for decades much more aware of the power of courts than Democrats. There is complacency on liberals. Because of this, some of Trump's appointees may be down for some of the same kinds of changes that we would see. Maybe that this issue is one that is able to move forward across the political spectrum. When you have a deeply conservative engine like the Federalist Society vetting judges you have a system that moves I'd logically to the right.

Stacey Abrams: I think you talked a bit -- about this. Can you discuss how immigration feeds incarceration?

Emily Bazelon: We had a system in this country where it's little nonspecific. Any kind of charge that is above a low level misdemeanor makes you much more eligible for detention and deportation. This was an approach that started under the Obama Administration. Idea really was to deport the criminals. Let's start with them. Sounds fine. Except when you realize that it's starting to filter out --

starting to catch lots of people who committed low level as well as medium level of fence -- offenses. Ebbled toward the Obama Administration. Trump has brought it back into bearing. This administration is looking for people to detain and deport for whom that is easier process. Courts made it easier to detain and deport people with any kind of criminal record. If you say you can deport, they become less sympathetic. There are individual DAs including Eric Gonzalez was the first person to do this that said they are going to look at charging in the way that can spare them from deportation. Prospectively something that DAs can have control over. Not so much.

>> (Indiscernible).

Emily Bazelon: I think it's one of the worst things that we're doing. We are working on a podcast. One of the stories in the podcast involves a young man who went to Rikers on a technical violation. I want to give too much away. Had a profound impact on him. 12 days away from finishing a five-year term of parole. He got in trouble for traveling out of state to attend a children's defense fund conference. Notion that person is threat to safety in any way seems so questionable. But I will confess, I knew nothing about how parole and probation work until this happened in the middle of my podcast reporting. I learned that in New York, there actually -- you can either violate someone -- that's what it's called and incarcerate them or do nothing. There is no middle ground. You all have a bill that is kind of percolating out there called less is more bill that would change that. I welcome people learning more about that bill.

Stacey Abrams: As we look for ways to level Seth, tell them your thoughts on federal sentencing guidelines?

Emily Bazelon: Federal sentencing guidelines come from the 1980s. In large part of Ted Kennedy's office. The idea is that criminal justice system too arbitrary. That we were punishing different people based on backgrounds. That there was racial disparity and the way to deal with this was to be scrutinizing sentencing. You had a grid. Someone have this offense, you plug them in the grid and give them a sentence. The guidelines ratcheted up the sentences. They had the effect of creating these much longer sentences. They were at a form of mandatory sentencing. A type of straight jacketing. Goal toward consistency is excellent goal. Problem is proportionality. This is happened in states too guidelines in the name of consistency, everybody goes up. If everyone goes up, you created a lot more prison.

Stacey Abrams: Because you are a reporter and a lawyer and a writer and a mother and awesome person, this question is for me and you will ask me.

Emily Bazelon: I'm so excited. Let's acknowledge for a moment, I want to use this an excuse for doing this event with me. Made me like, right?

[applause]

Pretty much my favorite thing so far about publishing my

book. Single event my two sons interested in attending. Be.

Stacey Abrams: Stand up.

Emily Bazelon: Don't tell me. Excited to ask this question. Question about leadership. I learned that you are a Star Trek TNG fan that Katherine is your favorite captain. Can you talk about the strengths and weaknesses of leadership styles and what you admire about them. I know you can do this.

Stacey Abrams: I was talking about a turtle yesterday. For those uninitiated to Star Trek, next generation and captain of enterprise is Picard. There you go. He is -- so you have original Star Trek, for new Star Trek, he's the quintessential captain. His leadership style is combination of Socratic method and modeling behavior. He confronts difficult situations but always with a clear eye to what justice should look like. And in leading his crew, he creates space for them to make mistakes. Holds them to high moral standard. Captain Jane is captain of Voyager who is thrown out of normative use of Star Trek. Doesn't have trappings of federation around her. She has to figure out how to get home and she has to Jerry rig stuff to get there. What is exciting about her leadership, it is easier to be a good person when surrounded by people who remind you to be good. Easier to hold yourself accountable to standards when standards are reinforced by standings. Isolated by all things trained to rely on and partner is someone to rebel. She makes grotesque mistakes at times. She confronts her weaknesses not by ignoring it and by talking about it and creating opportunities for those around her to be flawed. For me, she is my favorite captain because she is a bad ass woman. She meets the challenges head-on and does so by still holding to the truth of the code that she is sworn to uphold recognizing that she has to adapt to space that you are in. You don't have to lose yourself to be successful. That's my answer.

Emily Bazelon: Sounds like a good model.

Stacey Abrams: I really love Star Trek.

Emily Bazelon: That's awesome.

Stacey Abrams: What are results progressives should be targeting crime reduction, or more equitable applications of justice.

Emily Bazelon: Well, we have to start with equitable applications of justice. Let's go back to this principle of proportionality that has no purchase in constitutional law and fundamental to how we think about justice and goes back to so many themes we touched on. Whether poor people are punished from rich people, whether we think about people who swiped on iPhone on the street is same as murderers. All these questions come up in this way. And when you think of the system as having proportionality as goal, I think a lot of other things kind of come with that, that would allow the -- allow you to have the yardstick where you can judge the prosecutor or judge the system. Problem with looking at reducing crime you can have less incarceration as long as crime continues to fall. We are so far --

one way to think about this, in New York City, you have crime levels that are 1955. You have incarceration levels that are stuck in the late 1980s. When you think of how much farther we have to go, I find it worrisome that fallen crime is going to be the only thing that allows this to continue. Here is another daunting fact. According to sentencing project. America has started little bit to shrink the system. If we continue, it will take 75 years to cut the numbers in half. That is longer than my life. I hope not yours.

Stacey Abrams: We are the same age.

Emily Bazelon: I like the idea of you floating around there for a long time. In any case, I think that's the problem with seeing reducing crime is only goal. I would like to see communities hold their prosecutors accountable to reducing incarceration to other measures of community well being. How people feel about living in their communities, et cetera.

Stacey Abrams: On behalf of this audience, I have one last question for you. Would you consent to becoming our justice.

Emily Bazelon: Only if you get to appoint me.

Stacey Abrams: Help me think author and extraordinary woman.

Emily Bazelon:

Emily Bazelon: Thank you.

[applause]

\* \* \* \* \*

This is being provided in a rough-draft format. Remote Communication Access Realtime Translation (CART) is provided in order to facilitate communication accessibility and may not be a totally verbatim record of the proceedings.

\* \* \* \* \*