Episode 62 Eli Savit

Hello and welcome to Episode 62 of the decarceration nation podcast, a podcast about radically reimagining America's criminal justice system. I'm Josh Hoe and among other things, I'm formerly incarcerated a freelance writer, our criminal justice reform advocate and the author of the book writing your own best story addiction and living hope.

We'll get to my interview with Eli seven, Kent. He was a candidate for prosecutor in Washtenaw County, Michigan in just a minute. But first the news:

I guess I want to take a second to address the Epstein suicide. I myself was on suicide watch in the Maccomb county jail. And when I was on suicide watch, we were put in what is referred to as a bam bam suit, which are suits that are specifically designed to prevent people from using them to aid them in suicide. You're given no personal effects that can be used aid yourself and suicide. And at least I was in a Plexiglas cell surrounded by an observation deck with everything being filmed. Now I have I have no idea what the procedures word MCC Manhattan, but given how high profile Mr. Epstein was, and that he would have already made any and that he'd already made one suicide attempt, I find it hard to believe that this could happen in the normal course of events. Now, that also doesn't mean that it would be impossible correctional facilities experienced in competence all the time. They all you know, I know that's not really meant to be a dig against against correctional facilities. But I've certainly seen a lot of incompetence during my time when I was incarcerated. I'm just suggesting that this would have to have been world class incompetence. Given the the profile of Mr. Epstein and the seriousness of what it's, you know, all the the the press and everything that was going on, it just seems very unlikely to me that they would leave him unsupervised enough and with the means to try to commit suicide. I'm just suggesting, I guess. Well, I guess that's all I have to say on the topic. But I hope that someone who did some time at MCC Manhattan will share more about the procedures they have there for suicide watch because it was anything like where I was at this is just bizarre story to say the least.

In other news, since the good time credits fix was finally implemented. About a month ago, we have seen the Department of Justice reinstate the federal death penalty come out strongly and publicly against the second look act. And there have been numerous hit pieces against the first step back releases across right wing media. And all of this is happening. It's the backdrop of new ice raids. I think it is safe to say we are in an empire strikes back moments sparked by the bar and formerly Jeff Sessions faction of the Department of Justice, backed up by Senators Tom Cotton and john kennedy. Even more ridiculous at the same time, we still have the left wing folks piling on months and months later about how the first step act wasn't good enough. At some point, we need to realize that we need to unite against the idea that criminal justice reform is too dangerous to continue, which is the contemporary narrative on the far right. Or at least elements of the far right. We absolutely need to consider continued discussions about what would make for the best new reforms. But we do not want to reinforce bad narratives. At the end of the day, incarcerating less people, ending long sentences and helping people have a

fast path to successful reentry is what we should be about. The facts are on our side. We have seen extensive reform in dozens of states, while crime continued to decline. criminal justice reform is great for people. It's great for public safety. It's great for our communities, and it's certainly great for taxpayers.

Okay, there's been lots of talk about the progressive prosecutor movement. This week. I'm talking with candidate running as a progressive prosecutor here in my home state of Michigan. Let's get to my interview with Eli Savit.

Eli Savit lectures at the University of Michigan law school has served as senior advisor and counsel to Detroit Mayor Mike Duggan, before joining Mayor Dugan, Mr. Sam was a clerk to both Justice Sandra Day O'Connor and justice Ruth Bader Ginsburg. Mr. Seven is also running for prosecutor of Washington, Washington County. Welcome to the decarceration nation podcast, Eli Savit.

Thank you for having me.

I always ask a version of the same first question. How did you get from wherever you started to the place where you're now running for prosecutor of Washtenaw County, Michigan.

Yeah, so so I could just tell you a little bit about myself. I you know, I am a born and raised Washtenaw County resident grew up in Ann Arbor, and I'm now living back in my hometown. And I and you know, after I graduated from law school in 2010, I, you know, my career took me out to the coasts where I where I practiced at a law firm and worked for several federal judges, and then ultimately had the opportunity to work on the US Supreme Court. And you know, working on the court, you really do get a 30,000 foot view of everything that's going on in the legal system in this country. And what struck me over and over and over again, was how big of a problem we have with mass incarceration here. I mean, a vast majority of the courts docket is people that are being held in prison. And, you know, look, the truth of the matter is that nothing legally wrong was done to them. They are, however, experiencing extraordinarily harsh sentences. It's a tremendous waste of taxpayer money. And frankly, it's counterproductive and just isn't working. Now, fast forward to my job now, which is working as the top lawyer in the mayor's office in Detroit, you know, I oversee a wide wide portfolio of legal issues ranging from housing security, to education, to workforce development, to criminal expunged, minutes. And over and over again, I saw the way and I see the way that this country's system of mass incarceration is really holding people back, it affects people's ability to get stable jobs, it affects stable housing, it affects families and breaks up families, and prevents kids from going to school. And in a stable environment, you know, if your if your parent is justice involved, or if your parent is being held on cash bail, oftentimes you lose your home, the parent loses their job. And for the kid, that means that you're switching schools, sometimes 123 times, and the equivalent of that is losing a half year of growth, academically, even in the best circumstances. So I see the cascading consequences of our criminal justice system. Meanwhile, I'm living here in my hometown and living in an arbor and and I see this rise of really more criminal justice reform

oriented prosecutors across the country, people that are committed not just to continuing the incarceration of policies that have failed us in the past, but to really turning the page and building a better and safer and more cost effective criminal justice system for all of us. So I thought, you know, we really need that model here in Michigan, and what better place to do it then in Washington County, where, you know, I grew up and where we have, you know, real problems with the justice system. So I, you know, I thought I'd just throw my hat in the ring, run on a message that is really about reforming the justice system. And hopefully the voters are ready for it. I think that they are I think that there is a rethinking of the way that we're doing criminal justice in the United States. And, you know, I'll say this, I bring, I think, a broader perspective to this work, I didn't come up through the prosecutor's office, I have a job, which requires me to take more of a societal lens on thing. But I think it's important for people to be in these positions that really understand the way in which prosecutorial decisions affect every single part of society. And that's the perspective that, you know, I hope to take as Washington County prosecutor, and that's the perspective that I hope will help us turn the page.

So one of the first things I ever said on this podcast way back in 2018, was that you'd have to be willfully blind to walk into a jail or prison in the United States and not see the systemic racism. Your bio says you specialize in civil rights law. Can you talk a bit about what that means to you?

Yeah, sure. So I have been privileged to work on any number of cases related to civil rights over the course of my career, ranging from racial equality to the you know, the rights of special education students to get the resources that they need to racial equity. And all of this sort of ties together. And again, I reference the broader societal perspective that we have. But look, we have a real problem with a, you know, racial disparities in the criminal justice system. And I just look, I'm a data guy. And the proof is in the pudding here, Washington County, for example, though, the prosecutor's office doesn't keep stats on where the racial disparities lie, which is something I hope to talk about a little bit later, and something that I'm committed to changing. But just from independent observations of the juvenile justice system, you have roughly three times the number of children of color that are justice involved, despite the fact that they make up only about 12% of our county population. Now, if you just look at those Stark numbers, it's very apparent that something is wrong, that we have a system that is skewed against people of color in this country and in my home county of Washington. And look, I think that this is the civil rights issue of our generation of my generation. You know, the, the mass incarceration policies that we've been seeing over the past 30 years, the harsh effects of those have fallen disproportionately on communities of color. And I think we need to take a really hard look and find out where those racial disparities are. And then we need to address and eliminate that.

So I'm a little bit as I think most people who listen know a little bit of a Supreme Court nerd, you're the second guest on the podcast, who's clerked for Sandra Day O'Connor, we are the first to have clerked for, Justice Ginsburg. Can you talk a little bit about what it was like to work for two very different for, you know, Supreme Court justices?

Yeah, absolutely. And it was one of the great privileges of my life to clerk for, you know, the first two women ever to be on the United States Supreme Court. I'll, I'll just tell you a little bit about how it works. Each retire, Justice gets one Clark assigned to them. And so I work for Justice O'Connor, after she was already retired. But functionally, you end up getting adopted by another justice, an act of justice, and you do probably, you know, 90 to 97% of your work for that act of justice, just working as a regular clerk on all active Supreme Court matters. So it's it's extra work. But of course, I wouldn't trade it for the world. And, and so, so Justice O'Connor is just, you know, a person that is incredibly warm and open and friendly. I remember I had my interview with her and I was nervous as all get out. And she immediately put me at ease. It was just, you know, sitting down in that chair across from her. It was like talking to your grandmother, if your grandmother happened to be the first woman in other states supreme court. And you can see how she got there. She's just a people person. She had exudes warmth, and compassion. She really wants to know what's going on in people's lives. It's a genuineness that you cannot fake. And so when I was working for her, you know that my work involved, helping her write speeches, law review articles, and then working on a horror, her pet project, which was and remains promoting civic education in American schools. I'm actually an eighth for eighth grade US history teacher. So that was a project that was really near and dear to my heart. And then Justice Ginsburg, I mean, boy, you know, I would be and by the way, she's also somebody that, personally is incredibly warm, and caring. And just to her core, a great person who understands, you know, that the law isn't just words on a page, but that it really affects people's lives, and that it can be a driver of equality, or inequity. And, you know, that's what she's devoted her life's work to. But you know, you just, at times, you're just sitting across the table from Justice Ginsburg, who would have been in an historic figure on the, you know, in the women's rights movement, she's the equivalent of Thurgood Marshall in the in the fight for racial equity. And if you'd never been a Supreme Court justice, she would have been an historic figure and you know, you're working with her on a case and, you know, she's, she's got such a fount of knowledge, she has more understanding of the law and her little pinky, which is, which is small, then that will ever have in our brains in our in our life, and you just feel so tremendously honored and privileged to be working with her on important cases at the Supreme Court. And, you know, the other great thing about my clerkship for Justice Ginsburg is, you know, you go into that clerkship, but you think, Oh, I can't wait to write some stinging descent. Well, my dear, we ended up winning everything. You know, we were on the we were on the the majority side of virtually all the big cases. The year that I clerked for her was the year in which the court decided the Oberg fell case, which of course, found that same sex couples have a right under the US Constitution to marriage nationwide. We beat back another challenge to the Affordable Care Act. Justice Ginsburg wrote the majority opinion four or five, four court which allowed for independent redistricting commissions in the United States,

which which are up here in Michigan.

Exactly, exactly. And and voter initiated Independent Redistricting Commission. So really taking the power back from the legislators. So it was just an incredible, incredible experience, one that

I'm so grateful for, and you know, I still stop by and see her whenever I'm in. I'm in DC, and I'm just so honored to have that. That experience in that connection.

And you've done some teaching at the University of Michigan is that right?

Yeah, yeah. So So I teach classes in state and local government at the University of Michigan. And then I teach a workshop class, in which basically, I, you know, I keep a crash course in local government for the first three weeks. And then I give students problems that we're trying to solve in the city of Detroit. And they come up with ways that we can potentially solve them through litigation through public interest litigation. So you know, say for example, the opioid epidemic is devastating our city, who can we still here are the issues, what can we do? And some of the some of the papers that they've produced in the class which which provide roadmaps for public interest lawsuits have been strategies that we've used in the city of Detroit. So it's a really cool opportunity to work with the next generation of public interest lawyers and to to do good by the citizens of Detroit, which is a good lead into working with Mayor Dugan. I'm not sure many people would take on task like turning around Detroit. I'm sure there have been a ton of civil rights and legal challenges over your time in that office.

Can you talk a little bit about working with working in the mayor's office?

Yeah, so the ethos in the mayor's office is just really trying to put one foot forward at a time taking steps forward for the citizens of Detroit. And we're trying to pull absolutely every lever that we can to better outcomes for Detroiters, and, you know, Detroit, the city that we've made tremendous strides, I think, over the past several years, but there's a lot of work yet to be done. You know, we have a school system, which is by virtually all measures, the worst in the country, we have a large percentage of our citizens that have criminal records, which is holding them back from getting stable housing, from getting stable jobs from being ready to contribute to the workforce. You know, and and so there are a ton of challenges, but we try to pull every lever that we can be at legal policy, what have you to move the ball forward. And it makes my job as you know, the lawyer that's responsible for figuring out legal strategies, really interesting and exciting. And I'm proud of a lot of the work that we've done. I think a lot of people would,

You know, it seems like there's been a lot going on in Detroit. I think you mentioned one of the challenges education, I think another one that people would point to is perhaps gentrification. Do you have any thoughts about kind of how you're moving forward? In fit the face of some of those challenges?

Yeah. So with respect to education, look, there's there is no silver bullet there. You know, the school system was under emergency management for over a decade. And you've seen, you've seen a lot of the policies that have come out of Lansing have really devastated the Detroit schools relating to, you know, unchecked growth of traffic schools, schools of choice, we don't fund schools equitably in the city of Detroit or in the state. And, and so look, it's a big problem. But what we're committed to doing is helping wherever we can, and I'll say this, the city of

Detroit doesn't run the schools. So we, we work alongside and we don't want to run the school. We work alongside the elected school board, and you know, charter school leaders, because you know, 50% of our kids go to schools in the in the main district 50%, go to schools, and charters, and we really try to equitably address the issues that are facing kids and families where we can. So what does that look like? Well, you know, from a litigation perspective, we are involved in the lawsuit in federal court right now, that seeks to establish that Detroit school children have been deprived of their rights to literacy under the US Constitution. And we're hopeful that we will get a favorable outcome there, we're moving forward with after school programs, and providing transportation options, so kids can go to school in Detroit, rather than, you know, leaving on a bus for suburban school, which is what so many of them do. And we think that's huge for building up communities, we're really pushing hard to get universal pre k in Detroit, the mayor has come out very strongly in favor of that. And we're hopeful that we'll be able to work with some of our partners in Lansing, to provide free pre K to all four year olds in Detroit, which will just be a tremendous boon to kindergarten readiness, and ultimately getting kids where they need to be by the time they enter school. But look, there are there are just a number of interlocking issues here. And one of them is the trauma that kids are facing when they enter the classroom for the first time, part of that you can address with more equitable funding, but part of that you have to try to address the underlying trauma. And, you know, I'll just get back to the criminal justice system. That is a huge driver of trauma for a lot of kids and a lot of families in so many different ways. And that's why, you know, that aspect of our society really needs for a number of reasons to be addressed.

So do you want to address it all? The tension between trying to bring more capital into the city and gentrification or

Oh, sure, sure. Look, you know, it's, it's it is a complicated puzzle, right? Because on the one hand, Detroit's major problem is Detroit has a poverty problem. Right. And and what we are trying to do is bring jobs back, bring development back, but at the same time, not price people out of the homes that they've been living in. For years and decades, we're really committed to making sure that the people that that stayed in Detroit through its worst times, have something that's there for that we do not want to become another San Francisco in which is just unaffordable. For people that are longtime residents to live in Detroit. Detroit's major strength is its communities and its neighborhoods. And so, you know, we've got a wonderful director of housing in Arthur Jemison and worked with Don rancher over there and and they're focused on making sure that there is affordable housing built in in every single neighborhood and every single do development so that, you know, where we have levers to pull, of course, so that people are living alongside one another newer Detroiters that are moving in, which is a very good thing with the population growth in this city are living alongside long term Detroiters. We're focused on making sure that we're not displacing seniors, a lot of times we have affordable senior housing, and a developer will, will buy it and we'll see to confirm that you know, those apartments to something that they think is a little bit more profitable, while we have gone toe to toe with some of these developers that are doing that, and you know, are not treating senior in the way that they need to be respected. So so it's something that is front and center in our

approach in Detroit, you do want to grow the population you do want know people to move in, you do want to do investment you do what new jobs the same time you need to be cognizant of the need for affordable housing and for building in Detroit that works for everybody.
I think, you know, one of the good things about you coming on is I think your campaign speaks to a lot of the concerns of my listeners.

So just I know you've talked about a little bit before here, but why are you running for prosecutor Washtenaw County?

Yeah. So so a Washington County is my home. And I think that we have a wonderful community here that that really tries to espouse progressive values, but we haven't been living up to them. And I think that we have a tremendous opportunity here to really build a model prosecutor's office that turns the page on the criminal justice policies of the past and focuses instead on rehabilitate patient over incarceration, eliminating racial and socio economic inequity, and really building a safer and fairer and more cost effective justice system for everybody. Now, that that sounds like a lot of sloganeering so I'm so I'm happy to dig into some statistics here. Right. So number one, and I'll take a step back and just say this, the prosecutor in the criminal justice system is the actor that has by far the most discretion, the prosecutor decides, you know, when a case is referred to him or her, whether it's a charge with what to charge, whether somebody gets an opportunity for treatment and rehabilitation, rather than being pushed into the incarcerated path, the prosecutor makes the decision whether to seek cash bail, in the first instance, the prosecutor can play a big role in deciding what probationary terms somebody somebody might have, once once their sentence is over, or if there's a sentence to probation. So I wanted to start from from the front end here. I think, and I think there's an increasingly broad consensus on this, that one of the major drivers of inequity and unfairness in our criminal justice system is cash bail. And we've seen prosecutors across the country commit to cash bail reform, or into eliminating cash bail in one degree or another. I'm an absolutist on this. I think cash bail has no state no place in our criminal justice system. I think if you and I were sitting down, and we were trying to design a criminal justice system from scratch, and one of us proposed cash bail, as the way in which we would make sure that somebody comes back for their trial date, or make sure that people that pose a threat to the community are held pending trial, the other one of us would laugh, because it is such an obvious driver of socio economic inequity and adjust doesn't make. So here's what I'm committed to doing. We are not going to be seeking cash bail when I am prosecuted. That does not mean that nobody is going to be held pending trial, there are circumstances in which that's 100% warranted, if somebody poses a threat to the community, if there is, you know, an obvious escalating cycle of violence, that they're a part of, of course, the prosecutors job is to keep the community safe, and that person needs to be held. But it should not be based on how much money you have in your bank account. It just doesn't make any sense. And we have people in Washtenaw County and across the state that are languishing in jail, you know, because they had a bad night because they got an argument with a police officer, but they don't pose a real threat to the community. There's no reason to be holding there. That's taking mothers and fathers away from their families. It's causing people to lose their jobs, which by the way, it makes it more likely that they're going to

commit crimes of desperation. Once they're free, and we're paying money for it, every taxpayer is paying for it. In Washington County, we have an overcrowded jail, and the majority of those are there, I'm pretty proud of attention. So So why are we paying money into the system where we're effectively holding people, because they're unable to come up with with with cash pending trial before they've been convicted of anything, while at the same time, by the way, and you know, in equity cuts, the two tracks system of justice cuts both ways. A wealthier person that maybe does pose a threat to the community, the media is a flight risk, is able to buy his way out, it just doesn't make sense. So we're going to eliminate it when I'm prosecute. A second thing that I'm 100% committed to doing is prioritizing diversion and treatment over incarceration. You know, in in Washington County, and I don't know the statewide statistics, but I think they mirror at pretty closely we have a 70% recidivism rate for people that are justice involved. And we have 80% of the people that are in our court system that are struggling with some sort of addiction or substance abuse, right. Now, to me that suggest we need to do a lot more to address the root cause of why people are justice involved in the first place, which is often a battle with substance abuse, with mental health issues with PTSD, rather than just shuffling them into the criminal justice system, which at our 70% recidivism rate show just is not working. And so what that means is as a policy matter, we're going to treat incarceration as a last resort, not a First off, but also we're going to support the establishment of problem solving courts, and programs in Washington County, that provide people with an opportunity to get the help that they need. So they never end up in the criminal justice system again. So we have some great courts, problem solving courts, mental health court, a substance abuse court of veterans court at the district court level in Washington County. And what these are, these are programs where, you know, you're diverted, and instead of going going to jail or getting the typical criminal justice consequences, you are placed in a program, this is what is required of you to, you know, by the criminal justice system, in which you are, you know, able to get healthy, they provide you with, you know, a plan and resources to get addiction treatment or to get a stable job. And you know, it's a lot more forgiving than the criminal justice system. And it works. And we've got those programs. They're doing great work at the district courts, but the district courts are where the misdemeanors go, right. We don't have a single one of those courts, unlike a lot of other communities around the state at the circuit court level, which is where people go, and they're charged with felonies. Now, to me, that's exactly backwards. I mean, it's really important to have this stuff in the district court. But for a lot of people, when they're charged with a felony, that's really the fork in the road, that may be the driver that the causes that to finally get help. And so to not even have a single opportunity available to folks that are charged in circuit court to get the help they need to address the root cause of crime, I think is is just unconscionable. And so I'm going to be steadfast and supporting the creation of these courts. I can't do it alone. But we've got a great bench here in Washington County that I think will be supportive. And I'll dedicate as many resources we need to do this. Because ultimately, if we are investing in diversion programs that help people get on the right track, it's an investment that pays off long term. It means it means that we're not going to see the same people shuffled through the criminal justice system over and over and over again. So that's that's a major push of mine. And I can I can sort of stop or I can keep going and and my platform I you know, I'm a lawyer, so I can talk for talk,

Well, we'll break it up a little bit. If we don't get anything, just feel free to drink, but in all right. So you brought up misdemeanors at a couple months ago, I had on Alexandra Natapoff who's written a book on the need to reform our misdemeanor system. And one of her claims is that one of the major drivers, at least at the jail level of mass incarceration is charging for incarceration for misdemeanors. You know, I mean, I think we all saw, although this wouldn't be a jail, charged just recently, this girl who I guess supposedly licked some ice cream, and then put it back on the self, and they're saying she has like a 20 year possible sentence. That's obviously not a misdemeanor sentence. But I think a lot of times we get in these situations where we make incarceration, the first and only response, are there ways that we could charge misdemeanors differently, at least for non serious misdemeanors.

Yeah. And look, I one of the things that I'll say that I hope to do differently from my predecessor is, I don't believe in blanket policies for certain types of crimes, right? I just think that every person that is coming through the criminal justice system is there because they have a different story. And when you have blanket policies, zero tolerance policies, you know, policies would prevent you from from, you know, down charging something or offering diversion, or maybe just not pursuing the charges at all, you really lose sight of the the human element there, and what's going on in people's lives. So I'm hesitant to wait in and say, yeah, here's exactly my plan for how I deal with misdemeanors because I don't know, every, every every case is different. What I can say, as a general matter, is, you know, I, I don't believe in incarceration, as the first resort, I think many misdemeanors that are charged, frankly, may not need to be charged. And I can, you know, point to a couple of high profile examples in Washington County that are pretty obvious. Some maybe some maybe you don't just don't charge, right, you get referred, charged by the police, you say, look, this really isn't something that the criminal justice system needs to be involved in generally, maybe it's a kid in a school and you say, look, this is really better taken care of in the school setting. Maybe it's something like a grammatical error on campaign literature, which is something that our prosecutor here decided to charge somebody with very recently. And, you know, just just just really something I remember that case. Yeah. Maybe it's, you know, we've got we've got these climate protesters right now that, you know, our young people that are just passionate about addressing probably the greatest existential threat to our, our planet, and, you know, as part of a climate protest stayed a little bit later than they should have in a university building, and now are being charged with criminal trespassing, which is, look, it's a misdemeanor, but eating up resources from it. And it's just something that does not make sense to me, as a criminal justice matter. You know, maybe there are some so there's categories of crimes that you wouldn't charge, maybe some you charged, but you really focus on diversion. Maybe there. I mean, a lot of them. I think there's opportunities for restorative justice practices. And we've got a couple of judges that are doing great work there. But this, you know, what restorative justice is, is if there's a victim of the crime, you actually actually victim Do you want to engage in sort of a dialogue with the offender and, and sort of work out to loosen that both provides closure for the victim and hopefully, get the offender on the right track? It's a tremendously powerful model that is being done some extent here, Washington County, but there's great work being done in DC around it. There was just a story on NPR this week about how they're using restorative justice in the juvenile justice system over in DC, Danielle, so red is

doing great work around restorative justice in New York City for for all types of crimes, even up to and including violent crimes.

And believe it or not, she has actually been a guest on the podcast. Right?

Right. Well, I'm in good company here. So, so I guess if anybody missed that they should probably listen to it. And and it's a model that I'm really committed to, to pursuing here, as well. That's exciting to hear. So one of the problems, I think, if you know, we're not going to look for kind of one size fits all solutions, which I think is probably smart. One thing that seems to happen is, and it's a little bit of an oversimplification, that one of the ways that prosecutors offices traditionally have communicated success to the community is through convictions.

Are there other ways that we can look at what how prosecutors are successful?

Yeah, 100%. So I would like to track I mean, the main thing is, you should be tracking recidivism rates, right. And that doesn't just require tracking recidivism after somebody has been convicted. But I want to know, right, if somebody finds himself in the justice system, and let's say they get an opportunity for a diversion, or the charges are dropped, or they go through a restorative justice program, whatever it is, all of those people should count. And if they're not coming back through the criminal justice system, and I believe that we put the model that I have in mind in place, they will see a dramatic decline in people shuffling through the justice system over and over again, that's a measure of success. So I want to focus on that. That's one metric that I am committed to focusing on. Another metric I'm committed to focusing on is eliminating racial inequity in the criminal justice system. You know, and this is, this is one of the systemic things that I want to I want to talk about, there are prosecutors across the country that are really taking a hard look at where racial inequity lies in not just their office, but in the justice system as a whole. And I'll give an example. When the process Phaedra, Milwaukee was elected back, I think it was in 2007. One of his first tasks was he commissioned a study with a third party Institute. And he said, I want to know where racial inequity lies in the system, from charging to sentencing to probationary terms. Where is it? Where's it most pronounced, and it's independent organization of the Vera Institute, took a look at the files. And they came back and he said, guess what his drug paraphernalia quiets at every step of the process, from arrest, to charting decisions to sentencing, you have severe racial inequity, with respect to drug paraphernalia, and he looked at that the prosecutor looked at and he said, This is unacceptable. And I think it is unacceptable. And and what he did with that particular set of charges, he said, I'm just not going to charge these anymore, which which, you know, drug paraphernalia crimes, by the way, something I really hesitant to say should be a criminal matter. Generally, it's like literally how having a piece of glass that looks like a crack pipe, and, you know, no drugs, so so it's always kind of befuddled me, that's a crime in the first place. But what I really admire about that is that he took a hard look, he opened up his files. And he said, I'm committed to addressing whatever inequities, we find, that should be a metric that we care about. Because I think even people that you know, think that the criminal justice system should should be imposing consequences on people. I think most people would agree that the consequences should attach because of what

you did, not because of who you are. So that's another metric that I want to focus on. And the third one is, look, we really need to be cognizant of how much money is needlessly being spent on the criminal justice system that is not working in the state of Michigan, we spend a fifth of our general fund budget per year, just on corrections. We're doing this at a point where our schools are crumbling, if you're paying any attention at all to the debate up in Lansing, right now. You know, the roads are crumbling, and the legislature is struggling to find ways to pay for that we have so much need for investment in this state. And yet we're needlessly pushing so much of it into a criminal justice system that if you look at the recidivism rate, isn't really helping anybody. Right. And so I want to focus on cost effectiveness. And one of the things that I like that, you know, Larry Krasner has done out in Philadelphia, is he makes every single prosecutor when they're seeking a sentence, calculate the monetary cost of incarceration, right. And so it's one thing to say somebody should go to prison for 10 years. But when you actually have to write out that, you know, here in the state of Michigan, that'll be $47,000 a year, so $470,000, the taxpayers are going to be paying for this, I think you see a little bit more reflection in sentencing practices, people can also see exactly how their money is being spent. So the policy that I want to promulgate here is, you know, every single prosecutor whenever they're seeking sentence, they're going to have to calculate the monetary costs. And they're going to have to write a little paragraph, justifying it, which is going to be publicly accessible and totally transparent. And part of the part of the one of the metrics that I want to be judged on is how well, I save taxpayers money. Right? So if you look at those three things, right? Are is is the justice system actually preventing people from suffering through it over and over again, we track the recidivism rate like is it fundamentally work? That's one pillar, too? are we treating people equity equitably? Right? Or instead, do we have pronounced racial inequity? And three, are we using taxpayer resources wisely, and saving money that can ultimately go to other important priorities? I think if you have a prosecutor's office, that's judged on those three pillars. That's really what people should want. Right. And that's such a better metric. And such a more holistic metric, I think, then just focusing on conviction rates.

So one thing we've been dancing around for a while here is the notion of transparency. I think most people may not be aware, but for the most part, prosecutor, prosecutors offices are what we would call black boxes, we don't get a lot of information, there isn't a lot of records kept, at least not that are shared with the public. You seemed like you might have something to say about that.

Yeah, look, I mean, it is unfathomable to me that when you have this massive operation, that affects so many aspects of society that sucks up so many resources, that it is a black box, and it's non transparent. I think that it's a, it's unfair to the people that are ultimately paying for the system. I think that is unfair for the people that are in the system and don't really know what to expect. And I think it's counterproductive because when we're afraid of data, when we're afraid of sunshine, it ultimately makes us far less likely to eliminate the inequities that we're seeing in the justice system and to build one that's that that's better for all of us. So, you know, one of the good things about having new blood in there, right, is that, you know, I don't have any institutional attachments to what's been done over the past 30 years. Right. And, and so I'm

going to be unafraid to really take a hard look at what's been done in the past the policies of the past, and to continue to be transparent into the future. I, you know, I think that's what we all deserve from every level of our government and the justice system shouldn't be an exception. In fact, I think that it's particularly important that the justice system is very transparent. You know, by the way, this is just my view, this is in the Constitution. Right? You have a you have a constitutional right, to a public trial. Right. So that to me, that really suggest that our framers were onto something, they knew that the criminal justice system could be rife with abuses if it took place behind closed doors. And so they wanted to put protections in place, which ensured transparency and openness and a public facing perspective.

So one, perhaps thorny issue is, you know, 96%, or something around there of cases are decided by plea bargain. You talked about kind of Traditionally, the problems with prosecutors, I think, from our perspective, as reformers, one of the problems is kind of a system that seems like it only has one possible result for almost everybody who goes into it. Do you have any thoughts about plea bargains?

I do. I do, indeed. And so I'll, I'll just preface my more general thoughts on plea bargains by referencing back to my cash bail policy, because I think one of the one of the reasons that you often see coercive plea bargains, you know, people accepting sentences that, you know, maybe disproportionate to what they did, or, you know, pleaded guilty to something that maybe they didn't do in the first place, is because they're being held in jail pending trial, and they're desperate, they're desperate to come back to their families to return to their jobs. They're placed in an unequal position with respect to bargaining, when that happens. So I think cash bail reform will go a long way to ensuring fairer plea bargain. But But look, with respect to plea bargaining more generally, plea bargaining has its place in the system. You know, it allows people to, you know, get their get their lives going more quickly, it saves taxpayers resources, I'm not an opponent of plea bargain, what I am an opponent of is, you know, what I would call sometimes coercive, please bargaining, right, in which a prosecutor will with all the power in the world sit across the table from a defendant or a defense lawyer, and they will threaten aggregators at times that, that, you know, they probably couldn't prove up at trial. But it's an opening position, just like any other negotiation, you know, where you start from, you know, a sort of extreme position, and you expect the plea bargaining to to be to, to end up negotiating it down. And so just, you know, as a hypothetical example, that let's say you're, you're in the system, and you're charged with an offense, which could carry really a one year max sentence. But if you tack on an aggravated, then it could be 15 years. So the prosecutor comes in, they say, Look, I'll give you a felony record. And maybe you get time served, maybe I'll ask you to serve a year in prison, whatever, depending on the charge. But if you don't take this offer, then this 15 years is on the table. Now to me, if you're not actually planning on, you know, charging that if you don't think justice requires it, and particularly if you don't think you can prove that up a trial, that should not be on the table. It's not just a regular negotiation between, you know, two corporate entities that are negotiating a merger, but the prosecutor's office is representing the people of the state and the government. And we're talking about somebody's Liberty here. So my approach towards plea bargaining is going to be this, you can engage in plea bargaining. But

whatever your opening offer is, it better be something that you are competent, you can prove beyond a reasonable doubt. at trial, you cannot threaten something that you cannot prove up beyond a reasonable doubt, at trial. And moreover, in a better be something that, you know, with all the other policies that that my office has, you would feel comfortable. actually moving forward with it cannot be a threat to cement a cow somebody into accepting an offer. That is ultimately not not the best move.

I think that's one of the I think this is the second time we've mentioned something that you can at least argue was in the Krasner memo. Do you have any other thoughts about the Krasner memo?

Yeah, look, look, I think that so the other one, the other one was the the monetary cost of incarceration, right?

Yeah. Well, that Yeah, yeah.

The, the making sure that you itemize out how much the cost of the Yeah,

Yeah. Right. And look, a lot of the a lot of the craft or memo is somewhat specific to Philadelphia, Pennsylvania has laws, you know, there's, there's the aspect about, you know, how you charge shoplifting. And that's something that, you know, I'll take a look at, but it's just a different set of laws. But I think the more general thrust of the Krasner memo, which, you know, is focused on fairness and equity and and eliminating the power imbalance in the system. And then also not charging things that just don't need to be charged, is an ethos that I want to bring to the office. Now, I'm not going to, you know, sit here and say, here's a list of statutes that, you know, I'm not, I'm not going to charge, there may be some, you know, I mentioned drug paraphernalia crimes before. But But you know, I'm not prepared at this point to, you know, announce that and either to Krasner until he took off. But but I do think there's a lot of things in the criminal justice system that that, as a general matter, this don't need to be there. And so that's something that I'd be committed to looking at, once I'm elected.

Well, maybe a better way to ask this question is we've seen a long list of people from Larry Krasner to Kim Fox to clone to you know, og, just a lot of progressive or what are being called progressive prosecutors. What do you think, you know, both makes you similar to that frame of people or that group of people? And also, what do you think differentiates you?

Yeah, it's a good question. I very much view myself policy wise. In a similar way to to those folks. You know, I think that this is a national movement, we're seeing more progressive prosecutors that are committed to transforming and reforming the criminal justice system get elected on on an openly progressive platform. And and I think that across the country, look, you're seeing cash bail reform, you're seeing, promoting diversion programs and addressing the root causes of crime, you're seeing a recognition that a lot of low level misdemeanors that we see in the justice system just don't need to be there and should not be criminal matters, you

know, especially when you're dealing with, you know, maybe consensual sex work or addiction, when when you really just need to address the root cause of what's going on there. Right. So I view myself as very much aligned there, I view myself as aligned with respect to sentencing reform, I view myself as aligned with respect to eliminating some of the the really onerous costs and fees and probationary structures that setup tripwires, frankly, that cause people that are living in poverty to find themselves back in the criminal justice system over and over and over again. So you know, we've not seen this kind of race run in Michigan, I'm proud to be the first to be running on this sort of openly progressive platform, I do think that, you know, this is going to be a national movement, because, you know, to really reform the justice system, you need to reform thousands of prosecutors offices, and then DH offices across the country, because the way the system is set up, there's just so much discretion there. So I'm proud to be associated with that movement. And you know, I think you'll see very similar policies for me if I'm elected. Now, where do I differ? I'll say that where I differ actually is, you know, I bring a little bit of a different background into this, this work, right? I'm not, I'm either a prosecutor, nor am I like Larry Krasner, a civil rights lawyer that has, you know, sued the police over and over and over again. And, you know, I work very closely with law enforcement and police officers in the city of Detroit, I built good relationships there, I think I'm pretty well respected. And what I'm hoping and you know, hope this isn't naive is though, I'm pushing the reformist agenda, some of my background and my credibility working with law enforcement, and ultimately make it a smoother transition to to get these policies in place.

That's an interesting bridge, I think, to my next question, which is, you know, I think part of the problem when you are running on a change agenda is that you often run into kind of entrenched interests. And some of those are within the prosecutor's office themselves, and some of them are within law enforcement. And it goes beyond that. How do you approach changing the culture in a way that doesn't create, you know, such a massive backlash? That's impossible to get anything done?

Yeah, yeah, no, and this is, this is a really important issue. Because I'm not I'm not particularly interested in just, you know, having fights all the time, I really want to move the ball forward and, and change things. And the best way to do that is to work collaboratively with other people that have been doing this work doing criminal justice work for years and decades. And so look, you know, I'm running a campaign that is premised on turning the page on the policies of the past, I'm very open about that I'm not going to shy away from, but what I don't want to do, and, and it's just not in my DNA to do this, I'm not going to disparage people that have been in the system for, you know, for the past several decades, right, I'm not going to go in and say your life's work has actually been a driver of, of all this bad stuff that I'm talking about. I don't believe in that, you know, I think that we move forward as a society, we can correct the mistakes that were made in the past, without disparaging, you know, the work that people are doing been doing, because look, a lot of police officers, a lot of prosecutors, they are doing really good work, they're doing it with innocence system that is, is is not smart, and is not set up to work. And that's a system that I'm dedicated to changing, but I would never disparage, you know, absent any, you know, really egregious conduct an individual, or the people that have dedicated their their life's work to public

service. So that's sort of the, you know, the tone that I'm hoping to take, there will be policy changes, I believe that people in the prosecutor's office in the criminal justice system, you know, they're, they're professional, and if the, if the people choose me as their next prosecutor, that's the way democracy works. And, you know, you can expect policy changes. But I want to work alongside them. And, you know, I want to draw on their years of expertise, I want to listen, I want to work collaboratively, I'm not going to take an adversarial approach. And and I'm hopeful that that will pay dividends.

So one of the things that we've, I think, seen a lot when there have been reforms is that there's almost like kind of an Empire Strikes Back moment where the press tends to say, you know, the first time there's an incident of recidivism, oh, my God, look out, look, what reform Did you know, without any really context or comparison to the world before the reform? And so I'm wondering if you've thought a little bit about as reform happens, you know, how you plan to deal with kind of like, making people see less Willie Horton and more Alice Marie Johnson, if that makes sense.

Yeah, yeah. Yeah. Look, this is this is going to come? Right, you're absolutely right about that. And I'll say this publicly, there will be an instance, in which you know, somebody is in a diversion program or somebody is, is released without a bail and something bad happens, right? There are there are no perfect systems, and we just don't live in a perfect world. And I think, look, a couple of things. If you want to do this work, you got to have a backbone, and you got to be true to your principles. You can't just be cowed by by bad press story. And I don't intend to be. But be I take comfort in the fact that I, I firmly believe that ultimately, this movement towards justice reform is not just about, you know, being nice to people that are justice involved, it is about making everybody safer. And again, I just go back to the fact that we have a system that is currently set up to hold people, and it's currently set up, focused around incarceration, rather than rehabilitation. And what we are seeing is that we still have a 70% recidivism rate. So it's not working currently, we're seeing people that are, you know, entering and exiting the system and are continuing to commit crimes, often you see, frankly, an escalation and behavior. Because we've failed to address the root cause of that behavior early on, maybe the first time somebody in the system struggling with addiction, or maybe the first time they're there, as a juvenile. And so I really believe that what we are doing, and I can point to, you know, probably give me the Give me the, the the data, I can point to probably hundreds of instances in which people have been been sentenced to harsh sentences, and have gone out and committed crimes again, because the correction system isn't correcting anything. So you know, you have to stand up and you know, these, you know, these attacks will comedy will be some story. And and that's, that's inevitable, just because we live in an imperfect world. But I think, you know, what drives me is taking solace in the fact that I think that the system that we are promoting here, and that you're seeing progressive prosecutors across the country promoting will ultimately make everybody safer. Because I know one thing for sure, the current system is,

So I think, you know, not just you know, all my listeners aren't here, but some of them are. And so I was wondering, you know, if you have anything, as people are starting to think of looking at different models for, you know, how we do prosecution, if there's anything you'd like to say, just

in general, about why, you know, what, what's the best case for moving into kind of a different and change kind of prosecutors office?

Yeah, look, I'll just, I'll just keep going back to this, what we are doing is not working, right. I mean, I'll focus here in Washington County, we have an overcrowded jail, we're all paying for that, you know, the jail has to, you know, occasionally put the prisoners or the inmates on lockdown, because there are just too many of them for staff to keep up. Sometimes they have to just release people, because there are not enough beds there. Right, we have a 70% recidivism rate, we have 80% of people that are dealing with some underlying addiction issue, not even to mention, the mental health or PTSD issues that we see in the system over and over and over again, you know, as as a country, we have three point 2 million people behind bars, that's a tremendous expense to taxpayers, we aren't seeing any real indicator that it's working, that it's making us any more safe. Because you know, one of the, again, you know, I'll just go back that 70% recidivism rate here in Washington County, so we can stick to this old model of doing things. But it is simply not working. And I think you're seeing increasing recognition of that fact. So even if you don't care about anything else in the world, even if you only care about safety, and even if you only care about cost effectiveness, turning the page and injustice policies of the past. Makes sense. But I do care about more than that. I do. And you know, I think that the inequity in our system is staggering. And and the fact that we are effectively criminalizing poverty is not just counterproductive. In some ways. It's really cool. We're saying that, you know, what happens to you in the justice system, whether you are able to get a second chance, whether you're able to buy yourself out of jail pending trial, whether you're able to meet probationary terms, is dependent on how much money you have and your station in life. That's fundamentally I think, contrary to the promise of this country, into our justice system into our democracy. And it's something that I think we should all be focused on changing.

Okay, well, I always ask the same last question, what could I have done better? What questions should I have asked, but did not?

You know, I think you're a fantastic you know, I don't know how many politicians you've had on this show. But I'll say I think you were fantastic. Interviewer. And, you know, you couldn't have you couldn't have done anything differently.

Well, that's very nice. I always like it when I get that answer. Yeah. No, ask it from a place of humility.

But I'm always happy when I get something out of know, and I know what I really mean it. And I think it's really important that we have a podcast like this. Let's bring these issues front and center. And, you know, you've had some just fantastic guests on in the past. I'm honored to be among them. So so so thank you for everything.

Thanks so much for doing this. I really appreciate you taking the time and I'm looking forward to your campaign going forward.

Wait,can I say one last thing? Of course, okay. I need your help to win this. I need volunteers, I need campaign contributions. So if you are interested in getting involved, if you're interested in reading more about me or helping out the campaign, go to my website, it's Eli 2020 calm that's ELI 2020 dot com, like I said this, you know, I view myself as really part of this national movement, we can build the first progressive prosecutor's office here in the state of Michigan. So you know, if you're listening, and it's something that motivates you, I really hope to have your support.

I'll make sure and include all that in the show notes as well. Thank you. Alright, man, thanks so much for doing this again.

Yep. Take care.

Now, my take, I really appreciate you taking the time to talk with me about is running for prosecutor here in Washington County, Michigan, I think it's very important for everyone to become aware of how much power prosecutors have in our country, and to start considering who they're going to vote for and prosecutor races. Let's face it, we can barely claim right now to have an adversarial system of justice in this country anymore. If you listen to prosecutors, when they give speeches, they will almost always use a line. That sounds something like this. We don't make the law, we just enforce the law. That line is totally inaccurate. I work in this field. And I've never seen one piece of criminal justice legislation either for reform or to make criminal justice more punitive, where the prosecutors association was not at the drafting table. Most prosecutors associations have a committee that is in charge of vetting legislation. Elected judges are rarely an effective check on prosecutor because no judge wants to have the prosecutors Association come out against them in their next election. Defense Lawyers are barely a check because 96% of cases and then plea bargains, the prosecutor gets over 90% of the resources and of the 4% of cases that go to trial, the prosecutors when most of them only losing the few cases where someone can afford to hire attorneys good enough to address all of these imbalances or with an indigent defense attorney who is Doggett enough to overcome all of these balances. Elections are not really an effective check either. In most cases, prosecutors run unopposed and many folks are afraid to run against them because if they lose, they will face the full Wrath of their local prosecutor's office. Prosecutors decide who is charged what they are charged with the terms of any plea bargain, what to charge people who refused plea bargains. They have the police working for them as an investigative branch, and they claim to be a stand in for anyone who has been harmed. In other words, they have everything everything on their side. I am for progressive prosecutors. There was a new report by community partners to reclaim Chicago suggesting that as Kim Fox has reduced incarceration in Chicago, public safety has increased. This is not an isolated incident. We need progressive prosecutors whenever possible, and we will continue to need progressive prosecutors whenever possible possible, but at the same time a progressive prosecutor can be replaced and the next election and often have all the forces of law enforcement arrayed against them. We need progressive prosecutors but we also need deeper reform. We need to realize that our whole supposedly adversarial system is broken. And that the movement to fix prosecutors is only one of many necessary reforms that

have to happen if we want to end mass incarceration in this country. Thanks again Eli Savit for being on the show.

And as always, you can find the show notes or leave us a comment at decarceration Nation dot com and make sure to check out our new t shirts, sweatshirts and hats. If you want to support the podcast directly you can do so from patreon.com slash on pirate satellite. Every week we put out a new newsletter you can sign up for that from the website decarceration Nation com you can also support us by leaving a five star review from iTunes or like us on Stitcher Spotify Special thanks to Andrew Stein who does the editing and post production for me and Robert Alvarez he's been helping with the website. Thanks so much for listening to decarceration Nation podcast. See you next time.