CHANGING THE WAY WE SEE MODERN POLICING: ABOLITION OR REFORM

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Moderator: Kathryn Miller

Keynote Speaker: Marbre Stahly-Butts

Panelists: Mecole Jordan-McBride, Kate Levine, Benjamin Tucker, Kumar Rao

MS. TZIONA BREITBART: Good evening, everyone. I am Tziona Breitbart, the Symposium Editor for the Cardozo Journal of Equal Rights and Social Justice. On behalf of the journal staff, I would like to thank you all for joining us tonight for our annual symposium, Changing the Way We See Modern Policing: Reform or Abolition. I would especially like to thank our keynote speaker, panelists, and our moderator for participating in tonight's event and being part of this important conversation.

For those attorneys attending today who wish to receive New York State CLE credit for our program, please record the attendance verification code that will be announced later during the program. In order to receive your CLE credits, you must report the code on our online affirmation form that was distributed to you via email yesterday evening and will be sent again today through the Zoom chat.

Tonight's event will run for approximately two hours. First, we will hear from Marbre Stahly-Butts, who will deliver the keynote speech. As Executive Director of Law for Black Lives, she works closely with organizers, lawyers, and legal advocates to build a responsive legal infrastructure for movement organizations, and to advance and actualize radical policy. She is a founding member of the National Bailout Collective, the organization behind the Free Black Mamas movement, a

founding member of the movement for Black Lives Policy Table, and has helped develop the vision for Black Lives Policy Platform. Since graduating from Yale Law School, Marbre has supported local and national organizations from across the country in their policy development advocacy efforts. She previously worked as the center for popular democracy as a Soros Justice Fellow in Fall 2013, where she focused on organizing and working with families affected by aggressive policing and criminal justice policies in New York City. While in law school, she focused on the intersection of criminal justice and civil rights, and gained legal experience with the Bronx defenders, the Equal Justice Initiative, and the Prison Policy Initiative. Prior to earning her JD, Marbre received her master's in African Studies from Oxford University and worked in Zimbabwe organizing communities impacted by violence, and in South Africa teaching at Nelson Mandala's alma mater. Marbre has a BA in African American history and human rights from Columbia University.

After the keynote speech, Professor Kathryn Miller will moderate our panel discussion. Professor Miller is a clinical assistant professor of law of Cardozo's Criminal Defense Clinic. She comes to Cardozo from a clinical fellowship at UC Berkeley School of Law, where she taught in the Death Penalty Clinic. Prior to her fellowship at Berkeley, she represented individuals convicted of capital crimes at the Equal Justice Initiative and served as a supervising attorney at the Bronx Defenders. She has a BA summa cum laude from the College of William and Mary, and a JD from UC Berkeley School of Law, where she participated in the Death Penalty Clinic as a student and was elected to the Order of the Coif. Professor Miller's scholarship focused on how criminal investigation, criminal adjudication, and post-conviction law implicate the constitutional rights of criminal defendants and how procedural rules designed to further the interests of criminal defendants often disadvantage them and undermine fairness in the system as a whole.

Our panel discussion will be followed by a question and answer session. You can submit your questions throughout the panel using the Q&A function, which will be monitored by the Journal staff. We ask that you please be respectful of all our panelists' views. Thank you for all supporting the Cardozo Journal of Equal Rights and Social Justice, and without further ado, Marbre Stahly-Butts.

MS. MARBRE STAHLY-BUTTS: Thank you so much and thank you for all the work and the labor and the love that has gone into bringing us here. I'm super excited both to speak to you all a bit about abolition, but also to hear this incredible panel. So, thank you, first of all, greetings. I hope everyone's doing well. I feel like it is an incredibly high stress

moment in time, so just sending everybody a lot of peace. I think we have a lot of pro-democracy fights on the horizon, and so I hope folks are resting up for those.

I'm going to share my screen and hope that works, so one second. And, so I was introduced beautifully, so my name is Marbre. I work with Law for Black Lives, and I am here to talk about abolition, and I'm super excited to do that in part because, when I was in law school, these kind of conversations just weren't happening, and so every time I'm asked to speak about or reflect on abolition in a law school setting, I get incredibly excited because I just think it's so incredibly essential that we have these conversations, so really, really grateful for the students who are really paving the way to make sure that abolition is part of our kind of indoctrination to criminal legal reform, and so I want to thank all of you for that.

I also am really grateful because I think these conversations are happening because really, the ceaseless and constant work of organizers and advocates, of folks who are on the ground, who are protesting and who are refusing to maintain the status quo, and I think that is mostly young people, brown and black people, queer people, poor people, folks who often don't make it inside of our classrooms, but really are the reason why we're having these conversations. It's because of their work, and so I want to begin by honoring the work of activism and the work of organizing that has brought abolition into these kinds of spaces, because I think it's really important that we kind of locate the power where the power is.

So, I'm going to, in the next 25 minutes, try and do four things. One is to introduce all of you to Law for Black Lives, because that's how I roll. This is my baby, really proud of our organization and the work that we do. Talk a little bit about the history of policing and prisons, and this is probably stuff that all of you already know, that prisons and policing are both, kind of have their roots inside of slavery. They're anti-black, they're capitalist, all of those things. I want to talk more about it because I think it's really important that we ground our conversations in the roots of these systems, so we can better understand the implications and the imperatives of abolition, and we have to begin by the history and understand how they created these systems. I'm going to start with that.

And then talk to you a bit about what police and prison abolition even means. What is that, what is the what? So I'll spend some time on that, and then I'll end with this kind of transformative reform conversation of what would it take to actually remake this system in a way that honors the life and dignity of people who have to be inside of it. So, that's the plan. I have a timer set because I come from a long history of teachers and

preachers and tend to run over, so when you hear the beeping, that means I have five minutes left, and I'm going to hustle like that.

So, Law for Black Lives. Law for Black Lives was founded in the afterlife of the killing of Michael Brown in 2014, and Eric Garner here in New York City. We have three kind of major bodies of work. One is to transform the law, we see whether it's the current legal system, whether it's our daily economies, we see these systems as deeply, deeply rotten and anti-black, and so we work to change in the ways we can to reform the law, especially around invest, divest, around bail reform and around - - daily economies.

We also work to transform the legal field. We think that for a long time, lawyers have been gate keepers as opposed to power builders, and so we seek to really build with lawyers and legal workers in ways that actually allows us to be part of a movement that builds the power of the people, which is how we think change can happen. We also support base building groups with research, trainings, all that jazz. We think that power, that change happens through organizing, and so we make it our business to be in those trenches and to use whatever skills we might have to support their work, both offensive work and defensive work.

We adopt a movement lawyering approach, which means that we believe lawyers should be giving their skills to movements and building the power of movements, and we are explicitly, unapologetically political. We are abolitionists. We are black. We are feminists. We are anti-capitalist. We think that you should not practice in a way that's devoid of politics, that if you do that, you are simply upholding the status quo politics, and so be aware of political orientations you have, and carry them proudly.

And lastly, we fight for abolition in the prison industrial complex, which I'll talk more about, and reparations, which I won't talk about, but you all should Google and think about, because I think for us, any long-term change has to involve reparations, ultimately for people the system has harmed.

Some characteristics of movement lawyering is that we are grounded in a place of humanity. We think the law is one of many tools, and not the only tool, but an important tool. We are grounded in a place of love. We think it takes an intersectional approach and values and relationships to build movements together, and so we really move through our work with love, and we are grounded in courage and boldness. We think we have to be willing to relinquish our own privilege and stand up for justice, and so that is the work that we really commit ourselves too. We have a lot more on movement lawyering, but I like to mention it because I think that for law students and for lawyers and legal workers, grounding ourselves in the

politics of how we lawyer is really important, and so I wanted to start with that, but if you want to know more about movement lawyering, please check our website.

And I'm going to get into the history of policing and prisons. So, I was saying, the point of this section is to make one key point, which is policing and prisons are not natural, and I say that because so much, I think, of the conversation of policing and prisons assumes their existence. We assume that they are necessary. We assume that they are natural, but the reality is, that policing and prisons come from a very specific historical context, and they apply to a specific group of people, and so as we begin to think about what is best for our society, for our communities, I think it's important that we denaturalize some of, these mechanisms of punishment that have become so, so normalized in U.S. culture that we assume their necessity.

So, policing specifically has its origins in the United States in kind of two different political and historical moments. The beginning of kind of the modern-day police force, we can actually see in slave patrols, and so this is a picture, a really bad quality picture, as it turns out, but this is a picture of a slave patrol in the 1840s. And slave patrols were created to go and retrieve runaway slaves. They were about the maintenance of control of black bodies and black labor. They were volunteer forces formed out of folks in mostly the South, who would find runaways, who would patrol the streets for runaways, who would limit black, kind of, bodily autonomy in a lot of different ways. And so literally, as the Civil War approaches, we see private slave patrols becoming the police force of the South of many ways. We also see the beginnings, the archetypes, the prototypes of policing inside of the kind of colonial origins of suppressing indigenous freedom movements and defense of their land. And so we see folks going out in kind of groups with guns who have been deputized to do that before kind of the colonies are fully developed to actually suppress indigenous people and to kill them. And then we see kind of the modern police forces coming about in the East around organized labor, actually, and so in the attempts to suppress strikes in the East and also the South, we see the formations of police forces throughout the country.

And so I think this is really important to name, that modern day policing has its roots literally in the suppression of labor and labor organizing, and so to maintain capitalism, and also in the control of black bodies during slavery. This is literally the roots from which policing grows in this country, almost exclusively. Policing was meant to police poor people, brown people, and black people, and that remains true about who policing continues to police in this country.

The history of mass incarceration, which we'll address kind of briefly, has its origins in the 13th Amendment, which we know is a loophole to slavery, and names incarceration as that loophole, as well as in Black Codes, convict leaving and the war on drugs. These are kind of the four, the four things that have led to modern day mass incarceration.

So, 13th Amendment, and you all know this, says that neither slavery nor involuntary servitude, except as a punishment for crime, shall be allowed, and so literally, the 13th Amendment creates a loophole that has been exploited massively, that allows for the continuation of servitude and of slavery under the guise of criminal convictions, right? So that's kind of the first major loophole that allows for it and creates mass incarceration. We see all the - - being taken advantage of through the Black Codes, which are laws passed throughout the South that limited the freedom of black people and forced them into oppressive labor relationships, often with their former slave owners, so we see laws across the South that say, black folks must have signed labor contracts by December for the following year, or they are subject to arrest, and so literally, laws that were meant to control, not just the social behavior of black folks, although they did that, as well, so no drinking for black folks across the South, no gathering in groups larger than five, but also ultimately were meant to create labor relationships that were oppressive for black folks, so forcing black folks into oppressive labor relationship was one of the key kind of pieces of the Black Codes. And the Black Codes would push black folks into jail and into prisons, rather, where they would be forced to continue to work often for the same masters they had been released from, and so convict leasing becomes a mechanism to continue oppressive capitalistic state under the post-slavery landscape. And so, it's through the Black Codes, paired with convict leasing, that we continue labor relationships, and we grow the police state and the prison industrial complex.

The next major increase in incarceration rates in the United States comes around the war on drugs, which we see as kind of a backlash to the Civil Rights Movement, and this is a time when Nixon is the beginning of this, then Reagan, criminalize and fund, in huge, huge, huge rates, the enforcement of drug laws specifically targeted mostly at black and brown folks across the country. And there's a long history of drug laws since kind of the marijuana eras and the targeting of Latinas, as well as the targeting of Chinese folks for opioids. We see a long history of the racialization of drugs.

But the war on drugs is really about suppressing the political enemies of Nixon in the 1970s, both the kind of pro-war folks with marijuana and black folks through the prohibition of heroin. And so we see mass

incarceration comes about as part of a political strategy to really ignite a silent majority and Reagan and Nixon's strategies of politics.

So, as a result, we now have over 2.3 million people who are locked up in jails and prisons, and so this is a breakdown from Prison Policy Initiative of the folks who are in local jails, federal jails and state prisons, but it is overwhelming, and no coincidence because of this history. Because of these origins, that incarceration in the U.S. is deeply, deeply racialized, and so you'll see that while white people make up 64 percent of the population, they're about 30 percent of people who are incarcerated, while black folks, who are about 13 percent of the population, make up 40 percent of folks who are incarcerated, so these systems are deeply racialized, and they're massive.

So, today, we lock up more people than any other nation. We represent four percent of the world's population, but house 22 percent of its prisoners, and we spend about $80 billion a year to fund this system of criminalization that's rooted in enslavement, colonialization, anti-blackness, capitalism and hetero-patriarchy, and so these, this is kind of where we are because of the roots of this system.

We also know that, because of these 2.3 million people who are currently inside cages, almost all of them started that journey into incarceration with an interaction with a police officer in this country, and we know that in part because the majority of what police do in this country, over 90 percent, according to some studies, is to harass, stop, frisk, and arrest people for low level offenses in this country. We know, for instance, that more than 60 percent of all homicides go unsolved, more than 70 percent of all rapes go unsolved. The clearance rate of serious crimes in this country is very, very low because mostly the police forces in this country are dedicated to low quality of life offenses, and so we know that is how much people get inside of cages and jails because the police officer fines them, stops them, harasses them, and arrests them.

In that system of hunting folks out to put them in cages, $115 billion is spent every single year. And of course, like mass incarceration, because this is the feeder of mass incarceration, policing is deeply, deeply entrenched with racism in this country, and so we see here about 60 percent, of 18 percent of people who are stopped by police on the street are black folks, this is despite only being 12 percent of the population. We can see kind of the same in the, the same inequities that are in our prison system are also affected in the stop and frisk and other systems that lead to policing of black communities. I think this is a really powerful quote by Ruth Wilson Gilmore that reminds us that, "Prison and police are partial geographical solutions to political and economic crises and problems." We say this to say

that there is a whole array, from poverty to homelessness, that the issues that policing and incarceration have been positioned to be the answer to, although they are not the answer to, and so every single social and economic issue that black and white communities face have been met with policing and incarceration as the answer, despite that not being either a humanistic answer or an effective one, as it turns out.

We also know that because we spend so much money on policing, because we address every single issue facing black communities by policing those communities, that we spend a disproportionate amount of money on policing, as opposed to other things, and this is that geo-report done, and shout out to Kumar, who is on this call, by CPD, BOP 100 and Law for Black Lives that looked at city budgets in 12 cities across the country and found that some cities, like Oakland, spend as much as 40 percent of their general funds on policing, and that means that things like education, housing, child care, things that should be part of the general funding priorities fall by the wayside because instead people are spending literally billions of dollars, in some places, like New York City, to police these neighborhoods, as opposed to support them in ways where they can thrive.

So what is abolition of the prison industrial complex? So this is kind of the backdrop, this is the reality of policing and incarceration in this country. Now we're going to ask ourselves what does abolition look like. So, I want to be specific. When we say abolition, at least for Law for Black Lives, we're talking about the abolition of the prison industrial complex, and this we define, thanks to Critical Resistance, as the interdependent relationship between private and public interests using imprisonment, policing, surveillance, the courts, and the cultural tools associated with them to build and maintain social control and difference. There are a few pieces of this definition I just want to emphasize for us. The first one is understanding that there's an inherent relationship between private and public, that abolition does not just target private prisons, and it's about the ways in which these systems work together to create a web of different mechanisms that entrap people, and that the PIC is not just about prisons. It's about all of the different and attendant, whether it's policing, whether it's courts, whether it's judges, and all the industries that feed into prisons, the telephone industry, it's about all of those different industries and the inter-related industries that really make up the entire picture of the prison industrial complex.

I also want to emphasize that when we talk about abolition, we're not just talking about ending or abolishing jails or prisons or police, also abolishing a culture of punishment that believes the only way to solve

social ills, to solve humanitarian crises is through policing and prisons and punishment and violence, and so it is not just a battle for institutions and for funding, it is really a battle for hearts and minds, as well.

So then abolition of the prison industrial complex, and again, shout out to Critical Resistance, which has been doing this work for decades now, is defined as a political vision with the goal of eliminating imprisonment, policing, surveillance, punitive sentencing, and creating lasting alternative to punishment and imprisonment, and so abolition refers not just to the police, not just to cages, but to surveillance, to the systems that feed into and create this. I think this is super, super important, abolition is not just about what we dismantle, it is as much about what it is that we are building, and so this is a quote by Rachel Herzing, who is one of the founders of Critical Resistance and an amazing thinker and organizer, who says, "Abolition is as much about what you dismantle as what you create." And so we are not suggesting that we leave a void with the abolishment of police and prisons, but rather that part of the work of abolition is to address harm, in recognition of the systems that we have now. These current systems do not address harm, and there's a beautiful study done out of California that surveys survivors, so survivors of rape and other violent crime who overwhelmingly reject the legitimacy of the system because they said their experience - - legal did not provide them any type of support or solace, and so just putting someone in jail in a cage did not help them recover. It didn't help them heal. It didn't repair the harm that was caused, and so these systems are not just failing black and brown communities who are being locked up in alarming numbers, they're also failing survivors who often come from those communities.

This is Beyonce, so shout out to Beyonce in this visual, but really, abolition is fighting not just for a world without prisons and police, but it's fighting for a world that does not need prisons and police, and this is important because I think very often abolitionists and de-funders are kind of characterized as just wanting to destroy what is, but really, it's about how do we create a world that is more just, that addresses harm more holistically. It doesn't require violence to deal with violence, right?

The question I think that abolitionists really are trying to hold and struggle with is this question of what is it that keeps us safe? And so I think it feels important to name that the answer to this question really does vary based on who you ask and for whom, and I often say this, and I think it's not the most nuanced statement, but it's mostly true, which is that this country already has abolitionist zones. If you go to the Hamptons or the Upper East Side, places where there are lots of rich, white people, you often find very few police and lots of resources to deal with issues, whether it's

drug abuse or other issues, right, or domestic violence, whatever the case may be, other support systems, and so the reality is, that nobody wants their child, their loved ones to be in a cage because they've made a mistake. That is always reserved for the other, and in this society, because of our history, because of the slave roots of this systems, the folks who get to decide who the other is often otherize black people, brown people, and poor people. And so the reality is, if you ask anyone what keeps them safe, almost nobody says cages. Almost nobody says police. People say things like home, family, support, right? And so I think at the heart of this journey of abolition is thinking about how do we create social structures that keeps us and that is not police. It's not cages. It's not jails. And shout-out to this artwork, which comes from a piece that was commissioned around the Breathe Act, which is an incredible abolitionist piece of legislation that N4BL created this summer in response to the mass uprisings.

Abolition includes not just a theory, but also historical analysis that is deeply, deeply rooted in an understanding that all of these systems, that specifically the criminal legal system and the policing system that come out of slavery. There's no denying that, and that it's not just that they are broken. They are literally rotten systems that have to be uprooted from their roots.

It also includes a political vision that is about what we invest in to keep us safe, and so it's not ignoring that harm happens. It's saying the systems we have now fail to keep us safe. How can we imagine and create systems that do keep us safe. There are also ideologies, and there's some red lines about how we actually move forward. For instance, that hold that nobody is disposable, that nobody is irredeemable, that nobody deserves to be treated inhumanely, and so there are basic kind of principals and tenants about all of humanity being treated in a way that respects the humanity, that becomes the red lines of reforms. Abolition is also organizing strategy, and I'll talk a bit more about this, but it's organizing in ways that seeks to de-legitimize and to chip funding and power from these systems that harm communities, and so it's about what kinds of campaigns move us towards that. It's a strategy.

It's also campaigns, and so the no new jails campaign, for instance, the defund campaigns popping up in Minneapolis and California across the country are part of an abolitionist vision, but it's the hard work of actually creating campaigns, and lastly, abolition is community based projects, the mutual aid projects, the board experiences that there are different ways to deal with harm, and so I think often about the Cahoots Program out of Oregon, where folks who are in the middle of mental health breakdowns can call - - besides police because we know the number one killer of folks

in mental health crises are the police in this country, and so think about ways, how do we create different systems that are super localized, small in scale that ewe can then scale up. But abolition is, again, all of these things that are kind of operating on different planes.

But abolition is also a continuation of the work of our ancestors to abolish slavery. It's really clear to us that the work of ending slavery was never complete. The abandonment of reconstruction in 1876 really allowed for systems that continued unequal treatment of black people in this country, that continued the economics of slavery in different names, and so the full project of abolition was never done, and so we understand this fight of taking up the mantle of our ancestors, black and white, who fought tirelessly to end slavery. I'll also say, and this is something that Dayica Purnell [phonetic], who's another incredible abolitionist, often says, that when folks say we should abolish slavery, most people said that's outrageous. There was a real sentiment in the 1840s, 50s, and 60s that the end of slavery as a sudden act was too drastic, too radical and it was too much, and so I would just say to you all and to folks who say this is too radical, that many abolitionists in the 1840s and 50s were met with the same response, and they pushed to say that in fact it's not too radical, that we have to redo these systems if we are to see the full humanity of all people respected.

So, the Defund Movement, which I think is the most recent iteration of abolition is really a continuation of this long history of the work of Angela Davis in Critical Resistance, and it's also the result of literally now, at least the last five years, but even before that, of the Invest/Divest Movement, which is about how do we invest in things like healthcare, transportation, jobs, childcare, things that make us safer and stronger, and how do we divest from these cost-full systems that weaken us and that cause violence and harm. I think when we understand this most active, amazing defund movement as continuing the organizing that's been really, really active and strong the last five or six years in the invest/divest spectrums.

We also understand the defund movement as focused on defunding the police and funding things that keep us safe, and so again, it is both the defunding, the dismantling, and the creation of new things. It's transformative in that it goes beyond surface level reforms. For so long, we've seen the response to literally daily killings of black people as, 'oh, let's get a body cam' and 'oh, let's punish that one officer', as if it's not a systemic issue that must be addressed, and so defund addresses the whole system-wide crisis that these killings really are symptomatic of.

I want to talk really briefly about, like two minutes kind of briefly, because that's when we're up, about transformative versus reformative reforms, because I think one thing that's important about the defund movement and about abolition is it is seeking transformative reforms. I love this quote, which is, business as usual kills black Americans, and so it's really disrupting the status quo.

And this need for radical reform is drawn from both our elders and our ancestors that we have to actually not just tweak these systems or kind of make small changes, but radically change how they operate and their goals and aims, so we take the word radical from Ella Baker, who is an incredible organizer. If you don't know, please Google her. She is incredible, and she said, "In order for us as poor and oppressed people to become part of a society that is meaningful, the system under which we now exist has to be radically changed. This means that we are going to have to learn to think in radical teams. I use the term radical in its original meaning, getting down to and understanding the root cause. It means facing a system that does not lend itself to your needs and devising means by which you can change that system." And so when we say radical, we mean the roots, which is why understanding the history of these systems becomes so important.

And it wasn't just Ella. MLK also understood how important a radical approach to change was in light of changing times, and so he says, "In these trying circumstances, the black revolution is much more than a struggle for the rights of Negroes. It is forcing America to face all its interrelated flaws - racism, poverty, militarism, and materialism. It is exposing the evils that are rooted deeply in the whole structure of our society. It reveals systems rather than superficial flaws and suggests that a radical reconstruction of society itself is what must be faced." And so these are not new problems, and it is in part because our radical approach that we keep on seeing the same things happen. We keep seeing the same black faces that are on TV that are being killed by the same police, we have failed thus far to really take an approach that gets to the root causes.

And so most of the approaches that we have taken historically have been reformist reforms, and these are reforms that legitimize the status quo, that say, oh, policing is a good institution. It's just that one bad police officer. It's just that one bad department, and so these are reforms that take really piecemeal approach that legitimize the status quo and that fail to address the system flaws or root causes. And we use the term reformist reforms, which was actually coined by a philosopher, French philosopher Goetz [phonetic], a French Australian philosopher in regards to capitalism. He said there are reforms that actually strengthen capitalism, that you see a problem, like wage labor, and reforms that actually go and attempt to

legitimize capitalism via small changes, but if we want to see a Marxist revolution or a revolution of any kind, we have to actually have transformative or radical reforms, instead of reformist ones.

Transformative or abolitionist reforms are different in a few ways. One, they improve material conditions of people, but they also shrink the system. They de-legitimize the logic of the system. They say police are not relevant. They're not successful. They're not efficient. They're not effective. They also often see to repair the harm that's been done and to expose it, and they shift power relationships, ultimately. They make future reforms easier. They create more space for organizers and advocates to create future reforms that actually pave the way towards shrinking these systems and actually addressing harm in ways that honors the humanity of our people, and these often happen through collaborative processes and democratic and relational ways, and the leadership of directly impacted people, not of folks at the top who are kind of making decisions then kind of trickle down. These actually happen from the ground and move up in the other direction.

And the reason why it's so important that we invest in radical reforms or transformational reforms is because without a long-term vision for change, today's reforms become tomorrow's oppression. An example of that, I think, is body cameras, where there are many. Kimberly Crenshaw writes about a kind of reform and retrenchment, the ways in which this system tends to reform itself in ways that legitimizes the status quo, and so the, the indictment of abolitionist, the status quo itself is deeply violent, that it's rooted in anti-black and anti-woman and a pro-capitalist past that continues to harm and kill people every single day, and that we have to actually address those root causes and get to them if we want to see an improvement in the conditions of our people. And so I will stop there, I think only two minutes over, I hope, but join us at Law for Black Lives, if you want to talk more about this or hear more about this, and I'm really excited for this panel to also dig in, and I hope that was a helpful primer on abolition. And thank all of you again.

PROFESSOR MILLER: Thank you, Marbre, that was incredible. Thank you for providing us with that much needed historical context, and for your perspective, which is a great way to kick off our panel on the question of Modern Policing: Reform or Abolition? And so we have four different panelists with four very different perspectives. For many of us, we became introduced to the concept of abolition and defunding through the death of George Floyd over the summer and the conversation that grew as a result of his death, but for these four panelists, they've been working on abolition and reform for decades in their respective fields, so it's my

pleasure to get to introduce all of them. I've told them that they all have very lengthy and impressive bios, and I'm just going to sort of hit some of the high points.

So, I will start with Mecole Jordan-McBride, who is currently the advocacy director for the Policing Project at NYU School of Law. Mecole has a long history as a community organizer in the Chicago area. She's currently working on the implementation of the neighborhood policing initiative for The Policing Project at NYU School of Law, but she previously has been the executive director of non-profit organizations, she's led the grassroots Alliance for Police Accountability, which was a coalition of community based organizations in Chicago, which organized to develop a community oversight board for the Chicago Police Department.

Then we also have Professor Kate Levine, who is an associate professor here at Cardozo Law School. Kate Levine teaches criminal procedure, criminal law, and special topics in criminal law, including a mass incarceration seminar. She also writes about policing and prosecuting police officers.

We have Kumar Rao, who is currently the senior director of strategy and policy with the New York Working Families Party. Very recently, Kumar has come to this position. Previously, as Marbre referenced, he was the director of justice transformation at the Center for Popular Democracy, where he supported grassroots organizations and elected officials in the fight for racial equity, and criminal legal system transformation.

And then we also have the first deputy commissioner of the New York City Police Department Benjamin Tucker, who started off in 1969 when he joined the NYPD and worked for 22 years as a police officer, rising to the rank of sergeant and worked in several mayoral administrations. He also worked in the Justice Department in President Clinton's administration and for the Obama White House. He returned to the NYPD in 2014 under William J. Bratton as part of an effort to reorganize the police department, and he became the first deputy commissioner, which is the second highest ranking officer in the department.

All of these panelists have graciously allowed me to call them by their first names, and so the way this panel will work is that I'll ask them a question and I'll address them individually. So, let's start with Kate Levine. I'd like to pick up, sorry, Kate, I'd like to pick up where Marbre left off which is this conversation which is sort of directly responsive to our panel title, where our panel title is abolition or reform, and I'm wondering point of view of academic scholarship, is it an either or question, or are there different types of reforms that maybe could serve as a bridge to abolition? What are your thoughts?

PROFESSOR LEVINE: Okay. So, well, the first thing I'll say is that while, as Marbre pointed out this is absolutely not a new discussion or debate among activists, and really not among a lot of scholars, I think a lot of sort of new legal scholars are grappling with the idea of sort of reformist reforms or transformative reforms, you know, for the first time in their lives and careers, so I don't think it's something that's been settled yet among, certainly current criminal legal scholars.

I think it's very important to be aware, and I think body cameras is a great example, but you know, you can think of tons of examples, all sorts of prison reforms, like getting tampons to women in prison, family communication. On the one hand, these things seem so obvious and so important to do and so immediate, and it sort of makes a lot of sense that people want to respond immediately to them, and then on the other hand, there's this, first of all, I think there's two problems.

One, all the talented people end up working on these reforms instead of on sort of massive change, and then the other is what Marbre said, which is that, if we make prisons pretty enough, people may believe that they're something other than cages, and I share her belief that they aren't. So, I'm not sure, you know, certain things I would say, and some folks might disagree with me, but movements for instance to re-enfranchise folks who've been incarcerated or convicted of a felony, that kind of reform doesn't strike me as a reformist reform in the sense that it sort of pretties up the system.

So, I guess what I'll say is there are some reforms that probably are transformative and some that aren't. What's most important to me is that we think about and recognize that distinction.

PROFESSOR MILLER: Kumar, what do you have to say about that? Are there reforms that could be a bridge to abolition that you would support, or are reforms missing the point?

MR. KUMAR RAO: Yeah, I mean, I would agree with what Kate said, which is that it depends, right? There's a range of different types of policies, initiatives, reforms that I think come down to whether they either re-entrench the existing system or being to chip away, right? And so when people talk about abolition, talk about transformation, there's an embedded acknowledgement that we're not going to, overnight, completely disappear these harmful, punitive, entrenched systems that have been part of our country, as Marbre laid out for, really since its inception. There are, however, lots of things that we can, should be doing, that we are doing in some cities that I think get us to a place where we want to be, whether we call that abolition or transformation.

I think a really important and good example of that are all of these budget fights, which I know is kind of on everyone's mind, I'm sure we'll talk more about it, but the whole idea of defunding and defund police, You know, abolition, in some ways, I think sees a kind of 100 percent defunding, right? A complete shift of all the resources that are currently going into systems of incarceration, criminalization, surveillance in the form of policing, jails, and move those to the types of alternative programs and deep structural investments that our country needs and our communities need. But there are obviously interventions that we need to do and can do along the way, which are cuts to police budgets, for example. And you're seeing that now across the country. In some cities, there is obviously a lot of attempts to do that. We had that attempt this summer in New York that was not successful. But, in other cities, Austin comes to mind, which actually passed a policy package and a budget package which actually begins to shrink the police department budget in half. Now, that is clearly, you know, a reform. It is clearly a major intervention even if. It is not, it's not going to abolish the police, right? Next year or years from now, but it is a step, in some ways, towards the type of transformation and frame that Marbre laid out.

So, I think the budget is probably the most compelling in my mind, in terms of a reform that gets us to transformation and abolition.

PROFESSOR MILLER: Ben, when you hear calls to defund police or shrink the budget of police, first question is, do you at all agree with the idea that we rely on police to do too many different things in this country? And then secondly, is there any space to see agreement with the idea of shrinking the police budget, or do you think that, that's misguided? I'm sorry, you're muted.

MR. BEN TUCKER: The notion of defunding, which is a phrase that is quite new, and I'm not sure if people even understand what it means. At least for some folks, I think it means take dollars away from policing and move those dollars to some other purpose, whatever that purpose may be.

When I think about policing, and I've been doing this for five decades, so the notion that we can defund police or take funds away from policing and have police step away from certain activities that we are currently engaged in, such as dealing with homeless or responding to calls for service to deal with or help emotionally disturbed individuals, are not practical. I mean, I think if you ask any police agency around the country whether they would prefer not to have to respond to those calls, even when many of them have training to deal with emotionally disturbed people, as we do in the NYPD, they would probably say yes.

But I think that calls into question, when you think about policing, I think you can't have this conversation about reform or abolition and have that conversation without looking at the larger picture. And that's what conversations that I'm engaged in pretty often on panels like this one, where people don't seem to take into account the realities of our society.

So, when you look at poor housing and poor education and poor healthcare, and emotionally disturbed people and drug addiction, those are all social ills that are systemic in our society and have been for decades. And so we don't have better healthcare in communities, so there's a disparate application and a reality that we are ignoring when we speak about police solely in that context as the problem. So I think you have to take into account the fact that when people are in trouble, and when their loved ones are off their medication and they're frightened by what might happen, they may get physical, maybe they don't get physical, or when someone burglarizes their house, or as happened in 1990, for example, we had, 2,247 murdered in New York City, that was in one year, and the police department was able to, in this last seven years, bring those numbers down to under 300. One is too many, but you know, you have to deal with those issues,

PROFESSOR MILLER: Just to cut you off a minute there, because I'd like you to respond to this part, which is that, I think the second part of defunding, or the idea of divesting, is then investing in the types of resources that you're talking about that are currently lacking.

MR. TUCKER: Yeah, I think that's true, but that's a larger budget issue and the notion that somehow you're going to, in any short term, because I don't agree with the notion of abolishing policing, first of all. I think it's unrealistic. I think it makes no sense, and truth is, you know, we're human beings, and we do horrible things to one another, all the time. So, when I'm trying to imagine, and I've been around a long time, and I've seen it all, so I can tell you that I can't imagine a society without policing that can respond to, and sometimes people have to be locked up. There are no situations where you have a person, you know, who's shooting people and shooting randomly at other people and killing babies where somehow you think, and you can imagine that you can get to a point where you have a society that you don't have to worry about that. There are lots of people—

PROFESSOR MILLER: Let me go to Mecole, because I think, she also comes from NYU Policing Project, so I want to hear what she has to say since she supports, I believe the NYU Policing Project focuses on reforms. Is that correct? Or correct me if I'm wrong.

MS. MECOLE JORDAN-MCBRIDE: Yeah, we spend a lot of our time thinking about the policing system and policing structures and ways

that can, where you can reduce the footprint of policing in communities, I guess is the best way to say it. I think, you know, to a certain degree, I definitely agree with Ben in saying that, these conversations can't happen in a vacuum because all of these things, we're dealing with structural racism, and in order for it to be structural, it has to be many institutions that reinforce the racism that exist. And so as we think about reform for policing, and if we isolate policing away from the other structural concerns that we have and societal ills that we have, there are definitely things that can be done that reduces the footprint, right? Marbre talked about Cahoots, and there are other examples in cities across the country that are really trying to pilot different strategies that will again reduce and cause more humane approaches to dealing with individuals in our communities because essentially, if we don't start thinking about it from the perspective, in reference, you have people that are killing people and things like that. I've always said that if you ask a five-year-old what they want to be when they grow up, there's not one five year old that says I want to be a mass murderer. I want to shoot someone by the time I'm 16. But, if we don't start thinking about it from that perspective of how do we interject, at the end, that will eventually lead to a point where we can start reducing, even more, the amount of police we have in our communities, particularly communities of color that are typically over-policed and under resourced, that we see these problems in the most.

PROFESSOR MILLER: And you have done some work on getting community buy-in on the front end of policing. So, can you tell us a little bit what that can look like?

MS. JORDAN-MCBRIDE: Absolutely, so policing is one of the areas in our society that is the least democratic, right, but impacts the most people. And I think when we think about police oversight and police accountability, we always think about it after the fact. We set up accountability boards, and they're always after the moment has happened, after harm has been done, right? And a lot of times, harm has been done because of policies, right? So, oftentimes you hear, well, this officer was following policy, and therefore, X, Y, Z happened and they were well within their right to do, right?

So, from a front end perspective, if we actually start bringing the community in to these conversations to think about policy and to think about consequences that you probably wouldn't think about as an officer, right, or someone who is thinking only from a police perspective, then we would have less unintended consequences, and we would probably actually have more buy-in for how policing is happening in communities of color.

At the end of the day, it should be co-production. It should be the community being able to lead and take a leading conversation of what public safety looks like to them, and then also allowing for policing that's happening in their communities to be a, a partnership, and not a dictatorship.

MR. TUCKER: I wouldn't disagree. In fact, that's the notion of policing and its origin was about this idea of people who are paid to be police, really are folks from the society. So, those are the folks who, policing and public safety is, is a shared responsibility. That's really what we're talking about. It absolutely is.

PROFESSOR MILLER: Thank you.

MR. TUCKER: And so when you have these discussions, those are the things that you have to take into account. And you also, I think, have to look at police, there are 18,000 police departments in the country. So when you think about it, they're all different sizes and shapes, and colors, for sure, and so forth, but it is true that some of them require reform. Some of them need that reform, so I think it's important that when you think about abolition as opposed to reform, or reform with a view toward getting to a point where there are no police, if that were doable, I just wonder how that would take place and how it would progress. And it assumes that you have leadership, as part of the legislature, both local, state and federal that are in sync with the notions that we're discussing.

PROFESSOR MILLER: That's great, and that's actually a great segue to where I wanted to go. So, Kumar, you worked on something, I believe, called the People's Process. Can you explain a little bit what that looked like? Because that was sort of what Ben was getting at.

MR. RAO: Yeah, so essentially, it's an initiative, a collection of organizations have come together, base building groups, grassroots groups, including Law for Black Lives, and other groups to really think about what a different vision of public safety and what that could look like.

So, I think just to respond quickly to something that Mr. Tucker mentioned, which was the idea that policing and public safety are essentially synonymous. I think part of our challenge and struggle and need for our society is to actually divorce those two things, right? Policing is not synonymous with public safety, and that's really what the vision of transformation, abolition acknowledges, but that obviously whatever person in our community, every country, every family wants public safety. The question is, how do we get there, and that does not necessarily mean policing. And so, I think we need to be able to sort of look at this from that vantage point.

The People's Process really gets into that question. How do communities, particularly the communities most impacted by systems of criminalization, of over policing, of incarceration, how do they see those impacts? How do they see where we should be going? For communities that have far too long been denied, not just denied access, but really denied, in some ways their voice and their perspective about how these systems impact them. So, what this group, this People's Coalition, People's Process, what we're attempting to do is really advance to really tackle one piece of federal legislation, the 1994 Crime Bill, which has been kind of a sweeping mandate that, again, for the last 25 years, flooded money into cities, flooded police officers into cities, helped build prisons and jails, and really entrenched an idea of public safety, that is about handcuffs and cages, and to rethink that, and to allow the communities most harmed by that to put forward that vision through participatory people's assemblies, through workshops, town halls, and surveys. Let's hear from the people who are impacted by these systems and create a vision and a policy and a budget that really reflects what communities need and have long been denied.

PROFESSOR MILLER: Great, so I think that, as Ben raised, sort of the elephant in the room whenever you start talking about abolition is the fear that comes about when we're mentioning violent crime, and Kumar, you've just sort of addressed some of the things, some of the response that you've had about disentangling policing and public safety, but we're not there yet, and so in terms of transitioning between now and there, what are some steps that we can take to stop mass incarceration not of the non, non, nons, the folks who are accused of and convicted of violent crimes and sex offenses and the more serious things that we tend to believe impact public safety. So, I'll take a volunteer from a panelist. Raise your hand. Kate Levine.

PROFESSOR LEVINE: So, I'm not sure that this is 100 percent responsive to your question, but I hope it's partially responsive. I think what happens in these conversations is you have folks say abolition and then you have folks say, without police, they'll be X amount of murders and babies are going to get killed, and I think the truth of the matter is, it's somewhere in the middle, and I don't think we know what reduces crime? I mean, I study this. The murder rate going down in New York has been attributed to, police attribute it to the police, but other folks attribute it to the reduction in lead in public housing that leads to violence. Other folks attribute it to the availability of abortions and people not being born into unwanted circumstances. I was just looking at an article right now that lays out some of those theories, so if anyone's interested, I'm happy to send it. So, I think on both sides, a lot of assumptions get made. I do think it's

important because the dominant narrative is that, it's the police that reduce violent crime, and I'm not saying that's not true, and I am saying that it's not necessarily true.

And then, on the other side, I think, well, one thing is, I agree with Kumar and Mecole, I think maybe have said something about this, too, is that input from affected community is important. I also think that we have to acknowledge, those of us who tend to be on the side of abolition, that their input may not lead to the sort of sweeping changes that folks who aren't living in impacted communities might envision.

I, in my research, have seen a lot of statements from impacted communities where folks are extremely punitive. They are extremely desirous of policing and of prosecution, and it's not necessarily policing and prosecution of the folks that they're living among, but policing and prosecution of folks that they see doing them harm. So, I think it's just a lot more complicated than either police reduce crime or police only cause damage and harm and don't do anything about it.

The other thing I would say is, if it's true that the police reduce the murder rate to 300 a year, right, in New York, then we really don't have that many people who are shooting up babies and we don't have the sort of violent society that we're sort of taught to think we have. So I think there's a tension there, and it would be nice to know, actually, how much violent crime is there, how much are police actually solving these crimes and/or deterring them from happening, in the interim, again, I'm not sure, I'd be curious to hear what Marbre or Kumar thought about this, but reformist reforms versus transformative reforms, but sort of the, what seems to be sort of easy to me, which is reducing the prison and police presence for sort of unambiguously non-violent crimes at the very least, and then sort of a push for that, along with a reduction in a police budget that moves things out to, moves money out to organizations and asks police to focus on sort of solving violent crime. I'm curious to hear what they think about that, so I don't mean to ask question.

PROFESSOR MILLER: Let me go to, oh, sorry, Kate. Let me go to Mecole.

MS. JORDAN-MCBRIDE: And I just really quickly wanted to add to that. I think that part of this, and I completely agree that public safety and policing are not synonymous because, as Marbre pointed out, that most people that you talk to, when they think of safety, the first thing that comes out of their mouth is not necessarily police. I think that the question you asked earlier Kate is what happens in the interim. I think we have to think about where we are and then how do we get to what our utopia, I guess, looks like. I think in the interim, we have to acknowledge, A, when we get,

and I think part of the problem and part of the things that stop us from getting where we are is that there is a fear of acknowledging why we're here, mainstream. There's a fear of acknowledging why our communities are in the places they are. When I say are, I mean communities of color. There's not really a fear there, but I think that it reinforces power dynamics and creates, it continues to create the power dynamics and the socio-economic stratosphere that this whole country is built on.

You have to have this like, good versus evil, or top and bottom type thing in order to maintain power structures. And I think the last thing I'll say is that, as we're thinking about this, and even in communities of color, a lot of times you'll ask them that, this is happening, shootings, or whatever, and the first thing they'll say is, well we need more police because there's a sense of fear mongering that happens that we will not acknowledge and we won't challenge, even within communities of color, so really helping communities to challenge what they see what safety is because it's never been afforded to us what it will look like to have resources in our schools, what it will look like to have an overperforming school in some of these communities that are most deeply impacted by these issues. The only tool that we've been given and that has been pushed to us is, well, you need more police to solve these problems, and nothing else.

PROFESSOR MILLER: Okay, it seems like we all agree, all of the panelists agree that reforms, that there are meaningful reforms, that we're not saying that no reform is necessary, nor are we saying that all reforms are bad, so I want to ask each of the panelists, can you think of a reform that either you have been involved in that has been enacted that you are proud of and think is great, or that is on the table that people are talking about that you think has the potential to be transformative, and I want to start with Ben.

MR. TUCKER: Well, listen, I don't want to take all your time, but we've engaged, as I said, over the last seven years in an unprecedented level of reform in the NYPD, and it's the reason I came back, because I watched what happened with stop and frisk while I was still at the White House Drug Policy Office, and I was appalled by what I saw. I grew up in Brooklyn and Bedstuy, and I know what it's like to be hassled by the police. So, the reforms that we've engaged in have to do with training. Lots of time I mention training. People have a tendency to say well, training, training, training. It's always training. Well, it is always training. How you change behavior is you train police in ways that help them realize that you have to de-escalate rather than escalate, that they have to be more tactically trained to do and take people into custody if they have to make an arrest or don't comply in a way that doesn't cause harm. But that, so the

reforms have focused training, they have focused on how to use technology more effectively.

We utilize a tool called shot spotter, because guns are so prolific and because shootings are, as well, you have to be able to identify, at least respond to locations where gunfire is taking place, where people don't have to sleep in their bathtubs and stay away from windows in certain communities. You know, the victimization is part of this piece, so reform has to focus on that.

We've focused on much more precise policing. We changed and moved away from the drag net policing and the numbers driven policing of the prior administration and moved into a much more, when I say precise, looking at that tiny percentage of law breakers, violent law breakers, the people toting the guns and firing those guns indiscriminately to take those folks off the streets. That is, that's a reality, and often, those are people of color who are preying on people of color.

And, so when I think about what reform looks like, we have proven that you can, and by the way, we're doing that with many, many, hundreds of thousands fewer arrests, so the footprint of arrests in New York City have increased dramatically, so Riker's Island is pretty much empty when it comes to that, and it's both because of, I think better and more focused policing at the people who deserve to be incarcerated, who are causing harm in communities, but also because of legislation by the City Council that puts some of these people back in the streets. And we were trying to fix cash bail, but I think we went way beyond that getting rid of cash bail.

PROFESSOR MILLER: Let me stop you there because that's about three or four reforms.

MR. TUCKER: Okay.

PROFESSOR MILLER: So, let me go to Kumar and hear what he has to say.

MR. RAO: Yeah, I mean, I would be hard pressed to actually identify a police reform that has worked. I mean, let's look at facts, right, and let's look at the data and see what's worked. If you look at even what happened in Minneapolis this summer with the killing of George Floyd, a police department that actually, quite rigorously underwent a full departmental training review that took on, I think, all the reforms recommended by the presidential task force under Barack Obama for police reforms, and even despite all of that, we see continued, I mean, we see the video. We saw what happened. We saw the officer, what that officer did. We saw his colleagues and what they didn't do, so I think that kind of consistent pattern of failed reforms has actually been really clearly on display, and I think New York is another example.

I mean, we all experience what, you know, happened this summer with the protests and the kind of heavy-handed, aggressive, violent police response to protesters, and the idea that we need to train those police officers not to rip a mask off a person's face and spray them with mace in their eyes, I think those are obviously specific examples, but when it's example after example in city after city, I think it really does call into question the efficacy of some of these reforms.

And what I will say to tie it back to this question around where we need to be going is a lot of these reforms are expensive, and they actually lead to increased police budgets, which I think is fundamentally the problem that we need to kind of dismantle and deal with. Body cameras are now costing our nation hundreds of millions, if not billions of dollars a year in public resources, right? Trainings are expensive, as well. As you said, there's 18,000 police departments. We now spend over $100 billion a year annually on policing. That keeps going up. Yet, in city after city, we continue to see levels of police violence, of police brutality, of killings, which consistently now, at about over 1,000 a year, we see fluctuations in crime across cities. So, I think I would actually argue that, if anything, the evidence and the facts show that it's clear that police budgets or increased head counts of policing has not actually led to changes in crime in cities.

If you look at cities like New York, which has doubled its police budget over the last decade, crime rates have sort of, have definitely come down, but if you look at cities like Baltimore and Detroit who's police departments and head counts and percentage of police budgets have skyrocketed in the last decade, so has violent crime, as well. So I would actually argue that we really need to think about facts here, evidence, and the numbers. And I think the numbers show that the only real reform that makes sense are investments in proven programs like Cure Violence. I give you that example, right? Cure Violence is a program that has been seeded with money, and it has a few projects around the country. It is essentially a public safety program that gives communities and people from the community, often people who have had contact with the criminal legal system, sometimes formerly incarcerated people, sometimes people formerly involved in violence in some form or another actually serve as messengers to reduce violence in communities. And those programs have actually been shown to be truly effectively, sometimes reducing shootings and killings by upwards of 75 percent. And those programs get pennies on the dollar to what police departments are getting around the country, right? As I said, $100 billion across the country. New York City now, you could, depends on, we don't even know how much the NYPD gets. It's probably

in the range of $11 billion a year. Cure Violence is getting just a few million dollars.

Part of, when we talk about defund police, we talk about divest, invest. We really need to also remember that what advocates also calling for the money that's going to policing to go to the types of things that actually keep us safe. Among those are programs like Cure Violence.

PROFESSOR MILLER: Okay, great. Mecole, do you have an example of a transformative reform.

MS. JORDAN-MCBRIDE: Yeah, so I think that I could almost echo, or ditto, everything Kumar just said. I think that we have promising reforms that are, we are so, this whole reform conversation is so new, relatively to the problem itself that it's hard to say what's working. We have things that cities are trying. We have things that none of us honestly know the true, if they truly worked until 10 years from now, maybe even 20, because of all the problems we're having. I think here in Chicago, and it's very much modeled after NYPD's process, which is the neighborhood policing initiative, we're working to implement that here, and I want to say that it shows promise, and I believe that it shows promise because what we're doing is we are redirecting resources of CPD, of a subset of officers in communities, particularly right now, we're in communities of color where they're spending a lot more time, a lot more time than has ever been allotted to them off their radio. And during that time, they are actually making meaningful connections in the community with resources, with those that provide those resources, and a lot of times, when we started this, a lot of the officers are like, man, I never knew this existed. You've never had time to find out if this existed, and you never were given any real incentive to seek out these sorts of resources in communities that are available to you, and we all know that the only thing you have, only tool you have is a hammer, everything is a nail, right? And so, I think as we are continuing to roll this, the neighborhood policing initiative out, the other part of it is, we create cohorts of community members who, again, this whole idea of co-producing public safety where community members are identifying what public safety means to them, and then communicating that, and they strategize together. They say, okay, this is our part and what we feel like needs to be done, and this is what we would like you to do, and this is how we would like you to partner with us in, and the public safety conditions that we have identified. Part of that, at least, is relationship building in a way that's never existed before, and then again, it leads to resource identification. My hope is that, as we do more of these kind of things, we have less reliance on the policing system and more monies being

funneled into the resources, so we can see a flipflop of the funding structure.

PROFESSOR MILLER: Kate Levine, transformative reform?

PROFESSOR LEVINE: Again, this is going to be like a half answer. One thing that I saw this summer that I was excited about, which is small, but I can see it as transformative is the attention by schools to cut their contracts with police. In Minneapolis, the school board voted to cut its contract, and I was actually trying to look up where that went, because I know that the defund effort in Minneapolis went nowhere, but the attention to the harms for getting young people involved, criminal justice involved, and how much that leads to a life of involvement with the criminal legal system and also the way that schools deals with discipline in a racist way, the way that black children are disciplined more harshly, they're thought of, they're looked at as older, they're expected to perform in certain ways that their white counterparts aren't, and then when you have that leading to interaction with the criminal legal system, you can of course see where that goes. So, getting the connection between public schools and police severed or disconnected is something that I was very happy to see.

And the other thing I'll say, and this is not a, this is just in the world of like law school and legal academia, so maybe no one cares, but you know, when I was in law school, we would never talk about this stuff. But also when I started doing research and being a law professor and writing about this stuff, like, the articles that I was reading were like, should we make the Batson challenge stronger to a jury, or should we have a mitigating circumstance to the death penalty, or what if we have police stand on X corner, rather than Y, these extremely sort of small, change-y things. That was the way scholarship was done, and now it's more about how do we transform the criminal legal system, how do we account for the harm that it's done, how do we shift power, how do we redefine the meaning of community, so much bolder ideas coming out of the world of legal scholarship, and of course we can, we won't, but we could spent the rest of tonight figuring out whether that has any effect on actual policy. But to the extent that it may, I think, you know, and I do think it's whether it had an effect or not, it's a bit of a sign of where things are going, so, that's certainly not a transformative reform, but it's a change that I'm excited to see and participate in, in my like small, ivory world.

PROFESSOR MILLER: Great. Kumar brought up the protests over the summer in New York and some of the violence that was attributed to NYPD officers vis-à-vis the protesters. There have also been some high profile incidents, including, you know, the Policeman's Benevolent Association endorsing President Trump that have led to these narratives that

NYPD officers are perpetuating racism instead of combatting it, and of course Marbre gave us this historical presentation to suggest that folks already have an association, rightly or wrongly, between police officers and perpetuating of racism. Ben, you've talked about your experiences as a beat cop and being a victim of racism at the hands of other officers. So, my question to you, now, is how can and should NYPD officers be working to combat these narratives, and what can they do to build faith with community members?

MR. TUCKER: Well, listen, we have done a great job building, rebuilding some of the trust, or building some of the trust where it didn't exist. And through our, as Mecole mentioned, our neighborhood policing. I'll shift to, that's one of the reform efforts where we shifted that approach, dedicating police officers to the sectors in the communities where they work, so when they come to work every day, they go to those locations and they work with the community there, so it's much more collaborative, it is much more responsive to the conditions, the local conditions in the respective communities because they're all different for the most part. So, you have that type of an approach.

With respect to the protests, I think, the interesting thing about, whenever I speak about the protests and whenever they're brought up, they come up in the context of what police did to protestors, and that's fair, certainly. In some of the instances in New York, we had some officers there, and it's very visible, captured on video cameras and body worn cameras, and so forth. And listen, I think that there's a reality check here which has to do with, there are officers who will and have and will probably again engage in conduct that's inappropriate, and we hold them accountable, of which we did in every one of those cases that took place during the summer.

At the same time, what gets left out of the narrative are the violent attacks on police officers. Police officers put their lives on the line every day and they come to work and they do their job. And, of course, COVID was a factor in this, in this instance, I think, in terms of just being able to man and allow the peaceful protestors to do and march and do what they wanted to do to make their statements, and so that was a real challenge. Molotov cocktails, bricks and that sort of thing, so the violence was palpable, but that somehow doesn't get as much attention. I think that's an important factor, and certainly not all protesters were engaged in that conduct, but there were those who hijacked the protests in some respects.

So, but yeah, I think notwithstanding that, we train our officers. We handle in New York City more large gatherings, New Year's Eve, Thanksgiving Parades, thousands of events every year, the General

Assembly of the United Nations every September with state leaders coming in, so we know how to do crowd control, and we train our people in doing that. We learned some valuable lessons as a result of the tactics that were used by folks to de-arrest and so forth, this summer. And that doesn't keep people safe—

PROFESSOR MILLER: I think I want to just push back a little bit, not to say that it isn't a difficult job to be an officer, but officers are armed, and I'm not aware of situations where protesters over the summer were shooting at NYPD officers or were clubbing NYPD officers or—

MR. TUCKER: Well, I guess you just missed those opportunities because we had officers hit with bricks, with trash cans, run over by cars, and so, listen, all I'm saying to you is, by and large, when, the way we try to do business in New York City is to address those problems, discipline officers who don't abide by the rules and hold them accountable. We also expect other officers, when we see other officers, their partners or officers on the scene engaging in conduct that is inappropriate, that they intervene, and that's required that they do that, and if they don't, then they're held accountable. So, I think the goals and the objectives that we've been engaged in as part of the reform has to do with training, have to do with better supervision, has to do with better equipment, and providing officers with the tools that they need so that they can do their job, but also allowing them to have time off the radio as Mecole referenced, as part of the neighborhood policing piece, reaching out to citizens, having community partners who are volunteer citizens meet and greet new police officers coming out of the academy. In the past, before I got them, they were sending them, in the prior administration, new cops went right out of the academy to impact zones where all the stops and frisks were taking place, in many instances, and so that practice stopped. They now get field training, six months in the academy and another six months when they get to the field so they are connected with the communities and become part of the communities where they're serving. And because of neighborhood policing, they work in those communities until they change assignments after a year or two.

So, I think that's the current mode that they've been in. I think the results have been good, and we're still implementing and getting better at that. Yes, we do use body worn cameras, and they have made a difference. They've made it much more transparent, and it's changed, in many ways, changed officer's behavior, but it's also changed citizen's behavior and the way in which they react to police officers. So it's solved crimes, and so forth, so I think until we get to a point where this notion of abolition is evolving to a point where people think that's a possibility without also

disregarding the victims who are the victims of crime, then we, I think until we get to that, we have to, I know we are, in NYPD, are not trying to do anything but reduce our crime footprint, but also certainly do it in a way that is, that provides equity and fairness, particularly in communities of color, which is where we have some of the challenges, I've had challenges in the past.

PROFESSOR MILLER: Okay, thank you. And I'm told yes, Kate Levine?

PROFESSOR LEVINE: I just want to, quickly, I just think that we need to just factually correct, not correct, but say, I think Mr. Tucker's right that we hear less about the protesters who attempted to or did injure police, but those protestors are being criminally prosecuted, and for example—

MR. TUCKER: As they should be.

PROFESSOR LEVINE: —the two - - who threw the Molotov Cocktail in an unarmed police charge are facing federal charges, and the sentences are up to life in prison.

MR. TUCKER: I'm still not going to debate this with you.

PROFESSOR LEVINE: Yes, we don't hear, but the justice system or the legal system is taking care of those protesters. The police are facing administrative discipline and suspension, which I think is a big punishment—

MR. TUCKER: And they're facing termination, by the way, not just suspension.

PROFESSOR LEVINE: Okay, termination and suspension, which I think is a huge punishment, but these other folks are facing prosecution and prison, so we may not hear about them, but it's not as though they're being forgotten by the system.

MR. RAO: And I also just want to say when we talk about what are typical disciplinary outcomes for these type of things, it's typically, as Mr. Tucker knows, as Katy you know well from our days of defense lawyers, often just days of vacation loss for these disciplinary hearings, compared, as Kate mentioned, to decades in prison for civilians who engage in misconduct.

MR. RAO: The other thing I just want to mention quickly is, it's not only what we saw this summer and what we saw almost on a nightly basis in New York is not just the actions of specific road officers who committed some misconduct, but these are actually policies, what we see in NYPD response to protesters, to First Amendment, Constitutional rights, the kettling, the use of bicycles as weapons, surrounding protesters, pushing them up against walls, that type of response is a function of a policy and a

function of a culture that I think we should also keep talking about. We should talk about officers that commit egregious misconduct, but part of the issue here is a policy issue. It's a power issue, and I do think it's a money issue.

MR. TUCKER: I disagree

PROFESSOR MILLER: Okay, and if I could just remind the panelists please to, if you want to talk, raise your hand and don't just please start talking, or we'll have bedlam on Zoom. Ben, did you want to get in the last word? I know you have to go.

MR. TUCKER: We could debate this all evening, and there's some things that you say that are accurate, some that are not. We are not engaged in policies, as you described it, but I think the goal should be, and the north star for all of us should be what does the future look like with respect to how policing is conducted, and until you have, and we get to a place where there are some changes that can take place beyond the reforms that we are, meaning the NYPD, but also other police departments that are moving in that direction are engaged in, until you get there, there has to be, it's not as if you're going to flip a switch and all of a sudden we're at a place where police no longer have to do the work that they do to keep people safe.

PROFESSOR MILLER: Fair, and am I right in saying that you have to leave?

MR. TUCKER: Yes, I do. I thought it was only an hour, but the conversation has been so thrilling, I thought I would hang in here a little while longer. It really has been a pleasure. I know you don't believe me, but it has because these conversations are always helpful to get perspective, and I think, for people who listen, the idea and some sense of what we're doing, and I always, at the end of my involvement in these conversations, always remind people that you're always welcome to come and see what it is we're doing so you can get a sense of what policing in New York City looks like and what it is that we've done to really, to improve certainly our relationship with communities, but also to improve the way that we police the city to keep people safe. People are still dying out there, and there are lots of victims. Right now, we're the only game in town when it comes to people who need help, and we will continue to do that because it's critical, notwithstanding—

PROFESSOR LEVINE: People who, sorry, I just did the—

MR. TUCKER: Oh, that's okay.

PROFESSOR LEVINE: - - students if they wanted to know to come down and see what you do?

MR. TUCKER: Just get in touch with me through Howard. You have your colleagues here, through Howard.

PROFESSOR LEVINE: Can you put his email in the chat?

MR. TUCKER: Yeah, he'll provide it, and he's putting it in now.

PROFESSOR LEVINE: Okay, thank you.

MR. TUCKER: But take us up on that, will you. Okay, listen, thank you very much.

PROFESSOR MILLER: Thank you very much.

MR. TUCKER: Okay.

PROFESSOR MILLER: Okay, so I have a brief announcement for those of you who are attorneys attending here today who wish to receive New York State's CLE credit for our program. Please record the following code. It's abolition 17X. So, in order to receive your CLE credit, you must record this code on our online affirmation form, so again, please record the following code, abolition 17X. One final time, abolition 17X, and I think we would like to transition now to questions from the audience for our remaining panelists? Am I right about that, Tziona?

Actually, while we're transitioning to that, one of the things that I think a lot of our folks who are law students want to know is what can they do, either as law students or as soon to be young attorneys? What can they do to aid the efforts of police reform or of abolition, so let me start with Mecole. What thoughts do you have?

MS. JORDAN-MCBRIDE: I think, as lawyers, I mean, I think there's space for all of us, right, in this right for seeing the community, I mean, seeing the world in the way we would love to see it, and oftentimes, you have community based organizations who don't have the resources to consult with lawyers, or don't understand certain things, or don't understand some of legalities. So, coming from the space of not being an attorney and coming from a community organizer perspective, some of the work that, the best work that I've been able to do here in Illinois in Chicago was hand in hand with attorneys who worked with organizations that provided that assistance, who could write policies for us and help us, help community members interpret policy.

One of the things that, I've done work around criminal justice reform in a wide range of other issues that drive a racial inequity, and the one of the worst things that you see all the time is you're asking community members who have very limited knowledge of legal language to interpret laws and then abide by then, right? So no one is there to explain and it's usually these huge gap between the grass tops and the grass roots, so lawyers, and especially young lawyers, can help break down language into layman's terms and can help not only interpret but also craft new language and craft new policy that will actually help communities instead of hurt them.

PROFESSOR MILLER: Thank you. Kumar?

MR. RAO: Yeah, I mean, not to be hokey, but the usual participate and engage in these types of panels and discussions, but also really, I think credit to ensuring that this kind of frame is incorporated in the law school dialogue and law school atmosphere. For many of us, I think when we were in law school, we were not having or at least were not part of the structure in any way, a conversation about police abolition. So, I think it's really critical for that to happen during law school. I would also say it's kind of a moment and a space to reflect on the role of lawyers, right, in all of this. And I think Marbre's presentation around movement lawyering and uplifting the demands and the frame of social movements in community organizations is critical. There isn't exactly a traditional role for lawyers in abolition, right? Because it presumes the end, in some ways, the end of a very harmful system that lawyers and all of us, in some ways, can play deep roles in. So, when we think about the next step and what comes after abolition or how we get there, it's really important for us to ensure that we're connecting in, following the lead of movements and organizers in this effort and I think that's areally important thing for law students, in particular to become familiar with, this idea of movement lawyering and what that entails. And in some ways, it really does flip some of the narratives that are fed to us in law school, that lawyers are central to the idea of social change and to the idea of transformation. I think where we need to start is from the idea that we have a role to play, but that role comes at the direction of others.

PROFESSOR MILLER: Great. Thanks, Kumar. Kate Levine, anything to add?

PROFESSOR LEVINE: Not, this isn't lawyer specific at all, , but just with a specific suggestion, and I bet that Marbre would have even more folks to recommend, but just if you're interested in, particularly in abolition, there's a woman named Mariame Kaba, her last name's K-A-B-A, and she's often on Twitter asking for help in terms of bodies, money, all sorts of things for small or big projects throughout the city and the country. She's an incredible organizer, and so if you want to help just as a human being, I suggest following her and jumping on some of her requests, and there may be other folks, I'm sure there are other folks doing that kind of work who you may be able to sort of just passively follow and then jump in when they ask for help for things.

PROFESSOR MILLER: Great, thank you. And also our first question, and I will say I'm not sure who might have the expertise for some of these kind of questions, but if you feel that it's you, just stick your hand up and I'm happy to let you speak to this question. Since March, we have

seen some instances of large reductions of prison populations via early releases of different types in response to the pandemic to prevent spread and infection of those in jails and prisons. What has this shown us about the possibility of abolition, or does it provide evidence that too many people are unnecessary incarcerated? I see you nodding, Mecole, which means I'm calling on you.

MS. JORDAN-MCBRIDE: Absolutely too many people are being incarcerated. I mean, even if you think about, - - the state institutions, right, you think about most, I live in Chicago, so in Cook County, where the vast majority, a - - amount of people in Cook County jail that are there simply because they don't have money to post bail, and we're talking about $500 bail, right? So we are penalizing people because of their socio-economic status. Not that because they were some mass murderer or whatever your mind wants to go through for the worst criminal or those who should be in jail. We're talking about people who have tickets that amounted to, or child support or what have you that are literally sitting in jail and, and not being able to be a productive member of society because of these things, right? So that's just on the county level, and I'm sure big city USA could say the same thing, right?

And then we think about the low-level, not even going to talk about truth in sentencing, but all the judicial way that they can, I'm about to mess this all up, and I'm sitting in front of a whole bunch of lawyers. I apologize, but the way that the judges can have leniency on those who they want and can go down harder or have add-ons for, you all know what I'm talking about. All of these things that add up to people sitting in jail and us wanting to have, make a huge statement on crime that is not impactful. And the worst thing about this, is that 90 percent of the people who we are sending away and locking the key are going to come out, and they are coming out to concentrated areas of the community only to add to the problem that we will not fix.

PROFESSOR MILLER: Thanks. Kumar, did you have something to add?

MR. RAO: Yeah, I think it's definitely what Mecole said, which is there are way too many people incarcerated, and not just numbers of people who are incarcerated but how long they are incarcerated, right? So I think there's a widespread alignment around the idea that we need to end mass incarceration and really fracture the idea of sending more and more people to prison for a very long time, but to really be able to do that, we do need to, you know, get people out of prison who have been there for decades, people who are aging in prison. That really is something I think the COVID crisis has revealed and some of the initiatives, although, frankly has not been

enough. There's recent reporting that came out that showed that, I think it was in Texas, there was something like 10 times the rate of COVID death in prisons as compared to community. So, we definitely need to get more and more people out of prison for reasons of COVID, but also just reasons of morality and justice of what kind of society we want to be living in.

What I would say is I think it's indicative of the kind of fear mongering that we just keep hearing:, it's always, if we were to release people from prison, it's like society is going to be complete chaos, and there's going to be violence everywhere erupting. That's just not happened. As it relates, the commissioner mentioned stop and frisk as a good example. That was fought tooth and nail by the NYPD, claiming that if they were to stop, stop and frisk, that it would result in a mass explosion of violence and guns proliferating across the city and we would live in a completely chaotic city. None of that happened. We knew that wasn't going to happen, so I think it's really important for us to be kind of mindful, and trust our instincts around what makes sense, what's moral, what's just. And I think the COVID moment, unfortunately has, in some ways given where we are, really pushed us to rethink the way we're doing things generally, and I think the issue of incarceration is really, really critical in that.

PROFESSOR MILLER: Great, and since I'm a practitioner in New York, I actually wanted to point out that actually very few people in New York have been released for COVID reasons, and if you want to learn more about that, you can check out Releasing Aging People in Prison or the work of Steve Zeidman to get specific numbers there, but unfortunately, it hasn't been very many folks.

Okay, our next question is, what is your opinion of broken windows policing and the idea that a police presence will deter people from committing crime in the first place. Let's start with Kate Levine.

PROFESSOR LEVINE: I feel like broken windows policing has been fairly discredited by, I mean, if not just by legal academics, but by policy makers, too. You put enough police in an area, of course they're going to solve crimes because everything is a crime. You can't move without committing a crime. I think we're focused on police and police abolition. That's fine, but just as problematic is our loaded book of things you can do to get the criminal legal system sort of on your back. So, I don't think that broken windows is, I don't see any place for broken windows. I think it's, others may be able to speak better to how it's actually, if it's still playing out in the world today, but in my class, in my criminal procedure class, we talk about how you can get pulled over for a traffic violation and be arrested for that, and I see broken windows as sort of the walking version of that, right? Should people be arrested and hassled and hauled into prison, et

cetera, for their, for such minor offenses. And frankly, I feel that way, even if there was some evidence that it did help with more sort of major crimes, I would feel the same way. But I think the empirical evidence that, that's true has been fairly well debunked, but again, I don't feel totally expert enough to say that for sure.

PROFESSOR MILLER: Mecole, do you have opinions on broken windows policing or police presence deterring crime?

MS. JORDAN-MCBRIDE: No, I think that I think the opposite is true. To Kate's point, the statement she just made, when you have more police kind of occupying a community, you're going to see more things, right? Or you're going to come into contact with more people, and so, again, I talked earlier about not thinking about any of this in a vacuum, but if you think about this in most major cities or communities of color, you have some of these kids who literally, their first interaction with an officer is like 12, right? Or their names are getting slapped onto these lists of known suspects or gang suspects, so all of this is happening because of this over presence of policing. We already know, when you have, whether it's because you encounter them in school for, when I was in school, I get into a scuffle, I got suspended. I had to sit at home or write lines. I don't know if anybody remembered having to write lines, right? I didn't go to jail because I got into a disagreement as hormonal teenage girls do, right? So, I think when we are thinking about the over policing of these communities, the byproduct of that is, more people come into contact, less chance of people actually being able to get in schools, less chance of actually being able to excel in life and then living and remaining in communities with absolutely no resources and no outlet.

PROFESSOR MILLER: Okay, our next question is about progressive prosecutors. Can each of you speak to the way you see the role of prosecutors, especially those we call progressive prosecutors, as we move through reform and towards abolition? Let's start with Kumar.

MR. RAO: I don't love the term, to be totally honest. I don't think it's appropriate, necessarily to call or to describe the prosecutorial role as progressive. I think a better term, if it's appropriate in any given space, is like a de-carceral prosecutor, like a prosecutor committed to a set of policies, a set of initiatives, an approach that will actually shrink the number of people incarcerated, and we're seeing some of that. I think it's hard, though, from my vantage, to wholesale label the very role of prosecutors as progressive, given that their core function really is to drag people into court and hold the possibility of jail or prison over their head if they don't do what the state tells them they should do because they

supposedly did some harm to another person or harm to society. So, that's just more a question of semantics, I think, and language.

But, I've been really excited, and it's kind of like very strange for those of us, I think, who worked in criminal court as defense lawyers to see prosecutors argue around who is the most committed to de-carceration and are the most committed to reducing the scope or role of prosecutors in our society. And so that's really remarkable, and I think really important, and I am encouraged by seeing the number of folks who are being elected, people who are running. So this is a really important role. It's a really important function that holds a lot of power. When I say it's really important, I'll say it has a lot of power. I'm not sure how important it is for our society, but it has a lot of power, so I think getting people in office who understand that power and can wield that to shrink the role of incarceration and of punishment I think is really, it's a positive thing.

PROFESSOR MILLER: What do you think, Kate?

PROFESSOR LEVINE: Some of me agrees with what Kumar said. I really can't stand the progressive prosecutor movement for a number of reasons, one because it's just been co-opted, like, everyone is just a progressive prosecutor. I mean, there's, literally any prosecutor who, who's platform isn't like find everyone smoking a joint and put them away for 30 years is now a progressive prosecutor because that's like the sexy thing to be, so I don't even know what it means. It just is, it's totally meaningless, but I actually do think the term means something to me and does mean something, and it means something that's a particular, something that particularly bothers me, and I think it doesn't bother my co-panelists or may not bother my co-panelists as much. One thing that I've looked into a lot is the punitiveness of progressives. And by that I mean, left leaning Democrats who care about racial justice and, but who really don't care about prison being cages and who really don't care about people being in prison. So, they care about reducing the prison population when it comes to the folks who are most affected by it, which obviously is a great step, but they're passionately punitive when it comes to police officers, white collar criminals, sex offenders, employers who steal their employees' wages. And to me, I'm not necessarily, I won't even say necessarily that that's the wrong way to be. I will say that, that is not an abolitionist, and it's not someone who really cares about major decarceration, so that's another way in which the sort of progressive prosecutor movement bothers me because it sort of blesses this extreme punitiveness that exists among progressives, though I don't think that anyone is really thinking about that, and that's just my term for it, but I see that in the New York race right now for DA. There's a former defense attorney who's running who's all over Twitter,

and her whole thing is just like, can't wait to throw X, Y, Z powerful person in prison, and to me, that's legitimizing the criminal legal system the way putting poor people in prison is. So, I find it really, really frustrating that progressives can't see their way to really wanting to fight mass incarceration and see it as sort of, if we're in power, we can put the people we want to put in prison, in prison.

And I understand why there's that inclination, but I also am bothered by it and also want to make sure that we at least get our terms right and don't say you're against incarceration if what you really mean that you're against the way incarceration works now.

PROFESSOR MILLER: I want to go ahead and thank our panelists. We are coming to a close, and I think even though we have some great questions on the queue, I think discussion would take us into the eight o'clock hour, so I wanted to thank our panelists, this was a lively and excellent conversation. I also wanted to let you all know that the symposia issue will be coming out in the second issue of the Cardozo Journal of Equal Rights and Social Justice. I wanted to thank the journal for allowing me to host tonight and to tell all of you to have a good night. Thank you so much.

[END RECORDING]