

Episode 68: Evonne Silva

Josh Hoe 0:03

Hello and welcome to this episode and a special set of episodes of the Decarceration Nation podcast from the Smart on Crime innovations conference in New York City. I say we because I'm thrilled that our web guru Robert Alvarez was able to join me in New York City for the conference. As result, Robert and I got to interview several thought leaders in the criminal justice reform field. The episode you're about to hear is one of a series of five interviews, which will be releasing over the next two and a half weeks each episode will be intentionally shorter than our normal episodes running for this they'll probably be running between 20 and 30 minutes. Okay, here we go. I hope you enjoy the special decarceration Nation podcast episodes from the 2019 Smart on Crime conference.

Evonne Silva 0:49

actually show that government can do this. And anyone it doesn't we actually no reason why. It no longer is a question of can it's just Will you And then democracy, we have a voice to change that. And so and so then that's another element. So it doesn't really answer your question.

Josh Hoe 1:12

That's a good bridge. So then we get to the question. I mean, you talk, it sounds like you've been on to some extent on both sides of the legal process. you've dealt with a lot of different situations. You've gone through this, you come to code to America, experiment comes up. Have you had a lot of experience with people not being able to clear their records? Or was that a new thing for you? or?

Evonne Silva 1:33

yeah, you know, I've I've actually never practice either in public as a public defender or a prosecutor. What I've seen is the various ways in which the system shows up in the conditions that it's created for people and what people are struggling through. And so and so, under understanding under understanding that I think in hadn't worked in management or clean slate so I'm not a practitioner coming into this what I am is someone who sees process and and systems and and sees when a process, as I said on a panel yesterday is outer bullshit. And, and that that when we so what I have practice in is I'm a former Legal Aid lawyer in addition to doing policy advocacy work and I actually served on a committee in California, that committee for the delivery of legal services, and part of the work was to improve the way that improve access to justice on the civil and criminal side, but we were really focused actually on the civil side and improving access to legal services and access to justice. And what I quickly came to realize that what we were focused on reforms, and process and paper and and and imagine if we had Bright. And we're trained as lawyers in user centered design when we're thinking about process, and we're always holding ourselves to the rigorous standard of making sure you're solving the right problem as opposed to offering solutions for problems that you're now in search of. And so, so I came, you know, in coming to Code for America, the team had been, you know, it's very easy to digitize processes. It's very easy. At the end of the day, we can digitize any

form, digitize any process, what takes more challenges to question why the process exists at all. And so I think the moment it became clear that government is at the ready and has sufficient data, to arrest someone to charge someone to convict someone to incarcerate someone. And it feels like it does not have that ability when it's to provide post conviction relief, and that is just not true. It should do none of the former, and most certainly given the harm. It has done The ladder. And the idea that government cannot provide that service to folks. It's just it's false.

Josh Hoe 4:06

Yeah, it's interesting. I've actually been in some discussions where people were pushing back about the idea that these processes could be done. And it seemed pretty obvious that maybe they aren't considering that they're already doing it. Is that what you experienced?

Evonne Silva 4:24

That's right. Yeah. This the effort to make conviction relief, automatic is not a modernization effort. What's true is that the the process to get relief is not designed for the digital age, as we say, a Code for America. It isn't designed to actually serve everyone. It's designed to serve anyone who can get through the roller coaster sort of Field Day of the petition based process, but it's not designed to serve everyone. And and the government has the capacity to actually survive anyway. today

Josh Hoe 4:56

and a lot of it seems like a lot of the the ways that it that we know it's Possible is because they're using those already. Is that correct? They just start using them for right thing is what you're saying. right?

Evonne Silva 5:05

That's right. So in some instances, so for example, in in Michigan and Michigan's already ensuring at statewide level that non convictions don't show up on background checks, we see this across the country, there are ways in which the states are ready providing some form of relief. They're implementing existing laws at scale. We also see this in the consumer side, right when we are looking at our consumer or consumer credit report. We know now as norms after seven years things fall off, we know that it would no longer should show up on the credit report. And when it does, there is a method by which to get it removed, or to challenge why it's still there. And here, it seems so puzzling how that could be possible. And at the end of the day, this is the harm here is when convictions are showing up in consumer backs. Crown checks when they're blocking the ability to create the conditions by which people can thrive and housing, employment, in education, and in working with your kids and in all of these various ways, and, and that is, you know, that is ultimately how we engage as consumers in the marketplace, how we engage as participants in our civil society. And so we we not only have done it before we do it in the government has done, you know, provided this level of, of restricted access in so many different ways that it can certainly do it here.

Josh Hoe 6:40

You know, it's a weird to bring this up in this context, but you talked about user assisted design, and I remember reading the Isaac Isaacson biography of Steve Jobs, about how they brought an iPad to a kid who had never touched a computer before and immediately they could figure out how to use it is in a sense is that your video You talked about democratizing these things is that part of yours or code for America's vision for how to bring processes that have always been missed mysterious, far away bureaucratic to make them more user friendly in that sense, or?

Evonne Silva 7:16

So, in California Code for America serves as the provides the intake application for folks applying for SNAP benefits to ensure food security. And so the user need is that I need to be able to access my SNAP benefits on my phone at my convenience, and very quickly, this the state built an entire machinery that cost several hundred millions of dollars, and a website was the result and that took 45 minutes to complete and asked incredibly invasive questions. evaluate whether someone should access this benefit that they are entitled to. So when we go to the user and we center the user need, the user is trying to get the benefit to purchase food. We need to make it very user friendly, user friendly means I need to be able to pick it up, understand what is going on. And move through it very quickly, because everyone has very busy lives. And it needs to be available to me at my convenience, not at the convenience of government, I should not have to jump through hoops in order to access my own government. And so Code for America created get CalFresh it is a digital form a digital process that takes instead of 45 minutes takes eight minutes instead of couple hundred million dollars \$4 million dollars to serve over a million people and growing in California in every county and consistently. That is what we mean by we're government is delivering services that center the user. What that means is, services are better because they're solving the right problem. And better, cost less because you're solving the right problem. And better also means that we're serving people with dignity and respect. And so then we actually, part of the effect of that is a rebuilding of trust or a first time building of trust with our government.

Josh Hoe 9:32

It's interesting because having gone through a few battles over snap and Medicaid in Michigan, I know that a lot of the reasons why those things happen or are essentially political questions. How did you? How are how have you all been able to circumvent kind of the reasons why the political class seems to want to make those forms so invasive and in other words, Yes, I understand why. Your process works a lot better. It's not hard to figure out. But you still have to somehow get the government to allow that to happen. So how have you all been successful in kind of walking? the tightrope? Yeah,

Evonne Silva 10:13

yeah, all of it all sits within a political context. And everything has a propensity to be politicized. At the end end of the day, efficiency and government as we say, a Code for America is a matter of social justice. The services that we rely on government to provide are the most critical, most important services and when they are burdened by process for the sake of process that is a matter of equity and social justice. And so and when you ask users who are constituents who

are voters, what they need, and you are able to do that user research and have the data that shows that government and choices are, are not only inefficient, they're cost effective. They're costing dramatic More that that is compelling to to the, to the political audience who often says they're driven by, by those by that and, you know, user centered design helps to surface and then center the, the real experience otherwise we continue and and politics will continue to operate in hypotheticals and in edge cases that never that that just don't exist and so and so that helps to actually also center it in reality, which is important, but what we've seen is is, you know, is that efficiency and and the need that that, you know, without staking claim to what efficiency ought to do. You know, we're left with with not only two tiers of Government two tiers of services, continuous entrenchment of the various classes of who has access to data. Yeah.

Josh Hoe 12:08

So you've you all have been involved with kind of the expansion of what some people have called clean slate other people's funds and other people set asides. The clearance of public criminal records in several states were all have you been involved so far?

Evonne Silva 12:24

Yeah, So Code for America, we, you know, started in the world of record clearance in 2016. In California. Looking to connect people with lawyers and the user need that we heard most predominantly through our user research is, if I have convictions in different counties, I not only have to go to each of those courtrooms, I actually have to find lawyers in each of those counties who, who will file the paperwork for me. And in order to do that I have to go to the lawyer during their business hours or during their clinic. hours. And I can't do that I've moved out of state I've moved to a different county I, you know, whatever that may be. And so we created an online intake form that connects individuals, to lawyers across counties, to say I have convictions in multiple counties. I would like your help in navigating that process. And what we quickly found and after continuing to do user research, is there aren't enough lawyers to serve everyone who is eligible in California there an estimated 8 million people with criminal records, were able to connect 12,000 people with attorneys who will then have much better odds and navigating the process. But that is not even a that's the tiniest drop in the bucket when we're thinking about relief under California law. And so wanting to think differently about about that process, and the work that we launched last year with the San Francisco District Attorney's Office, after hearing you know, their office wanted to take an affirmative position. They were To say, look, or they did say, look, we are going to take a proactive, act and move proactively on Clara marijuana convictions because we can because we should. And because a new marketplace is being created in the very folks who have been criminalized are now shut out from that marketplace. And so no one can talk about equity until we resolve this at scale. And so as they made that announcement, we had started to build some technology to understand we can't create new lawyers. This isn't an issue that we can throw more lawyers at, at the at the issue. And so we started to create we created some early early technology that would read a state criminal record, evaluate eligibility under state law, and then generate any paperwork and in the marriage between that early technology with the position of saying we need to do this affirmatively with San Francisco district attorney that has sparked momentum across the country

and in California to say you're That's right, we should we ought to and we should. And now what we've shown as you can, and the most important thing that we've shown is that it doesn't while we have built technology that that has shown that it is possible and helps to do it, it's not fancy technology, we ultimately are able to read criminal history data in bulk evaluated against state law, so evaluate eligibility, and then generate the output that then is ingested back into the system so that records are updated. And states can do this across the country. Counties can do this within their jurisdictions, if there is an estate law, and and it needs to be expansive. And so that laid the groundwork for legislation that then was introduced this year. That expands it further, for both misdemeanors and felony at the completion of sentence. And so states like Michigan states like Illinois in relation to marijuana, and North Carolina is considering this as well and, and others. And it's really exciting to see because, you know, when we make promises about reforms and don't actually think through the the implementation as advocates, we we have a responsibility to think through the implementation.

Josh Hoe 16:23

Because

Evonne Silva 16:26

it just doesn't work otherwise, in my opinion. Yeah.

Josh Hoe 16:29

So we've had certainly, I'm sure in the other places that you've done this, there were people probably saying, Hey, we can do this or whatever. How have the results started to play out? Have people started to see how it works and kind of changed the way they look at the whole process yet, or are we still too early in that move many mountains so to speak?

Evonne Silva 16:50

Yeah. You know, in Pennsylvania past the clean slate Act and the courts and the repository, they're starting to plan for it. That movement started actually show the movement in coming out of Pennsylvania started to show Oh, yeah, this is possible. One, it's possible for two agencies to talk to one another and think through how to implement an important reform at scale. And that's incredible. And it's, it's, it really has set the stage for this work nationally. in California. The work with San Francisco da led to a five county pilot that includes Sacramento, Contra Costa, San Joaquin, and Los Angeles. And what we've seen is that laid the groundwork for legislation that was then signed into law under Governor Brown that said, every county needs to do this, you need to expedite review for marijuana convictions that then laid the groundwork for the bill that was introduced in the city on the California governor's desk now, which says not only we're not only going to do it at the county level, we're going to do it at the state level for broader convictions, more convictions beyond marijuana. And so what we, you know, it really draws the line between Canton well And and that's an important line to draw, because then there are other measures in place. When constituents voices aren't being heard by their elected officials. There is a process by which we, we as voters need to change that. And so, as we see this across the country, whether you are a state with a centralized court system or decentralized court system,

you are a state that has a centralized criminal history repository, who has access to that data, who has access to court records. How do we restrict that access? So they're not barriers to jobs, housing, education, and other and other opportunities? And, and so we see this as possible in every state across the country.

Josh Hoe 18:45

Robert, did you have a question? Maybe

Robert Alvarez 18:47

just I was thinking about, how do you get this implemented? So you mentioned the California example where the governor Can you know, either request that the pilot happen and include multiple counties, but is it You go county to county trying to persuade them? Or do you find a centralized person who then kind of dictates to the other counties?

Evonne Silva 19:07

Yeah. You know, in California, it wasn't that we didn't get permission who lives in California? Yeah, great, but we didn't get permission from the governor, because we didn't need it. In California, we wanted to show what's possible. So for Code for America, when we think about how to improve the delivery of services, what we want to be able to do is show that it's possible to purchase services to be delivered differently. And once you see what's possible, you actually you're rethinking your entire reality and the processes that exists to support that reality. And then we want to be able to help government do this work themselves. And so we had identified a five county pilot to show a state as large as California, any county in this state can do this. And whether you're as large as La or as small as as as Contra Costa County in the Bay Area, you can do this work at the varying degrees of a scale of complexity and ultimately, conviction relief ought to be done at the state level. Because it's a matter of policy. And so those policy choices that are put into put into law, whether codified by the legislature or passed by voters, we need to implement them. And so we can't, as advocates ignore the machinery of government, when we pass reforms, we actually actually engage in that implementation. So when we think about implementation, what we're looking at is, who are the state agencies who have the data? What are the criteria for eligibility time conviction type is what it ought to be. And based on that very simple math problem. You and You, you write a script that can run the data, you identify the eligible you make the changes on the convictions, on the records and in and then those records are whatever legal effect is available. under law, that legal effect is in applied. So whether it's a set aside expunged with dismissal, vacate, or whatever that might be that legal effect is set aside. what's critical, though, is that we are looking at convictions and, and ensuring that the legal remedies that are applied to those convictions are the ones that are holding folks back from jobs and housing and other opportunities very easy for every state in this country to ensure not access to arrest that is important. What is more important is the ability to ensure that the convictions that are truly holding folks back from jobs that pay a living wage from security and stable housing from engaging in your kids education and investing in your own are the ones that were that were invested in and talking about providing automatic conviction Lee for,

Robert Alvarez 21:45

you know, what you were you mentioned about people who are in for marijuana convictions in California and then the new industry popping up and people making money off of it. I heard so much about this and not a lot of discussion actually moved from California to DC and kind of that whole discussion kind of thing. Out of my out of my vision because I was preoccupied, but yeah, I was really excited when I heard you talking about that in your presentation earlier. And it also made me think you mentioned briefly that there are other things besides marijuana convictions that are being discussed. Can you talk about what some of those other types of convictions up for expansion or

Evonne Silva 22:21

every state will get to get to decide from our vantage point at the at the end of the day, any conviction type ought to be given out of conviction relief. And so whatever that might look look like. What we see in states is a vast majority of convictions are predominantly related to drugs and to property. And so let's think through what that might look like. For Code for America. What we are looking to do is to expand eligibility and to ensure that automatic that conviction relief is provided automatically, so marijuana present Particularly right now an opportunity to to provide conviction relief, because literally a new marketplace is popping up and folks are very much barred from from that marketplace. And so as cities across the country are trying to think about how do we create equity around this new marketplace that we're now trying to regulate, how do we ensure equal access or equitable access to this marketplace? They have a responsibility to ensure that those that had been harmed by the war on drugs, those that have been criminalized by the war on drugs arbitrarily. They need the government needs to remedy those wrongs in a multiple ways. And one of the ways is conviction relief. But that's true across across conviction types, right, given the history of the criminal justice system, from every part of the system, and so it's post conviction relief is irrespective of conviction type should happen because of the way our system ought to be working.

Josh Hoe 24:03

So we're at the Smart on Crime innovations conference here in New York City. You presented and what are your takeaways from your experience here so far, if any? Yeah.

Evonne Silva 24:15

It's my first time at the conference to break

Josh Hoe:

Oh, really, it's a great conference. You know, there is

Evonne Siilva 24:22

the most one of the most important takeaways, you know, coming back to the top of the the questions that you asked is that I'm struck by is who is centered in this work, but I think, more importantly, who is making decisions in this work? And I think the example that doesn't need

gave in the most recent presentation and the plenary is the one that the person who is feeling the pain and the harm is the one that is going to most clearly be able to articulate when relief comes. And those who have not experienced that pain and that harm. Our best role is in allyship at most, and in support and in understanding in an understanding that and so it's just that that that is true. It's always been true in this work. And it's true across issues, every policy that's been set whether we're talking about policies related to the safety net policies related to education policies in criminal justice, those who are directly impacted by those policies ought to be making decisions, I think, too much is at stake to have folks who are completely disconnected from the ramifications of the choices that they are making to be making those choices. That just doesn't work.

Josh Hoe 25:56

That's a great answer. And thanks so much for doing this. We're really glad you could take Hi,

Evonne Silva 26:00

thanks for having me. Thank you.

Josh Hoe 26:05

Hope you enjoyed that special episode of decarceration. nation. Any content from the Smart on Crime conference was courtesy of the Center for American Progress. JOHN Jay College of Criminal Justice and the Draper Richards Kaplan foundation. As always, you can find the show notes or leave us a comment at decarceration Nation.com. 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. 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, who's been helping with the website. Thanks so much for listening to decarceration Nation podcast. See you next time.