

Hello and welcome to Episode 46 of the Decarceration Nation podcast, a podcast about radically reimagining America's criminal justice system. I'm Josh Hoe, among other things, I'm formerly incarcerated. A freelance writer, a criminal justice reform advocate, and the author of the book *writing your own best story, addiction and loving hope*.

Okay, we'll get to my interview with Vincent Schiraldi in just a few minutes, but first, the news, earlier this week, I spoke at a symposium about control and the cultural state at the University of Michigan. Luckily, two local papers cover the event and the panel was on the [front](#) page of the Michigan daily which is something that never happened in my nearly eight years when I worked at the university. Anyway, the event went well and was followed by town hall meeting about a terrible new phony disclosure policy U of M recently unveiled I'll include links to the video of the event to the two stories and also to some information about the new felony disclosure policy at the University of Michigan which I strongly oppose and include all those in the show notes on the website. After I finish,

I also should probably mention one more thing. I saw some folks calling out activists who are involved in the passage of the first step back for not continuing to press for proper implementation. In my experience, nothing could be farther from the truth. Most of the folks that I know who worked on the bill or worked hard to pass the bill have spent as much time lately in Washington, DC working to secure proper implementation as they ever did when they were working for passage. Lots of folks have been coming home as a result of the Act recently, most recently money. Horton Welcome home, Monique, I just want to make sure that everyone knows that we're all working really hard to try to make sure that implementation happens as fully and completely as possible.

Oh, also, don't forget all over the country. On March 5, 2019, you can join the third annual day of empathy, a national day of action to generate empathy on a massive scale for millions. Americans impacted by the criminal justice system. You can learn more about where the events in your state will be by checking out the website dayofempathy.org.

That's a [day of empathy.org](http://dayofempathy.org).

OK, now for my interview with Vincent Schiraldi

Vincent Schiraldi is a senior research scientist at the Columbia School of Social Work and co director of the Columbia justice lab. He has extensive experience in public life, founding the policy Think Tank. The Justice Policy Institute was the director of juvenile corrections in Washington, DC and commissioner of the New York City Department of probation. Most recently, he served as senior advisor to the New York City Mayor's Office of criminal justice. he pioneered efforts at community based alternatives to incarceration. New York City in

Washington, DC he received a master's in social work from New York University and a Bachelor's of art from Binghamton University. Welcome to the decarceration nation podcast.

Thanks Josh.

So, you're from Brooklyn. And I'm from Manhattan. I'm guessing we were born somewhere near the same time. Anyway, how did you get from Brooklyn to being Hampton University and then to the Justice Policy Institute?

Um, well, a trip to Binghamton was, you know, to go to a really good state school, and me and my parents could afford from here to the Justice Policy Institute, I think a tad more interesting master's degree in social work at Syracuse. And I heard a person speak in one of my policy classes who would, you know, become a mentor for much of my life, Jerome Miller, who, during the 70s completely closed down all of the large youth prison state of Massachusetts that we're locking up kids and move to an entirely community based approach sort of fascinating in many ways, but especially given that it happened right on the eve of the nation moving to mass incarceration. You literally finished it the year before Nixon declared a war on crime. And so yeah, it's really it's pretty amazing stuff. If you've never read last one over the wall, it's a fascinating read again, right on right on the eve of mass incarceration. And the research at Harvard and the National Council on crime and delinquency did show that when you close down all the youth prisons for kids in Massachusetts, and in particularly the places where they had a full continuum of services for the kids, they got real rested less frequently, and they were less likely to matriculate into the adult system. So it was almost like the balloon was completely full of air and Jerry deflated it and nothing bad happened and a bunch of good stuff happened so you know, when I heard him speak I you know the chase them down the hall and talk to him. By the time he got to the elevator, you offered me a job. And I started his National Center on institutions and alternatives, opened his San Francisco office, which became the center on juvenile and criminal justice opened his know, that spun off a DC office, which ultimately became the Justice Policy Institute.

So I wasn't planning to ask this question. But how did at the time that the tough on crime stuff was starting to get going? You have this success story, and yet it's overwhelmed by this kind of animus towards or a different approach toward crime? Why wasn't the success in that instance enough to be a counterweight?

Well, it's it's interesting. I think that a lot of people I don't think we've grappled enough academically and as advocates as to what lessons the juvenile system has to teach us about Mass Incarceration for adults. But I think I think Jerry story is part of that when I came into the field, even though mass incarceration was was ramping up, and we were approaching a super predator, you're there was a lot of lot more pushback on the juvenile

side than on the adult side. And it never quite went as far on the juvenile side as on the adult side. And now juvenile incarceration has fallen by more than half since its peak. So a lot of you know, a lot of groups like Van Jones and and just leadership have come out and call for cutting America's adult prison populations in half, on a juvenile side, we've already done that since since the since its peak in in the late 90s, early 2000s. And I think, in part, it's because there was an example Jerry deinstitutionalized, I'm Pennsylvania you Tom Missouri, the world People following that example, the Casey Foundation launched an initiative in some respects called the juvenile detention alternatives initiative. In some respects that was modeled after what Jerry did in Massachusetts. Not completely but inspired by it, certainly. And so we always had this example for juveniles that we didn't have for adults. I mean, there's plenty of other differences to people view young people differently and obviously we had a juvenile court that protected them to some degree but um. But I think it's it's not an overstatement to say that the Massachusetts deinstitutionalization was at least part of the formula that helped the juvenile system resist quite the growth that the adults system have and to drop by 50% plus 53% now and 2017 data aren't out yet. My guess is it's going to be considerably more. And by the way, some places have way fewer kids like California is to have 10,000 kids in what used to be called the California Youth authority is about 600 kids in a Department of Juvenile Justice in California. Today, New York used to send 3800 youth to the steep youth prison system. Now, there's less than 100 kids in any out of home placement in New York. And most of them are six to eight beds in size. There's only like 20 of them that are lost custody. Well, these are stunning, stunning numbers and they don't get anywhere near the play that they should. And while this has happened in California and New York, by the way it's happened in Texas to wireless has happened. juvenile crime, crime has continued to plummet giving the light to the notion that we need to lock up more kids to be safer. Yeah, and unfortunately I live in one of the few states left that hasn't changed the age from 1718 years old? I know you have some feelings about this probably as well. It's ridiculous. It's absolutely ridiculous. But I do want to say about Michigan, the Wayne County model. Detroit, Michigan is what New York City followed when we took all of our kids back. So when can we used to send over 700 kids to your lousy state youth prisons and now they send none. Literally zero. kids go from Detroit and Wayne County to state youth prisons in Michigan. They're all home in within Wayne County. A small number of them are in a lot custody. Most of them are out in the neighborhoods with wraparound services. So the system has done some really, really watershed profound stuff and I think the adults system could learn from it if there was one other lessons. And I could learn that I could put out about what the youth system did that the adult system didn't do or or didn't protect against is we never fully allowed the complete dehumanization and vilification of young people away we did with adults with adults people were able to say pretty much anything about them we objectify them we talked about them like their animals when John Do you Leo tried that with juveniles there was pushed back I mean they tried but it never caught on quite the way it did with adults. And and there was always the notion that these were young people not miscreants, not animals, and certainly not super predators.

And then that was you know, that was something that Hillary Clinton rightly had to pull back. Um, but even when she said it and her husband Bill Clinton said it and others during the 90s There was an enormous amount of there was an enormous fight over that sort of thinly racially veiled animalistic epithet hurled at our young people. And I feel like with the adult criminal justice system, during the heyday of mass incarceration, politicians were able to get away with that more readily and we fought back in more technocratic ways we've they would call them animals and we would say oh this is bad policy and there are better there's evidence about better ways of an we rightly got our butts what with that response whereas in a juvenile side we said way way way way way way way it's not just bad evidence these are human beings these are young people these are our future their sons and our daughters How dare you call them super predators and I think that that that there's a lesson to be learned it from from folks who are fighting against mass incarceration and I think that listen to some degree has been learned. And we're hearing lots more voices of people themselves who are caught up in this system and who have lived experience lots more voices of families, and those voices are humanizing. I think that's the way to turn this debate around, not with multivariate analysis.

Yeah, I often say that the only silver lining to mass incarceration is that it's mass incarceration. So many people have been impacted now that it's much harder to get away with some of the things that people used to get away with.

I think, I think that's probably true. Yeah, I mean, look at the story of the Koch Institute getting into this and just just use a sort of you. I've had mark, I've had Mark hold on the podcast before. So yeah, yeah, and that's a provocative example. Right? Because not everyone supports the Koch brothers and what they do, but interestingly, part of the way they got involved was because one of their staff members was accused of a crime and you know, they Marshall, Marshall, all their forces against that, and, you know they ultimately prevail. But But it wasn't easy. And similarly you look at the reformer lines that just got announced you know a few weeks ago with Meek Mill and JC and Robert Kraft and Michael Rubin and again that was people with money and influence having one of their own get incarcerated to the degree myth. Meek Mill was one of their own, but certainly a friend of theirs get incarcerated, that that now it's touching a different class of people and they're pushing back and saying this this is this is not okay this is not the way we should treat human beings because now it's a human being because because they know the person and so I don't I don't wish that on anybody, but the fact that it's helping end mass incarceration for much larger swath of folks. is certainly important

So, I'm going to move on a little bit to your time as senior advisor to the mayor's office in New York City Can you talk about that experience a little bit?

Yeah unfortunately before the mayor came out and proposed on closing Rikers Island, I would have really loved to still have been there for that fantastic moment. Um, but yeah, that came after my my term as probation Commissioner. I was probably should commissioned under Mayor Bloomberg. And then when Mayor de Blasio got elected, he appointed me as a senior advisor to his office of criminal justice and my focus was on young adults on raise the age legislation in on the school to prison pipeline and, you know, I feel like we advance the ball pretty well there. But then I got recruited to go to Harvard Kennedy School and I moved on and Missed the fun of inside as, as the city tries to grapple with closing down the dungeon. That is right.

Well, that was actually a great transition to my next questions. A lot of people, I think, are pretty frustrated about the slow pace of closing Rikers and Rosie's Well, I know you've that really, as you just said was a part of what you were doing. Do you have any thoughts about what can be done to either make this happen quickly? Or do you feel good about the plan as it is?

It's certainly a great thing that they've put together a plan to close the presence I mean, the jails sorry. Yeah, sure. I mean, yeah, a couple things one is there's a raft of legislation in New York right now that the democrats are in control of the House and the Senate that's really pushing the envelope in a number of spaces, technical parole violations, speedy trial discovery and bail reform if if all of that passes you know, and obviously It's it's going to be making sausage, right? Because of the legislators trying to figure out what the best bills are. And there's pushback and all that. But if all of that passes in, in some measure close to where it stands now that could accelerate the closure. Rikers Island, in my view, this is only my view because they the the city needs to get down to 5000 people in jail before it can, it feels a can close Rikers and move people to the barrel based jails. They don't really have a plan to get 100% of the way where they need to get and those those four pieces of legislation would help in my view would help dramatically This is going to be a watershed year for this issue they have to the city has to get the approval of the City Council for the four sites. Its proposed in the Bronx, Brooklyn, Queens in Manhattan and There's been some pretty fierce opposition to saving those and it's an interesting combination of folks some of whom just argue that there should be no new jails that we should just close Rikers Island but not open up anything new and others are just concerned that they don't want more jails in their backyard because they're afraid of traffic and property values and things like that so that those two unlikely sets of allies have joined forces in a putting pressure on the city council not to approve this if this doesn't get approved in September I think the city is going to be in very deep trouble I think it's it could be a very elemental challenge to the closure of Riker's Island so it's it's not a done deal by any stretch but if if these so that's the bad side side if these bills pass and it gets approved in September I truly believe we can close faster than what is now eight years from now.

That's a very strange sort of bedfellows, the the NIMBY people and the people wanting to close the jail and stop incarceration in general I know it's a federal detention facility but there's been a lot of news about MBC Brooklyn lately and it was in the news again this week do you have any thoughts about what's been going on there you know i mean a big part of why we all ought to be concerned about mass incarceration on the left and the right is these places are terrible and most of what goes on in in in these total institutions right institutions into an out of which the public can't generally flow is is is not good it's it's it's not so benign neglect punctured, punctuated by brutality and the fact that it gets to go on behind closed doors and government bureaucrats get to feed us whatever lines they want us to accept and we have very difficult time penetrating that veil makes them even more dangerous places. I think we got to witness that this is a place right in the middle of the media capital of arguably the world and this stuff was able to go on for pretty decent chunk of time before it finally got out and even then the warden reacted the way wardens typically do thinking that he'd get away with feeding us the line he fed us, which is everything's fine and it's all exaggerated. So I, to me, it's a very interesting lesson to learn and to imagine what's happening in places where the media has been thin to talk to a shadow of what it used to be. There are thousands of activists that can show up at the front door of a facility. What's happening in some of these rural places? When the warden issues a statement like that? Is everybody just accepting it? Like, oh, yeah, that's okay. We know that Warden, our kids play basketball was his kids. And he says, it's fine. So it must be fine. That didn't get to happen here. But it forces us to wonder how often is that happening in other places? And I think the key and not as much media

Yeah, I think that transparency questions, one that I come back to over and over again, which is the idea that as long as prisons and jails remain black boxes, you can watch it it's like in South Carolina. It happens every single time as essentially something terrible happens. And then the first reaction of the Department of Corrections or the county is to say the real problem is that there's too much transparency you know, like it sounds Carolina, they claimed it was cell phone. So after the riot and so the things that actually give us a chance to see what's getting inside is ultimately what they crack down on. Not the behaviors themselves. In my experience, at least?

Yeah, no question in my mind. I mean, you know, you talked about my, my history at the opening of this, this podcast, but we didn't get to the government part. So, you know, I ran nonprofits, I never thought I was going to work in the government until I got recruited to run Washington, DC juvenile justice system by the mayor who I was, you know, brutally critical. criticizing before that made waves is really kind of his credit that even interviewed me, never mind hired me. And, um, and so, you know, I was, I was an advocate, I was a fierce advocate. I was one on one I used to say, with some level of frequency that I wouldn't kennel my dog in the Oak Hill youth facility that I ended up running and when I took The job staff pull the article where I said that and highlighted it and put it on all of the facility. Right.

And it it was a real eye opener once we got inside about how many of the confidentiality protections that were 42 kids and how many of the rules that will how many keep the media out really had been being used now to give kids confidentiality protections and not to keep the facility safe, which is what the Supreme Court rulings on why corrections officials get to keep media out but really just to keep us you know, just to keep scrutiny away if if any, if the sanitation department or the Department of Motor Vehicles could tell the media that they couldn't cover them they would and so we can in corrections and we especially kind of youth corrections so we do it has very little to do with Safety and very little to do with honoring the confidentiality protections of young people. If that's what it was about. We could easily figure out a way to have robust coverage of what goes on in these places while keeping our facilities plenty safe and keeping our young people plenty protected. And I promise that we talked about your recent paper on parole and probation and Wisconsin, you were the head of probation in New York City for a period What did you bring from that experience to considering Wisconsin?

You know, when I when I first started in prohibition, in fact, when I interviewed with Mayor Bloomberg, I was very skeptical about these things we call probation and parole. I think they were founded with the notion that we would use this these two systems probation, which is a front end supposedly alternative to locking people up and parole, which is a back end assessment of how people have done in terms of programming while they were locked up with the hope that they could be released early on into supervision. I was very skeptical that this was the best way to spend public dollars to either achieve public safety or community safety or to help people who are entangled in the system turn their lives around and I said that to Mayor Bloomberg. You know when we talked about what I thought of probation First of all, you know, during the interview he asked me about what high school I went to college I went to was kind of animated in discussing my New York bone a few days and then we got to the point in the interview where he had to ask me about probation and a look of stunning boredom overcame his face kind of almost couldn't look me in the eye and said, so what do you think of probation? And you know, I said not really much, Mr. Mayor, I, you know, I think it's a poor service given to poor people, most politicians don't really pay much attention to it or know that much about it. And he said, Well, tell me more. And I said, Well, imagine probation in New York City didn't exist. And I came to you and said, Here's \$80 million and 30,000 troubled and troubling souls, do what ever you want with this \$80 million to turn their lives around and keep all the rest of us safer. I'm pretty sure you wouldn't go out and reinvent probation. I'm pretty sure you see, okay, 80 million bucks. I don't know, do I hire a bunch of people to see them for five minutes a week, haven't pitched in the cup, look to their underwear drawers every once in a while and tell them to go forth and sin no more. And he said, No, you're right. I wouldn't do that. And I said, I've never been inside your particular Probation Department. But I bet I bet that's what you got. And there were three deputy mayor's in the interview. And he looked over to his deputy mayors and said that what we got and they said, Yeah, pretty much. That's what we got. elected officials in most

other places disagree. They even knew what they have. That's what they have. And so if you want to know what I brought to me in doing all of this research, that's what I bring with me. I bring with me this, this notion that there's certain expectations for this stuff, and we've just sort of written it and bureaucracy or your appetite it so much, most politicians don't even know what it is anymore.

Well, I know when I was on parole and probation, they followed the system of what they affectionately called "trail em, nail em, and jail em." which is still the norm in most parts of the country. What would you say to a parole officer has been trained in that style or a parole supervisor who believes that is a successful method of supervision?

Yeah, I mean, first of all, like I don't want to, I don't have anything against staff in these places, I think that we look at the policy. And, and once we've made the policy, something that approximates a reasonable set of policy, then we should worry about the staff, none of the other way around. We can't expect staff to do her rep who really work in the face of lousy public policy. So the way I think about that is we've set up these environments where folks are watching far too many people with far too many challenges, most of which relate to poverty, right, you know, insufficient opportunities to find work, insufficient housing, maybe mental health or substance abuse disorders, right. This is the bundle of stuff that not everybody, but lots of people on probation and parole, bring with them. When they go to their probation and parole office. They got too many people on those caseload. Too few resources actually the most easily accessible big money resource they have available to them is jail or prison, they can write a piece of paper and somebody goes to jail or prison and they get to spend \$60,000 of public money. They want that much money for education or treatment or housing. Forget it, right? So we we put in those environments, then we set up this really risk averse world where everybody up the chain of command all the way up to the governor or mayor, their thing they care most about is that these people don't screw up and accidentally take a chance on somebody who doesn't do well. If they take a chance on somebody and that person does well they get nothing for that they take a chance on somebody and they do poorly. Everybody comes down to them. So given that set of circumstances, we should expect exactly what we've done. We need to change those rules for people so that they Then we need to train them and provide more resources and discipline them if they, you know, still want to train them now on Magellan. But in a situation like that, we shouldn't expect virtually nothing other than trial and error. Magellan. So if, you know, all those things happened, and everything went well,

I'll talk about that more in a second. But one of the issues that you raised in the papers, that case loads, I think you just talked about this a little bit, the caseload rarely meet up with funding. I know when I was on parole and probation, it seemed that any requests that I made to my agent, you know, might get answered in a week if I was lucky. And I think this is

pretty typical. So do you think the problem is it's very hard to get new streams of funding? So do you think that there's another way to address the problem of case loads aside from funding?

Yes. Although I don't want to overly fixate on case loads because there's lots of evidence that if we cut case loads people will just violate more people will use it needs to be comprehensive reform, right? Just give what we don't want to do is give bunch of people more time to do more violations. So I mean, in New York City, we went from having about 69,000 people on probation to having in the neighborhood of 17, 18,000 people on probation. And during that time to be sure our budget was cut, but that's about an 80% decline in the number of people under supervision and wasn't cut by 80%. So literally, at the end of that, in 2017, it meant we had about twice as much money per person to spend on people on probation. Someone at went into a smaller case loads, but a lot of it went into contracts with community based organizations, many of which were run by people with criminal backgrounds, right or that had prior records. So we are just fantastic mentoring program and most of the mentors or people who have been through the system themselves and that of all the all the programs we add, showed the highest reduction in recidivism, particularly for young guys on probation. So, you know, it's it's a bunch of stuff that needs to kind of happen simultaneously. But wireless decline is massive decline. And number of people on probation was occurring in New York. I think it's a fair question to say, was there an increase in crime, all these people who are not being supervised by this important thing, the crime go go up, or when we took this 80% of this alternative to incarceration away from New York, right. If you believe it's an alternative, did the jail population rise? The answer to both is a resounding no. was a 57% decline and violent crime in New York City and a 55% decline in a number of people in in the city's jails. I'm not saying that the decline and probation caused either of those things. I think it's a compliment It's do in terms of causality. All I'm saying is, can everybody take 80% of probation supervision away and still experience lower crime and lower incarceration? That's a super important question to ask.

And do you feel like, you know, it seems like you were just talking about earlier with MBC, Brooklyn and Rikers, that some of the problems are related to the public's perception of how these things happen? And I think it's fair to say that most of the time, the idea of releasing a bunch of people with alternative forms of supervision seems to terrify them, how do you how can we communicate the message better have that kind of success, or do you have you know, an answer for that?

Yeah, well, first of all, I'm not sure terrifies them. By the way, I think that we need to kick the tires on that assumption. I don't think the public gives that much thought to probation and parole and you know, if it was should we say Provide them or should they babysit your three year old daughter next week? Yeah, I think that probably would be a little terrifying to some people. But that's not really what you like, we need to present real options when we have

the conversation, like, should we downsize or eliminate lots of centralized government supervision of people? Or should we capture that money and the savings that we now spend on that and put it into housing and education and drug treatment and employment services? I'd be interested in what that what the response to that Paul would be. I'm not sure people would pick government supervision versus very concrete programs that help people turn their lives around. That is interesting. I think that many communities who are impacted communities would appreciate justice reinvestment a lot more than the system we have now.

So your paper is about Wisconsin and you just described something that happened in New York. That seems to be the exact opposite of what was happening or what is happening in Wisconsin. Can you give a little bit of the background of what's what's it like in Wisconsin with community corrections?

Yeah, I mean, it's, it's really kind of a massive problem, particularly parole issues were substantial portion of people going to prison are going up because they committed new crimes, but because they're being violated on some terms of supervision, the state runs both probation and parole there and slightly more than half of the people stepping into their prisons every year are stepping in not because they committed any crime but because they violated some technical term of probation or parole it is stunningly disparate in terms of who gets locked up they with constant created the first facility in the country just for viral Leaders of probation and parole just for people who have violated or been violated by probation and parole, so they have a whole prison worth of people the

MSDF?

Yeah, more Milwaukee secure detention facility, just for people on violations. So I mean, it offers an amazing sort of opportunity to say, Stop locking people up, who haven't committed new crimes that have just violated some technical condition of supervision, close that facility, grab that money and put it into stuff that will help people turn their lives around. It's kind of crazy that we don't do that. I just think in some respects, this is a very vulnerable part of the system to advocacy, to research to philanthropy to legislation, and it's been ignored for far too long if people just took a half a minute to exactly And the kinds of stuff that's going on and probation and parole, and what reasonable alternatives would be not radical alternative, but reasonable alternatives. I'm pretty sure people will come up with different solutions. And it's not just technical violations, like you weren't supposed to leave your house at six o'clock. It's also fines and fees. Right. Yeah, absolutely. The the notion that people on probation or parole or able to, like just pay for, for their supervision. I mean, you know, and I don't again, I don't know what elected officials are thinking of when they create these laws. If the people had the money to be able to pay to be on probation and parole, they probably wouldn't be on probation and parole in the first place. And so now this

issue came right at me as soon as I got to New York, because I started early 2010, which was like a year and a half after the recession. In New York was hit particularly hard by the recession because so much of our income comes from the stock market. And so everybody was taking cuts. And we had to present on how we were going to take our cuts in New York City and my staff had come to me with a proposal to charge fees. And I said no, and we found other ways to take those cuts but it was super tempting, super tempting, right? For you could imagine that wasn't tempting to me. I was wasn't going to do it. I never really gave it much consideration. But you can imagine how the argument would go is like, we have to cut staff we have to cut services or we can charge the bad guys for this thing that they're getting right. I mean, that's kind of a way it was framed to me when i when i when i started and it's difficult for some people understand, like, why wouldn't I mean, these people deserve it right? They're the ones that are related. possible for being on probation in the first place? why shouldn't they pay the price for that literally and figuratively. And so you could you can imagine how many how many states and counties to come to that. And it's real. It's a real recidivism trap.

When when you start doing going down that road, yeah, especially, you know, I mean, I know, for instance, when I came out, I came out with almost, you know, almost zero money, nowhere to live, no job, you know, certainly a lot of discrimination when I went to, you know, even though I had a master's degree when I went to apply for bussing tables, I couldn't get jobs, you know, and so you you get to that point. And then on top of that, they're charging you a bunch of money to have been incarcerated. You know, it's hard to imagine or say you have electronic monitoring fees, or whatever else it is, it's hard to imagine how people ever overcome that. And it's not a surprise at all to me, that people continue to go back in and I think of the paper You talk a lot, I think justifiably. About how it's incredibly and I think you hinted at this a second ago and incredibly racially disparate system as well?

Yes yes yeah the the numbers in every state when we've been able to get data are pretty overwhelming that that show how much more likely African Americans and Latinos in Wisconsin American Indians were to be violated to be on in the first place and then to be violated and some of the more sophisticated research has shown that even when you control for prior offense and criminal history and and current activity that people of color and getting a worst deal at the hands of the criminal justice system and particularly the hands of probation and parole

Okay so we have this unique situation or at least it's not unique to the country. But it seems maybe worse in Wisconsin. Do we have an idea of why it got this bad?

Yeah, I mean, there's a couple couple of factors. One is the crazy truth in sentencing laws that are passed in Wisconsin has really helped drive up incarcerated populations, and also require that a lot more people beyond probation and parole. It also kind of set a tone that

probation and parole term should be longer and that people shouldn't get early discharge. Some states have grappled with that, by the way, the justice reinvestment initiative that the feds funded. I think it's been criticized in many respects, rightly, for not really reducing prison populations and not really reinvesting the money but one area where I do think they've had some pretty significant achievements have been getting some even red states to cap probate. or parole terms to get people earned credit towards reducing their time on probation or parole. So 30 days off your term on probation for every 30 days, you don't have a violation. So you could cut it in half and to cap the amount of time you could get if you do get violated and returned to incarceration. None of those things are in place in Wisconsin. None of those ameliorative factors and those are the kinds of things we're recommending state policymakers consider. Yeah. Which was my next question. I mean, if you are given the power to fix Wisconsin, what else would you do aside from you know, are in time credits? Well, yeah, our time kind of capping the amount of time you could get on a violation and you make the caps are pretty astonishing, and some of the jurisdiction like Louisiana for the first two times you violate probation you can't go to jail and then it's 15 days 30 days 45 days for the second third and fourth ones for third fourth and fifth ones that is and never more than 45 days was content you can just go back to prison for whatever's left on your term so and that's that's a huge difference even if you're going to sanction people to make those sanctions parsimonious in proportional to the to the bad act some places have said we're going to stop re incarcerating you for associating with somebody else would a criminal record that's a kind of arcane one that you know, just doesn't fit today's reality or for testing dirty for drugs, we're just not going to incarcerate you for that. So there are lots of things policymakers could do. I think, though, aside from that sort of bundle of Even profoundly even profound, incremental fixes. I really think that more and more what I would encourage policymakers to do is step back and say, what are we doing this for? What is the purpose of probation and parole? Most of them would answer. It's really a vehicle to keep the public safe to keep community safe by helping people turn their lives around by comparison to prison, which is really to the degree it's even got a soul and a purpose. It's to punish people and through that to keep the public safe by either deterring people who might commit crimes or incapacitating people. That's really not what probation and we're all about. If it's justified at all. It's because it's turning people's lives around and And therefore they're not breaking the law. If you if that's what it's for, if that's what you as a state concluded for his probation and parole, the best way to get there, and if so how much probation and parole is the best way to get there, some might argue no probation and parole is the best way to get there. My predecessor in New York City who also ran corrections, Marty corny, ran both corrections and probation. And before that, when the State Department of Corrections for Pennsylvania and parole for New York State recommended we just abolish post release supervision, abolish supervising people on parole, when they come out, hand them a check equivalent to how much their supervision would have cost that is sort of a voucher to allow them to buy the kinds of services that would help them I don't know if that's the best way to do it. But I think we're at a stage in looking at Mass incarceration and look at Mass

supervision where we ought to push the envelope and test watershed ideas it would be hard to look at probation and parole and consider them a wild success so maybe we should limited severely and still have some vestige of it left that is focused short term rehabilitative and and and reduces its punitive footprint. Maybe some people should should experiment with not having it at all and just really doubling down on helping people acclimate when they return to communities. I don't I don't think the evidence about it success right now the success of community corrections is strong enough to conclude which way we ought to go on that to be honest with you

But in your anecdotal experience with people that were released to you know, you said even for incarcerated folks working with them that that was successful?

So look at it this way New York has gone from having New York has reduced its probation footprint by about 80%. The violation rate when I was in New York was 3%, 3% of the people on on what remainder of our caseload got violated during the time I was there about 30 better, you know, little more than a third of people going it was constant prisons go for violations. So it's not New York has not eliminated probation. nor have we entirely eliminated revocations, but we're damn close and we just double down on helping people and and I'm making the experience less dehumanizing and less bureaucratic. And New York's doing fine. Thank you very much. You're a first and least incarcerated big city in the country right now. And we got there and we didn't need to humiliate people and threaten them with violations or actually violate them to get there. And I think I think that's I think it's something that jurisdiction should consider how much of this thing called probation how much of this thing called parole Do we really need we should pressure test it almost from a zero base, not even almost from a zero base and let it defend its existence. If people are going to we shouldn't just do it tomorrow because we did it yesterday. That makes a lot of sense to me. I always ask the same last question I guess in a attempt that humility but what questions should I have asked what did I get wrong in this without What did I asked you that I should have?

You know, I think that first of all, I think I think it was a great conversation and I really appreciate being on I think that the The question I I can't really answer for you, you probably answered better yourself is what is the experience of communities have families and have the actual individuals on probation and parole with this thing we call probation and parole? I I don't think there's enough research out there about that. And I think that that needs to be probed more deeply obviously people who have been on probation know their own answer, but what's it like to be in communities where where the where the breadwinners where the parents and the family can have somebody at any time walk into their apartment look through their stuff have them drop a urine you know threaten their their safety in their liberty. You know when Meek Mill who is the is the rap artist from Philadelphia who was violated on probation. It sort of started a lot of this discussion for for people outside the field when he

was released from jail on bail when the Supreme Court Pennsylvania said he could be released he was picked up by a helicopter that was owned by the CO owner to 70 sixers Michael Rubin is also co founder of reform flown to a Philadelphia 70 sixers basketball game and where he rang a mark Liberty Bell to open the game and got a standing ovation from people probably paying no less than \$250 a seat many a good deal more than that. What that says to me is that this is a system that for many communities and not just poor communities because poor communities weren't filling a stadium that day for many communities has completely lost its legitimacy. Meek Mill was a hero that day, because he beat this system. And when the system loses that much legitimacy, it really needs to be taken deep, deep look at and it needs to defend its existence. Again, as I said, at an elemental level, not at an incremental level. I think that's what we should be doing right now. Not just tweaking stuff.

Thank you so much for doing this was a real pleasure to talk with you. I really appreciate you taking the time.

Thank you so much, Joshua. I really appreciate being invited on.

Thanks again, talk to you later.

And now My take is fortuitous that Vincent and I were discussing parole and probation. The very same week I gave a speech about my experiences with surveillance since my arrest here is part of why presented last week at the University of Michigan. I'm sharing this because I'm not sure everyone understands how widespread an all encompassing surveillance has become. After I was arrested I was jailed bailed and release. But I answered the questions about depression wrong the first time and spend a few days in solitary at first in a Plexiglas cage at the Macomb County Jail. And later in a regular cell. My DNA was taken my fingerprints for taking multiple times, a public criminal record was created, a court record was created. The story was covered in the press, I was told to appear and register for the sex offender registry. Immediately after registering a plea. I had to meet with probation agents in two counties about rules of supervision until sentencing, and they created a pre sentencing report on me and I'm pretty sure that still exists exists in somewhere after sentencing. I was imprisoned immediately first in jail and then in state prison. From that moment on anytime I was outside of a prison or jail was handcuffed can work hand and foot upon entry I was stripped and told the bend over and coffee etc. When I was going through the medical tests a doctor intentionally groped me while mocking and demeaning me Otis, a simple system created in Michigan so that victims in the public would always know where prisoners were house, let everyone know where I was incarcerated and all the information about my charges where I was housed in my release date, etc. Then let me also mentioned that people on the inside call their friends on the outside to help them get information from Otis on things like what crimes people committed using this system. A

lot of the violence and extortion in prisons happens because this system exists. The state figured out how much money I had in my bank account and seized it while I was incarcerated. So they were in my financial accounts as well. You have limited rights in prison, you are constantly subject to full body search. your property can be searched at any time and it anytime you have a visitor you are subject to a full body search before and after for any violation you can be placed in solitary. Whenever I was moved to a different facility. I was transported in chains and it comes Captain would appear to be kennels at which they called the transportation facility 20 to 40 guys in the kennel and the only bathroom facility. were jugs, what you're supposed to use it in the same candle with all these folks. While you're still cuffed at all times in the yard, you can be shot by the officers in the towers, and almost all of the correctional officers started to carry tasers after a lease on parole and probation. Remember, around 4.5 million human beings are on parole and probation in this country right now. When I got out I was a lot out of my house for only five hours a day during the week and zero hours on weekends for 1.5 years. Virtually no apartment complexes would rent to formerly incarcerated people and only one that I know of consistently rents to people with a sex offense on the record. I was an electronic monitor for 1.5 years. At one point when my parole agent needed to change my monitor and pulled this trap too tight instead of adjusting it. My prep parole agent told me it's supposed to hurt this is punishment. They charged me more for the electronic monitor than I paid in rent. I had a three page list of restrictions that was assert, assure that any violation of those restrictions will result in Return to jail or prison. I was told that if I was even around someone who had a gun regardless of if I knew it, I would get a mandatory for your sentence well on parole and probation, I was only allowed to have a kind of phone without a browser and several times have my phone confiscated to ensure I had not broken any rules with it. I was not allowed to be on the internet except the search for employment and only at a Michigan Works office for 1.5 years, I was subject to raids at all hours, usually with a full team and full SWAT gear and my parole agent in tow. Often they tossed my apartment just as carelessly as they did. When I was in prison. I was forced to spend every Halloween evening in a building adjacent to the Washoe County jail where we spent about six hours every year just watching movies and sitting around before I move on, I have to speak to something else. I have friends who are on lifetime monitoring, electronic monitoring that has a pretty huge impact on their lives. as Professor JJ Prescott from the University of Michigan law school put it in a recent article to individuals being monitored. the visibility of technology to the public is one of the most famous tangible and salient burdens that the government monitoring regime and poses wearable technologies, such as a traditional ankle monitor immediately brands to wear as criminal or other undesirable, inviting stigma, ostracism, even confrontation. He also says that much like a perp walk, or a mug shot. The crucial ankle monitor is an archetypal display of criminality is sufficiently entwined into the American cultural consciousness being regularly reference in popular culture and satirize and social media as we easily recognized by most members of the public because of the cultural meaning attached to ankle monitors. presence is also expressive. its presence communicate something about both the deviance

and dangerousness of the person wearing it. Okay. After at least from parole and probation. I was subject to visit from the police every year to make sure I'm living where I've registered while when I was arrested. That was on the registry for 25 years. But after sentencing I'm sorry. After I served my time that was escalated to life by new legislation. I have to report four times a year to the police to verify my address my violations and registration. technical requirements are punishable by a mandatory for your felony prison sentence. Which means if I, for instance, you know, change my car and forget to register my old car, that's a four year prison times I have to pay \$50 a year for the privilege of being on the registry. I'm not a lawyer within 1000 feet of a school. Although they didn't really define what loitering met people been arrested for eating a meal. For example, in a restaurant that just happened to be within 1000 feet of a school I must maintain a valid Michigan driver's license I'm subject internationals make international Megan's Law which means my passport identify me as having a sex offense and also means that my government is involved in making my life less safe in other countries, which means they're working against the safety interests of their own citizens. I'm required to have an updated photo on file with the police at all times. I'm required to report the following information within three business days as part of registration address or change of address campus information of any college I 10 my vehicle information or change a vehicle and the employee employee or contractor anywhere I volunteer and any change or employment, all email addresses, internet identifiers, any change of name, I also have to let them know who and where I'm visiting for over seven days. If I travel abroad, I have to register at 21 days in advance and let them know where I will be. Every state that I traveled to has a different set of rules for visitation. Most states have a grace period before someone visiting has to register in that state. Now, if you have to register in a different state, it creates a new set of obligations and a long day of visiting the police station in that state. In some states that grace period is the shortest 48 hours and others as many as many as 21 days. Failure to register in another state is also a crime punishable by imprisonment. That's why for instance, when I visit my parents in Oklahoma, I only visit for five days including the day I leave in the day I come back anyway, this almost total surveillance and trolls had me constantly aware of being quite unfree in a supposedly free country after serving my time and despite serving the time I am still not free, which probably means that In a sense, we're all not really free or at least just one or two steps away from your total surveillance. Even more troubling, I think it would be hard to explain with any evidence why most if not all of that was necessary to ensure public safety Liberty should never be suspended cheaply.

As always, you can find the show notes or leave us a comment decarceration Nation. com make sure to check out our new t shirts, sweatshirts and hats, which is kind of crazy but actually did happen. If you want to support the podcast directly. You can do so from patreon.com slash on pirate satellite. You can also support us by leaving a five star review for iTunes or like us on Stitcher. Spotify Special thanks to Andrew Stein who does the editing and post production for me and Robert Alvarez, who has been helping with the

website. Thanks so much for listening to the decarceration nation podcast. See you next time.