

DN74 Crimmigation

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Joshua Hoe

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Hello and welcome to Episode 74 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, 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 Judith green and Oliver Marino, and just a second first the news.

What can I say? Yesterday was a pretty insane day federal judge named them Cleveland ruled that the entire Sex Offender Registry cannot be enforced on anyone whose offense happened before April 12 of 2011. And that large amounts of the registry could not be enforced against any person on the registry. A few caveats. First, well given the decision, it would be hard to enforce the registry and the courts in Michigan in the interim, the decision doesn't actually go into effect until 60 days After a 30 day notification period, in other words, the legislature has about 90 days to get it together and pass a new law that would pass constitutional muster. If they fail to get that done, the court decision goes into effect, and the registry will cease to be enforceable against everyone pre 2011 and only enforceable in part against people after 2011. This is obviously huge news.

There are several possible outcomes. First, the state appeals to the decision. If they do this, the case would advance to the Sixth Circuit Court of Appeals, which is the court that originally found Michigan registry Michigan's registry to be unconstitutional in the first place. So hopefully that that means good things. Second, the legislature could pass a new registry law, fixing the core problems and going back to a bare bones registry for every single person that it would impact. One that would pass institutional muster. Third, the legislature passes a new registry law removing the parts of the registry that impact people whose crime occurred after April 2011. And let the pre 2011 people who have committed no new crimes move on with their lives and get off the registry. Fourth, the legislator could do nothing, they could choose to do absolutely nothing. And then the court decision becomes law. The registry would in functionally cease to exist for people whose crime occurred before April of 2011. And the registry would change pretty dramatically and how it's enforced for people who came on the registry after April of 2011. Anyway, regardless, this is fairly big news. That's going to be interesting next 90 days here in Michigan.

I have to admit, it's nice to know, at least for a short period of time, that enforcing the registry against me would be pretty damn near impossible, given Cleveland's decision, not that I planning on doing anything would get myself you know in touch with the people who do the enforcement etc.

In other news, I'm planning to start a new campaign to help otherwise eligible voters retire their criminal justice debt in the state of Florida before the election in 2020. I'm still working out the final details, but that campaign should start soon.

I also want to let everyone know that the fourth annual day of empathy event will be March 25. all over the country. You can go to cut 50s website and find out where the location of the event closest to you is. for the second straight year I'll be the main organizer and Michigan and the organizer, the organization that I work for safe and just Michigan will be the lead local organization this year. I will include save the date information in the show notes.

So several weeks ago, I was invited to the national network for justice is great lace convening to talk with many of the participants, the National Network for justice supports and strengthens the work of state based groups seeking to safely and permanently reduce prison, jail and detention populations. The nnj envisions well informed, educated and resource state based organizations. This interview with Judith green and Oliver Marino is the second of two episodes that I conducted at the Great Lakes convening.

Hello, I'm here with Judith green and Oliver Marino. Oliver is the coordinator of immigrant Justice Network. And Judith green is the co founder of justice strategies. She's also a former court director of CT programs with the beer Institute justice and an expert on criminal justice policy. Welcome to decarceration Nation podcast Judith and Oliver.

Judith Greene and Oliver Marino:

Thank you very much. Thank you pleased to be here.

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Joshua B. Hoe

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I always ask the same first question. How did you both first get from wherever you started to kind of specializing in criminal justice as a president, what you do?

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Speaker 2

5:01

Judith Greene:

Well, I was selling drugs in Nashville, Tennessee. And the vice squad rated the apartment I was living in with, you know, a little drug commune and and and and so I found myself in the Davidson County Jail and who knew that there were women in jail I thought of myself as a feminist organizer back in those days and and was connected loosely to the Nashville Women's Center and but I was looking mostly at pink collar late labor issues and so forth. And so you know, drug dealing was a side job to pay the rent, and you know, just soft stuff, you know, marijuana and LSD and whatnot but you know, we ended up with felony charges and, and, and so among other things, I tried to organize a bail fund and that didn't work but we ended up I

didn't go to prison. Black women in the jail cell with me went to prison. That was an inspiration to me to develop alternatives to prison for women and that's how I got started.

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Speaker 3

6:19

Oliver Marino

So I'm not gonna confirm or deny that I've sold drugs before but for me. You never know who's listening you know? It's true but yeah for me in the work that I'm doing now around immigrant justice I came to this work out of like personal experience have been documented and still documented currently with the production that guy but I saw a lot of I was knew that I wasn't documented the necessarily know what that meant, until I saw a lot of folks that I knew kind of be. There were a lot of roads and that were closed for them. There were also a lot of deportations of folks that I knew a lot of people ended up going to jail ultimately deported. And so that can inspire me to To do something to get involved. Right now, the work that I'm doing focusing on the intersection of criminal justice and immigration, I think that came because of a lot of the cases that I that we were working on with the groups in North Carolina. Some folks were caught in that we're not citizens were undocumented, with current, this criminal legal system. And a lot of times even though they wanted to fight their case, they heard know, over and over again, that organizations that were fighting against the petitions that they couldn't take their cases because they they had a criminal record. And so I think that that's that inspired me to get more involved in and is high end up in this world.

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Joshua B. Hoe

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And we're at the National Network for justice, Great Lakes strategy exchange, what brings both of you all to this event, or how did you both come to this event?

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Judith Greene

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Well, I am actually pleased to say that I'm one of a handful of people who Pull national network for justice into being. It came from a small group of state level and local grassroots organizers that met five or six years ago in Tucson, spending two days just talking to each other about their work. And by the end of the second day, they said, Hey, we should start doing this on a regular basis and include more people. So it's grown into an organization that's vibrant and still growing, but lots of really strong organizers and advocates and I'm very proud to be part of it.

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Oliver Marino

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Yeah, now I'm here because Judith invited me and I learned more about the organization and and really, I think, for me, hearing the stories and also the work that people who have been previously incarcerated are doing right now has been inspiring. And yeah, I think it's just a lot of learning a lot of listening that is happening that is from on my part.

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Joshua Hoe

9:00

So, when people ask me, and sometimes they do, most people just assume, I think, but when people ask me why I oppose the current administration, there's obviously a long list of reasons. But I always start with the same one, which is regardless of where someone's from people in cages or people in cages. And so, you know, one of the things we want to talk about here is kind of about the intersection between immigration policy and criminal justice policy. I know, Judith, you've written about criminal justice reform and immigration, and it sounds like you do the work, you know. So can you all talk about kind of where you all see this intersect how you see this intersection happening and in the United States right now?

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Oliver Marino

9:48

Yeah, I mean, I think, you know, there's a lot of oftentimes I like you mentioned, people see this two issues separately, and I connect them but at least I just from personal experience and like the cases, like I mentioned that I worked early on when I got involved. Birth, you know, you see the connections because like you said people are if you're not citizens if you if you're undocumented, or if your legal permanent resident, if you come in contact with the criminal legal system, the thumb was a life sentence that leads to deportation. And once it leads to the petition, they were deported, or mandatory teen for a long time. It's almost impossible to come home, to your family to your community. You may have been here for 1520 years, maybe in that doesn't really matter for a lot of the immigration judges, they don't take that into account. Maybe something happened 1520 years ago that you know, you were convicted or have an offense, the government still can come back and deport you and put you in a cage or behind bars. And so I think the work that I'm doing is just is supporting the stations that are part of this network, the main Justice Network to make sure that, you know, we hear a lot about immigration reform. And obviously that has been successful and successful for many, many years. But every single kind of reiteration of immigration reform brings this idea or this reality of like criminals, criminalizing people who have been already criminalized with a criminal legal system. This idea of like, the good immigrant and bad immigrant people who you know, are should be exempt are exemplary and should stay in this country. And then people who should and oftentimes those who shouldn't get kind of thrown under the bus or people who have criminal records. We in the religious network believe that everyone deserves the opportunity to stay in their communities to live safely and you know, to work to heal as well.

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Judith Greene

11:56

Well, we got involved in part because of the way we've been Our work. We're a policy research organization. But we don't study policy in the abstract. We work in close partnership with organizations that do advocacy and organizing on the ground. So, in the 80s, when the prison boom began, we were horrified watching the tremendous increase in the number of people in cages, working with organizations that were trying to resist that. And in during the late Bush

administration, the second term, the federal government started moving toward the immigrant population, and we look to us is just another target of people of color, who were going to be in those cages out of those cases being privatized and we've done a lot of research on private prisons and private incarceration. So we started working closely with organizations that were made up of immigrants directly affected immigrants and, and their lawyers and their advocates. And the because the government had started the 287 g program, which is working with local police and and passing down local with a federal powers to enforce limit immigration to local police, the huge boom in the incarceration of people in detention, mostly in private prisons. And then the increase that started in 1905 2005 A prosecuting people for crossing the border and and the building of new private segregated immigrant prisons to hold the people who were prosecuted for crossing the water. So we found ourselves because of the way we work, and the time, the new You're of the policy work, we look at, you know, who, who are the targets of the enforcement efforts federal, state and local that brought us to the intersection of criminal justice and immigration. And as you said, people in cages are people in cages. So there we are.

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Joshua Hoe

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Yeah. And all of our she mentioned kind of local enforcement. I know this is something you've been working on. And I think North Carolina from correct. Could you talk a little bit more about the work you're doing or have been doing there?

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Oliver Marino

14:33

Sure. So before I joined the American justice network, I was in that Carolina, I was an organizer there. And one of the you know, a lot of people can feel the emotional like really close close to home when you know, they, if you make it either stuff for you know, Darren with our license or maybe disorderly conduct or assault and you end up in jail. Usually the kind of the process is, you know, people have the opportunity like they're obviously if you're arrested like you're not guilty, you're not innocent until proven guilty but for a lot of immigrants, specially undocumented immigrants that was in you know, they were instantly put in deportation proceedings ship to private detention centers run by private companies who make money out of their bodies. And so be in Mecklenburg County, North Carolina we focus on getting rid of this program called 27 g that was created in in the 90s. I busted this laws in 1986 laws. And we were, you know, it was like we were fighting this like big machine and we were only a group of like, organizers kind of taken on this like big government, and we were able to end it by giving the sheriff who a lot of sheriffs across the country have a lot of power and not a lot of accountability. So that's kind of the the work that I did in North Carolina. And right now with the immigrant Justice Network, what we're doing is we want to repeal the law that created 2017. The first place, a law that was created in 1886. That really, I think was looking back in it was passed in that time that was, quote unquote, tough on crime. Right, that was created this mass incarceration and mass detention system that we have now. And now it's I see it as another kind of phase of the work that I was doing in North Carolina, where, hopefully, you know, it's a it's hard to see, like a vision, like a forward thinking vision pass anytime soon in Congress, with the administration that

we have now. But I think providing a different vision of what immigrant justice can look like and making that connection To the criminal justice side, it's important, especially at this moment of constant constant attacks. Yeah.

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Joshua B. Hoe

17:08

So I think most people, you know, most of the people listen to my podcasts are generally criminal justice reform, educated people. But I'm not so sure that they, you know, I think most people know kind of about the existence of ICE and they know about that we have you know, we did there was a child separation policy, and that there's some camps and things like that. What should people who aren't as familiar with the kind of immigration in the criminal justice system know that they might not know now, and that could be either of you or both of you?

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Judith Greene

17:51

Well, I think there's an important framing that's been missing, since the beginnings of the movement to deal with the consequences of of the felony conviction and imprisonment, the collateral consequences a losing your rights abode, losing your ability to get low income housing and in government housing, losing your ability to get Pell grants to go to college and educate yourself all of these collateral consequences have become well known, and movements are moving, I think more and more successfully toward dealing with those consequences in the reentry movement and in the organizations of people who have been directly affected and lost those things. But somehow it's escaped attention, that removal, deport deportation after felony conviction and imprisonment is a huge collateral consequence. And it encompasses a number of dreadful you know, outcomes, losing your family, going to a country back to a country where maybe you left as a young child and you don't speak the language and you don't have any context. And you don't have any way or ability to find work and support yourself, etc. It's a huge collateral consequence. And I think that people who work on those issues on the criminal justice system should recognize that more than we do, and begin to bring that issue into our work on the criminal justice side. That's one issue. The second one that I will mention because I've worked on a quite a bit and actually published a small book about it a couple of years ago, is the prosecution of people crossing the border. The those laws were passed in 1929. And crossing the border, the first time without authorization is a misdemeanor crossing the second time is a felony. You can go to court if you're convicted, and for the most part, I think because it's in the federal system, people who work with state reform haven't crossed that bridge. And also because of assumptions. I think that that's kind of for criminal justice people. It's a lack of awareness that this is criminalization, along with the rest of the problems we're dealing with. It's a problem we have to deal with.

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Oliver Marino

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Your thoughts? Yeah, I mean, I think just to, I think add to a dimension, just thinking about the word of like, rejoining community after you know, you're, you've served your time like for a lot of people who are not citizens, like that's not a possibility because one year we have lost right now that you're you have to be impressive, like you have to be in a private detention center and mandatory attention, like the law says, You have to stay there if you're convicted or charged with this stuff. And after that, it's very difficult for people to come out. And many of them are deported on able to rejoin their community here and in the US, like I mentioned, they may be they may have been here in this country for 1520 years, maybe even longer than that. But because of they were caught in this criminal legal system that I think a lot of folks now realize, and that is floor in the first place. They have no possibility of rejoining the community.

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Judith Greene

21:34

If you served your time, you've served your time. And in Europe, it's called double punishment, and it is double punishment. And there's, from my point of view, if you've served your time, you know, you're entitled to go back home with all the other collateral consequences, unfortunately, but this is one that has remained sort of hidden in terms of the way we frame the issue. collateral consequences.

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Joshua Hoe

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And so we have this system that, you know, you all are addressing a lot of the problems with it. You You mentioned a little while ago, that we don't, you know, given the current administration and given the the makeup of the legislature that there might not be an immediate solution, what are some of the things that we can be doing? That may not seem as apparent as, for instance, calling your legislature or trying to change the president every four years?

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Judith Greene

22:34

No organizing, organizing, organizing and organizing?

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Oliver Marino

22:38

Yeah, no, I think Judith is right. Definitely. And I think also, you know, it's a understand understanding that the laws like the laws that I mentioned, the 1996 laws, they were passed in, you know, in both parties. Were very devoted for it. And I think Most parties also have been responsible for creating the system we have today. So, you know, it's a very grateful that a lot of people have woken up to what is happening now at the border with with the family separation, but I think it a step, another step I think would be to making that connection to the intersection of criminal, the criminal legal system and the immigration system. And really, I think there's a lot of fights going on in the country locally. I mean, it will no matter where you are, more than likely there's a detention center close to you. There's a prison or jail close to you. And there's more, more than likely people are trying to make sure that they're close, and that you know, the people

are treated humanely regardless of immigration status. So I guess it right now at this moment, it's really hard to see possibilities. But we have to I think we have to provide a different vision. Because of the moment, especially working on the immigration side. Right now, it seems like there's an avalanche of attacks every day. But if we don't provide a different vision and the whole possibility of what's next, then I think we would would have missed a great opportunity.

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Judith Greene

24:27

Another issue, I think, thinking about the intersection of criminal justice and immigration enforcement, that is, that needs to be made more visible. People understand it, particularly for people who are working on decarceration a year or so ago in Louisiana. Clearly, conservatives democratic governor supported some changes, some law changes that began to bring the population down, and the Department of Corrections was able to end three contracted prisons cut the contracts. The day the state prisoners were moved out, ice moved to 10 people, immigration folks in for detention in those same places. So are we decarceration, Louisiana, and Louisiana is not the only state but that's happening. And

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Oliver Marino

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yeah, I think similarly, just to add, you know, right now, in different parts of the countries Pacifica, APK, California just passed the law abolishing private detention center for immigrants and ISIS, like trying to also undermine that law the moment and figuring out how we can ship people to different parts of the country, creating the contracts. But I think at least from the immigration side, we have to not only attack this privately detention centers, but also I think, if we are going to find The system we also have to look at our tells us in general, and making that connection to the fights that people are doing and the criminal legal or criminal justice side they're trying to achieve. There's more definitely more work to be done, at least from I see in the immigration side, and the immigration movement to making those connections.

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Judith Greene

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Another issue in the criminal justice side is the National bail reform movement that's happening across the country. And when people are arrested in reform jurisdictions, more and more of them, are able to go home, immigrants are likely to go to ice instead of going home. Because those connections are still in most communities. The criminal justice system, the Department of Corrections, the jails are still cooperating with ice. And so one of the most important kinds of organizing On the immigration side our way of what people call sanctuary cities, cutting those cooperation agreements. And that's what I mean. Oliver was not only part of electing a new sheriff in, in Mecklenburg County, but seven other counties have two sheriffs in North Carolina who have vowed not to cooperate not to turn people over. So it's where they that's an intersection between bail reformers and the kind of work that Oliver is doing and the reason why criminal justice, people in immigration will have to work together, get rid of those shares, and break the ties.

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Joshua Hoe

27:45

So, you know, we in regular in the rest of incarcerated, you know, decarceration there's the problem with decarceration. There's also the problem of conditions of confinement and he'll one of the big problems with American production. General in jails is that they suffer from a lack of transparency. That problem seems to be much worse with immigration enforcement. Because I know for instance, with private facilities, a lot of times you can't find a private facility. have you all been doing any organizing or thinking about how we can check on the conditions of confinement any more effectively than we've been able to so far for people who are in detention?

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Judith Greene

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Well, that's an important thing to be working on. And I know some lawyers who have been fighting for against private prison companies. And at the appellate level, they've been winning. But how many lawyers can we get to do that kind of stuff? I mean, I think the kind of organizing that was done during the Obama administration that resulted in the Justice Department deciding in August 2016 They were going to end the contracts that they had made to hold immigrants 13 private prison contracts, were going to be shut down. But then of course, with the new administration, that order that memo was ripped up by Attorney General Sessions. So it's an it's a, it's a never ending fight. But I think there's some real progress being made in the effort to defend the private prison system to pressure the banks that gives them their credit lines. And even though the divestment that was published, publicized a few weeks ago, that you know, the seven major banks and had been funding the private prison agency is a victory before those banks agreed to stop funding the industry They signed fine here credit lines. And so the hit is not being filled immediately by the industry, but they are scared they are running, they have hired a new PR public relations firm to try to tell it tell the, you know, the public that that they are not responsible for what was happening with family separation and, and so forth and so on. But you know, there's real progress, and they are scared, and that pressure needs to be amplified.

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Oliver Marino

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Yeah, well, I think speaking of defending this private companies and detention centers that there is a campaign, it's called the different hate, I believe is and it's targeting, you know, making sure that members of Congress like they vote against increasing the budget for Your four eyes and like that are CVP and bring more accountability in that aspect. But thinking of also of like kind of visionary, you know, goals. One of the things that immigrant Justice Network is working on right now at this moment is a bill that would tackle this collaboration between local enforcement and immigration enforcement. It would end it it would end private detention centers. It would also provide an opportunity for people that have been previously the portrait because they were caught in the criminal legal system to come home to their communities. It would give people the

opportunity to have a immigrants to have a fair hearing. And it's called new way forward. We're, it's going to be introduced this December this 2019. And I think, even though it's hard to see see it passing Congress right now, I think the goal is also to to build support within Congress have like this new vision of what is possible. You can see I think, like I said, especially this moment, if there's no, there's no like, a vision of what's next. Then we could have missed a an opportunity.

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Judith Greene

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The bill also has a provision that would decriminalize crossing the border, entry and reentry, those bills would be repealed. And, of course, what would be left was is, you know, massive militarization of the border plus the terribly troubled civil system that would still be in place, but it would be a wonderful step forward to decriminalize people coming across the border, you know, for safety, for fleeing poverty, fleeing some of the economic conditions that were responsible for in the in the countries that they come from. And so I'm, even though passage in the house won't do the trick. I'm very much invested in the idea of a new way forward, that would wipe many of the difficulties causing the 96 law and completely abolish the 1929 laws.

Joshua B. Hoe

I always ask the same last question is, you know, are there any questions that you wish I had asked that I did not? The fair there can be a fair answer to that which is no but

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Oliver Marino

33:40

yeah, I know I think I it's being in this gathering, hearing. All the work that is being done on the lab, formerly incarcerated and are now doing work to make sure that people are not caught in that system to make sure that people are are free. read to me unnecessarily. And I think I'm answering your question, but I think it's it's it's the galleries like this, I think are needed. And the more connections that we make, I think we see like a common struggle against criminalization in this country.

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Judith Greene

34:22

I just like to thank you for the opportunity and your interest in this intersectional set of issues. This is a terrifying time, in some respects, amazing, amazing to see the kind of resistance that's, that's brewing. And so it's really important time for these issues to be brought forward as part of the overall need for resistance and at the same time pathways to a better way forward.

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Joshua B. Hoe

Well, that's a good place to stop. I want to thank both you, Oliver and Judith, for being on the podcast. And thanks for doing this. Thank you. Appreciate it. Thank you.

And now my take, I apologize for taking so long to get to the problem of immigrant incarceration. For those who have read all of my many years of Recaps of the TV show, Orange is the New Black, you know that it is not even close to the first time I've taken a position or talked about this issue. But I should still should probably have covered it on the podcast much more quickly. As I said during the episode for me, people in cages are people in cages, and that cannot continue to be okay. Many of you might respond, but the people that are incarcerated because of immigration, committed crimes, but for the overwhelming majority, the people who are incarcerated as immigrants right now, the crime that they committed was entering the country illegally. To make a better life for themselves or for their families, and if you really, you know, want to break down the whole what crimes, you know, did they commit crimes as a public safety issue?

Let me read this quote from the research presented by that wildly liberal enclave, the Cato Institute. empirical studies immigration criminality generally find that immigrants do not increase local crime rates and are less likely to cause crime than their native born peers, and the natives are more likely to be incarcerated than immigrants. There are two broad strands of this literature. The first is, is an area approach that analyzes how immigrants affect crime and location where they settle finding a general decrease in crime rates. The second broad strand of research examines immigrant institutionalization rates and uniformly finds that native born Americans are more likely to be incarcerated than immigrants as a percentage of their population, the best research on illegal immigrant crime exploits in national a natural experiment to see how the removal of illegal illegal immigrants from an area through the Secure Communities Program affects local crime rates. SCOM was an interior immigration enforcement program started in 2008. To check the fingerprints of local and state arrestees against federal immigration databases. If I suspected the arrestee of being an illegal immigrant, then ice would issue a detainer to build the arrestee to hold the arrestee until I could pick them up. The Obama administration ended scum in 2014. But the Trump administration reactivated if illegal immigrants were more crime prone the natives the crime rates in those local areas that were first enrolled in the program should have seen crime decline relative to the area that were not, as it turned out. SCOM had no significant effect on local crime rates, which means that illegal illegal immigrants were not more crime prone the natives Even if it were acceptable to respond to crime by randomly rounding up people we don't like and throwing them in prisons, or close to randomly rounding them up. It does not make us safer. I would also like to strongly state that I personally could care less how safe I am. If my safety is secured at the cost of the dignity, freedom of movement and humanity of immigrants. When people ask me why I don't support president john, the President Trump, despite his embrace of criminal justice reform, I always come back to the estimated 851,000 people who were taken into immigration custody just in 2019. I think about people like the people in my own community here in Michigan, who are living normal lives until they were torn from their families by ice and deported. Often, ice would come into their workplace, grab them, take them and deport them, despite the fact that they were living in peace. Here in their community had a family here in these communities, they took them from their kids. It's just awful. I am not and will never be okay with what is being done in our

name right now across this country. It makes me deeply ashamed of who we have become and what we are telling the entire world that we stand for.

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