Drug Policy Alliance

Criminal Justice Issues and Prisoners' Rights

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Of the first seven people who died of COVID-19 in federal prison, five of them were there for drug offenses. In this moment, the inhumanity and disastrous health consequences of our prisons and jails are clearer than ever. In this episode, DPAs Managing Director of Policy Advocacy and Campaigns, Kassandra Frederique, sits down with CJ Ciaramella, criminal justice reporter at Reason, and Sakira Cook, Director of the Justice Reform Program at The Leadership Conference on Civil and Human Rights, to talk about how this pandemic has blown the broken system wide open -and the opportunities we have to change it.

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Welcome to Drugs and Stuff, a podcast from the Drug Policy Alliance.

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Gabriella Miyares (0:10)
Hello, and welcome to another episode of Drugs and Stuff. I'm your host, Gabriella Miyares. On our last episode, Mary Sylla talked about how, as someone who's worked as a civil rights attorney and has studied epidemiology, she wanted to make it very clear that we cannot ignore people locked up in prisons and jails, especially now as COVID-19 has spread throughout the country. Today, we're digging further into the issue of incarceration in the midst of a global pandemic. DPA's Managing Director of Policy, Advocacy and Campaigns, Kassandra Frederique, sat down with CJ Ciaramella, a criminal justice reporter at Reason, and Sakira Cook, Justice Reform Program Director at The Leadership Conference on Civil and Human Rights, to talk about justice reform and drug policy in the age of COVID-19.

Kassandra Frederique (1:06)
Hi, everyone. My name is Kassandra Frederique and I am the Managing Director of Policy, Advocacy and Campaigns here at the Drug Policy Alliance. I want to welcome you to another episode of Drugs and Stuff, our podcast. Today it is my pleasure to be in discussion with Reason's criminal justice reporter, CJ Ciaramella, and The Leadership Conference on Civil and Human Rights' Justice Reform Program Director, Sakira Cook. We're going to be in conversation today to talk about drug policy and justice reform in the age of COVID-19. So, Sakira, CJ, welcome to our podcast -- via Zoom!

Sakira Cook (1:47)
Great, thank you.

CJ Ciaramella (1:48)
Thanks for having me on.

Kassandra Frederique (1:50)
So we're just going -- I'm going to take the moderator's privilege of also being a discussant in this conversation and just for us to have a conversation together. But part of the reason why we thought it would be great for us to have a conversation about justice reform and drug policy in the age of COVID was because CJ, you were one of the first reporters to break the story around the first death inside of federal custody. And I think um, Sakira and I told you this before we started that, you know, your piece really just not only elevated that a death had already happened in federal custody, but that the death was of someone who was in on a drug charge. And in -- you know, since last -- in the last couple of days, we realized that based on the Bureau of Prisons' press releases, five out of the seven first deaths have died from COVID, those people all had drug charges ranging from possession to intent to sell. And so, you know, I just want to open it up that we're in the middle of this global pandemic, we're in a conversation about mass incarceration for at least the last decade in a really high-tempered way. Drug policy has been spreading throughout the country. You know, some people have the conversation about whether or not drug policy is criminal justice reform, if it's something different. And it's just so interesting in this moment, that as we're having conversations about decarceration, as we're having conversations about how we move things forward, that the first five people inside -- five of the seven people to die in federal custody, all had drug charges. And so, what do you all think about that? What do we learn from that? Um, that's kind of where I want to start.

CJ Ciaramella (3:40)
Well, I mean, I think if you look at like the, you know, prison demographics at the federal level, there are a lot of drug offenders in federal prisons, in state prisons. They make up more of a minority and you see people in for more property and violent crimes, but in the federal prison system, there's a ton of drug offenders. So in that sense, it's not -- I'm not surprised to hear that, although, you know, it's obviously awful. But it does show up the disparity between the state and federal system, and also, sort of -- as states have managed to reform a lot of their drug policies, we haven't seen that at all at the federal level. As far as people getting in, and staying in on really long drug charges, you know, there's been like these very modest efforts with the Obama clemency effort, and then the First Step Act, to draw those numbers down. And we've seen, like the curve on the federal prison, you know, we're since we're talking about flattening curves, we've seen the federal prison population start to actually flatten out and drop a little bit. But I think it shows just how far we go, we have to go to actually decarcerate and reform some of our drug policies at the federal level.

Sakira Cook (4:58)
CJ is right. You know, when we first even, learning of, the first person passing in federal prison, Leadership Conference, and many of our coalition members, Drug Policy Alliance, and many, many others in the civil and human rights, criminal justice advocacy community saw what was happening with respect to this pandemic, you know, and I would say, "normal" society, and immediately knew that those who are incarcerated, you know, sort of that vulnerable population would be overlooked. And that enough wasn't being talked about, and enough wasn't happening at the federal level, and even to some extent at the state and local level, to move quick enough to see that we needed to depopulate, right? We have 2.2, almost 2.3 million people in prisons and jails throughout this country, and the way that this virus spreads, people who are in close quarters, right, people who are in prisons that are overpopulated, you know, it's very difficult to social distance. You can't do that unless you're putting people in solitary confinement, or locking them down for 22, 23 hours a day, which in our view, would be inhumane. And so we were very concerned that this administration was not moving quick enough. And that knowing that almost, like CJ said, almost half of the federal prison population are there for drug offenses. Like you have people who probably shouldn't be there, serving time because of mandatory minimum sentences that are related to drug crimes, had no recourse -- except for Congress to take a step and in BOP to use their discretion to release people. And unfortunately, in the case of Patrick Jones, who was the young man who passed, he was eligible for a sentence reduction under the First Step Act as CJ mentioned, but he was denied. And that was, I mean, I think one of the most horrific things about his case, is that he -- his story was just so -- it laid bare the inequities and sort of the real structural inequalities and problems with the war on drugs and how it has played out over the last 40 or so years, and how it continues to be used as a tool for social control of black and brown communities. And that is, the war on drugs I think is, the poster child for how the criminal legal system operates in our society. And that's a really problematic thing. And Patrick Jones and then the other four individuals who also were serving time for drug convictions, they were not sentenced to death, right? They were not sentenced to die in prison because of a drug conviction. And that's really unfortunate that that is what happened.

CJ Ciaramella (7:47)
Yeah, I mean, the thing that -- the thing that struck me about his case, when I started looking into it, you know, I don't, I want to make clear, I don't -- I don't want to use his life and death as like a prop, you know. But, but when I was looking at it, like, there was just so many steps along the way, where, you know, if there, if there had been some sort of diversion or just some, like slight change in the way that the criminal justice system normally operates, there's a good chance he would still be alive. You know, he was -- there's just like this litany of things. He was wrapped up in course of plea bargaining. And when he turned down a plea bargain, he went to trial and lost, and got hammered with a 27-year sentence, which is what criminal defense attorneys and a lot of advocacy are calling the trial penalty, where if you turn down a plea bargain, then you get hit with an extreme sentence, whereas otherwise, you might get off with way under the sentencing guidelines. So it incentivizes you to forego your constitutional right to a jury trial.

Kassandra Frederique (8:51)
It also shows how arbitrary it is.

CJ Ciaramella (8:53)
Right. You know, it's like if, you know, if the prosecutors were willing to offer him a deal for, you know, I don't know what the deal was because they're secret, but his wife got a plea bargain for three years in prison. And they were both indicted in the, in the same criminal conduct. So if, you know if, if a three year sentence is appropriate in one case, why, you know, why is it suddenly jacked up to 27 years, and then he was, you know, denied clemency under the Obama clemency initiative, which was supposed to prioritize people serving long nonviolent drug sentences, but there were thousands of inmates who were denied even though they met the criteria. And I, you know, I don't know the specifics, if he was totally eligible or not, but he had a case that was at least worth looking at. But he was denied under that, and then he was denied under the First Step Act, which he was eligible for. The prosecutor at the US Attorney's Office opposed it, and said that he was a career criminal, and the judge agreed based on his past history, which was, I think, a string of burglaries when he was 17. And then three drug crimes, which he was, he made like three sales to an undercover officer, and was arrested from for all three sales. So I mean, you know, he's not like he was a first time offender but he didn't have any violent criminal history. And, you know, if at least one of those parties along the way somewhere had said like, "okay, you know, maybe we won't do the usual thing and throw the book and oppose this just because that's our job or keep him in prison forever", you know, Patrick Jones might -- might have gotten a chance to get out. Or even under, you know, if the federal government had taken quicker action. If the Bureau of Prisons had said no, let's, like, get everyone we can out right now, you know, maybe he would have gotten out. The BOP has taken -- Bureau of Prisons has taken some action to get elderly and at-risk inmates out, they told me they've approved, I think, 575 or 525 transfers to home confinement so far, which sounds like a lot, but there are about 20,000 federal inmates over the age of 55. And if you extrapolate, you know, what you were saying earlier about drug offenders, we can assume that there are thousands of elderly drug offenders who are waiting there for transfer. I'm getting emails every day from people in FCI Aliceville, a federal women's prison in Alabama. You know, they're in wheelchairs and like just wondering if they're going to get released, and they're on lockdown for 23 hours a day. So it's, you know, there's a lot of people who are really scared and a lot of family members who are really scared for their loved ones.

Kassandra Frederique (11:41)
Yeah. And, you know, I, I think one of the things that's often -- is so important, and based on the people that have taught me -- is like, these are people who are in these cages, right? These are not, these are not offenses. These are people who are connected to multiple communities, and are more than what they are charged with. And I think one of the things that was most interesting to me is that elevating this conversation about the people that have passed away? These, historically, these are none of the people that advocacy organizations potentially would have elevated, right? CJ, you even said it, right, you said, you know, this is not, this wasn't this person's

first time. Right? Mr. Jones had a previous record. He had burglaries, he had other drug charges. He was selling. He was not a user, where like, he, he wasn't charged with using, you know, these are conversations where we, as an advocacy organization, all the messaging kind of stuff, pushes you, you're incentivized to use a particular kind of messaging narrative. And I think, even in this moment, where COVID-19 is pushing, and laying bare, the structural inequities of our legal system, it's also pushing the structural inequities in the way we do advocacy. In the cases that we put forward, in the things that we try to build compassion for. And so it is this moment where the system that you know, is being held accountable, but also the advocacy community is, right? Because now it's like, you know, the violent, the non-violent, the first time offense, the first time you got charged, or if you have multiple charges. I don't think any of you guys that you you got a death sentence, right? So it's like, do you want people -- it's like, yes! There is -- we're in the middle of a pandemic, like we actually do have to recognize that these archetypes that we've created for advocacy, we could have always challenged them, but they are not appropriate for this moment, and they may not have ever been, right if we believe in the core of why we're doing this advocacy. And so, you know, I don't know how you, what you think about that Sakira. But you know, I know DPA, we're like, yeah. We ask that those people should get out. Yes.

Sakira Cook (14:07)
No, I think, I think you're right. Look, April, this is Second Chance Month. I mean, I don't really -- I have some personal feelings about the term "second chances", because I feel like sometimes people never got a first chance. Mm hmm. You think about the structural inequality and inequity in society, right, holistically? But Second Chance Month is all, is supposed to be about the fact that there's a recognition that people are more than the worst thing they've ever done, right? Or than the worst day they've ever had and the worst mistake they've ever made, and that we as a society and as, as, as humanity should recognize the inherent goodness in everyone, and that that, you know, rehabilitation or someone has the opportunity to make a different choice, right and do something different with their lives. And I think that unfortunately, our criminal legal system has often been used as a tool for punishment and not as a tool for people to have a moment to reflect, and to get the tools they need to help to rehabilitate themselves. And I think there are other countries, like, we know that in other countries, they use their systems very differently, right? It's often the case that people, while they might get a prison sentence, they are often let out, they can go and continue their lives and continue to work, they have to check into the prison, but then they go back into the community. And there's a, there's a realization, I think, in that model, that these are still members of our society, right? They aren't people that we just throw away. And I think the, the tropes that we've created in the advocacy community, of violent and non violent, or sort of hierarchy of offenses, right, are more worthy of our, of our forgiveness and then others, is really problematic, and works against this idea or this notion that, that people are inherently good and that people, often their environmental surroundings are the things that they've had to go through in their life, the trauma that they might have faced, impact the way that they show up in the world, and that that some of that has to do with the way our society is structured, right, the inequality that exists in society. And so I think, as an advocacy community, I think we've started to see that before this moment, but this moment is, is particularly like -- shining a light on the fact that when we do this work, we're trying to transform the criminal legal system holistically, in a way that doesn't create a hierarchy of individuals who've made mistakes. Everyone deserves an opportunity. We need to create a structure and a system that is not inequitable, is fair and is just for everyone regardless of what they've done, regardless of the mistakes they've made, because each of us have probably done things that if we'd gotten caught, you know, would have landed us somewhere else. And somewhere we might not want to be. And I think when it comes to drug offenses, the reason why it was so easy for people to say, you know, use the nonviolent / violent is sort of, because we're like, okay, you know, usually, you know, using drugs or selling drugs is somewhat of a personal choice. And I think it was easy enough to say you haven't harmed anyone, right? You haven't, you know, committed, you haven't killed anyone, you haven't committed, committed some violent quote unquote, violent offense toward anyone, but I think that and while that might be true, even those who have quote unquote violent offenses or things like that, have the opportunity for redemption. I mean, I think that they have the opportunity for rehabilitation. I think that is true for anyone. For anyone who's ever made a mistake. And so we should approach the transformation, and the changes within our criminal legal system from that perspective that if it has a purpose, the purpose for healing, the purposes for, you know, restitution, the purposes for rehabilitation is punishment.

CJ Ciaramella (18:16)
Yeah. I mean, there's a quote from Kevin Ring, he's the president of FAMM, a criminal justice advocacy group, and he had a quote in an article about Patrick Jones, it wasn't in my article, but he -- I'm paraphrasing him a little bit, but he said something along the lines of, you know, you don't have to be perfect for your life to have worth.

Kassandra Frederique (18:35)
That's right. That's right.

CJ Ciaramella (18:36)
You know, I think the, the criminal justice movement or a lot of the advocacy groups, when this really started picking up steam made sort of a pragmatic decision to say, you know, we're gonna focus on nonviolent drug crimes, because that's sort of low hanging fruit you know, if you want to get a, you know, if you want to make an argument to conservatives in Congress or you know, organizations that are sort of on the fence about it you can say like, Listen, you know, these people are serving like, on its face unfair sentences that, you know, you'd be hard pressed to find people who think they make any sense like, you know, a nonviolent drug offender is serving a life sentence for a first time offense. Like, almost everyone can agree that's insane. So they made a pragmatic choice to focus on that, but like you said, I think that's, that focus and that distinction, doesn't, doesn't hold up when you're facing sort of like existential threats of life in prison, like when you're dealing with something like coronavirus, and it's highlighted that, and I don't think it's even -- I think coronavirus has put a spotlight on that, but it was always there, like prisons are notoriously filthy.

Kassandra Frederique (19:48)
Yeah. They are a public health crisis in general. Yeah. Right. Like when the flu goes through there like it's always, it's always bad.

Sakira Cook (19:58)
Any underlying health condition someone has gets exacerbated when they get to prison. I mean, there's no real medical care. I mean, I have personal stories that I could share that it's just really horrific. But sorry, CJ, to cut you off.

CJ Ciaramella (20:12)
No, no, no, go do that. Just like I mean, the medical neglect. There are several prison systems -- and I'm probably, I'm probably

understating it -- there's at least several that are blatantly violating the Constitution because of the lack of care that they provide for their inmates, in medical care and just ensuring their own safety. In Alabama and Mississippi, both had horrific spates of violence and death inside their prisons this year. And the Justice Department told Alabama like, you need to fix this because this is -- you're violating inmate's constitutional rights. And that's the, you know, that's the Trump Justice Department. They're not, you know, really looking to, you know, they have a bit of a different priority than the Obama Justice Department. But if you have the Justice Department's Civil Rights Division under President Trump telling you that you're not providing an institutional level of care for your inmates, it's pretty bad.

Kassandra Frederique (21:08)
You know what's interesting, I want to pull something else out, you know, in the tropes that, and this is the word that Sakira used, in the tropes -- I want people from DPA to know that I didn't say that, but I believe it -- in the tropes that we have created around advocacy. You know, one of the things we often talk about, especially around drugs is how much it is a health crisis, right? Like addiction is a public health issue, blah blah blah. What's so interesting in this moment, and we see it, you know, I've done advocacy in New York, where we've been fighting back against bail rollbacks, is that we are finding now that law enforcement is saying, Well, you know, we can't let the people in let people out who are here on drug charges because you know, they're addicted, and we can provide more help and resources for them, you can't just let them out. You know, they need resources. And it's just completely a mind -- um, I can't curse on this -- a mind puzzle -- of law enforcement, taking our talking points in the middle of a pandemic, where we're saying we're in a public health crisis. In the moment that we're saying, prisons and jails and detention centers do not have the medical capacity to deal with this crisis. In New York, our district attorney in New York City, our district attorneys wrote a letter to say to the New York City Mayor, you need to instill confidence that our jails can handle medical crises, right. Like, no, you gotta let people know that we can handle this the prosecutors by the way. At the same time that the head position of Rikers Island, the notorious jail in New York City, is literally risking his job being like, we can't do this. We need to let people out. We can't. Like we don't have the range for this. And then you have, you know, Bristol Sheriff on Connecticut yesterday, on George Stephanopoulos' show, speaking and saying well we can't let them out. We we know how to do this, and we can give them treatment. These are, you know, I don't use the word addicts, but that's what he was using. These are addicts and addicts need help, and only we can help them. Where are they going to get help on the outside? And so for me, it's like a couple of things, right? It's the trope of them taking on the narrative of it being a health crisis and them being better suited and organized to give that because we don't have that on the outside. Right? Right. It's also this idea that have we not talked about the alternative, as much as we should? Because we have pointed out the solution, but we haven't always been as clear about as what the alternative is. Because the alternative is not forcing people to go to treatment. Right? So, DPA is committed, one of our founding principles, and one of the things that we commit to is autonomy. So people should always have the ability to make decisions, and forcing people into coercive treatment, which is what people are saying in this moment, right? Like, let's just get people into and it's like, these things are also those things are not the same. So for me, I think COVID-19 is forcing us to, in this moment when there is a problem, to offer the solution at the same time. And I think that is something that's interesting, and different for me in this moment, where we actually have to say, we need to let people out and right now, you know, folks are talking about, we're letting people out. They also need reentry. But it's also laying bare all the ways that when people get out of the criminal legal system, that they can't go into certain places. They can't go back to public housing. They can't get on Medicaid. Like there's just so many different things, like food support, they can't get on it. And so it's like, how do we build out the infrastructure? How do we use this moment to build out that infrastructure? Because law enforcement is smartly pointing out all the things that we don't have in, in the free society to support people that are hurting.

Sakira Cook (25:20)
Well, I think that that's an important point. And I think that is helping to make the case for the arguments that we've been making for so many years. I mean, The Leadership Conference, working with DPA, has, you know, fought tooth and nail to do a couple things: stop Congress from passing these very restrictive laws related to access to public benefits for people who are formerly incarcerated, but but specifically for people with drug offenses. I mean, there are particular pieces of statute, federal law, that block people with drug offenses -- only people with drug offenses -- from access to SNAP, from access to higher education, from health-- I mean, from access to a number of things. And it's a wonder that it's only people with drug offenses that we are choosing to not have access to the types of social supports and social safety nets that are important for people transitioning out of prison. And so I think as we think about stimulus 4, those are the things that are high on our priority, right? We want Medicaid for everyone, both in prison and outside of prison, lifting the ban on access to SNAP and other benefits for people. It's using the housing resources that were given in stimulus 3, focus them for formerly incarcerated people and connecting them to adequate housing and shelter for themselves. Removing all bans on employment and access to higher education. I mean, these are all I think, especially in Second Chance Month, these are all critical pieces that our legislators should be taking up. There should be no reason that we continue to punish people, after they've already been punished, right? After they've already supposedly have been rehabilitated and served their time in prison. I mean, I think that's a fundamental flaw in this ideology that, you know, we are sending people to prison, to serve their time and to, you know, rehabilitate, but then when they come out, they have a whole host of collateral consequences that are associated with a conviction, especially a drug conviction. And also a flaw in this theory that funneling more and more and more and more money into the war on drugs, actually is going to help us move to a society where people are not using or engaging in drugs. So actually, if you supported the public health system in a way that provided the opportunity for people to seek treatment should they choose, and I think that we're seeing law enforcement, especially sort of try to use the public health -- saying that "we can treat people in prison, we can treat people in prison," because drugs, the war on drugs is money. I mean, that's what it's always been about. I mean, it is, it was initially started, right, to keep to, you know, sort of tamp down on the black power movement and, you know, some of the anti-war hippie movement, but then they realized, oh, wait a minute, this is actually money for the United States! I mean, the government can actually make dollars off of the war on drugs. And so it's big business. I mean, why, why do we see that, you know, especially federally it is big business. Why do we see that almost 50% of the federal population are there for drug offenses? It's not the same at the state and local level. And those, those task forces that are joint, right, state task forces that join with federal task forces that kick up state offenses, and I think that's one of the reasons why we don't see as many drug offenses at the state level, because it's so easy to make a, what could have been a state charge for drugs, a federal charge for drugs, put those together to, to make those cases federal crimes that would have normally been prosecuted at the state level because the federal sentences are much higher, right? Mandatories that are associated with drug offenses are much higher. And it's, quite frankly, sometimes much easier to get a conviction at the federal level than it is sometimes at the state level. And so, I mean, these are all things that, that I think this moment of COVID-19, are helping us to further elevate like the work that we've consistently done to talk about unfair and inequitable sentencing regimes as it relates to mandatory minimums federally; you know, accept the war drugs has failed and that we need a new approach, a public health approach, and that that public health approach has to exist outside of the context of the criminal legal system, you can't treat people and then also incarcerate them at the same time. Those two things do not work and do not make

sense, um, and to the extent that there are people who are participating in drug treatment programs at the federal level, sometimes that RDAP is just so they can get that year off of their sentence. I mean, most people join RDAP --

CJ Ciaramella (30:09)
It's the only way you can reduce your sentence.

Sakira Cook (30:12)
It's the only way you can reduce your sentence! I mean, it's not necessarily because I have a, a drug issue it's because I'm trying to get out early because I've been hit with a lot, with a 10 year mandatory. And I need a year off my sentence, you know what I mean? And so, I mean, I think there are so many different problems with the notion that the criminal legal system and law enforcement is the best place to treat someone who has an addiction, or, quote unquote, has an addiction. Or someone who has been struggling with, with using certain types of drugs. I mean, it's just mind boggling to me, they can't even treat the common cold, or, you know, any other type of a virus or underlying health conditions, but they can treat people who, who need assistance with, with something that they're struggling with? Yeah, it's not realistic. And it's just another way to keep people incarcerated and to keep making money off of them. I talked a lot. CJ.

CJ Ciaramella (31:09)
I mean, yeah, the argument that you have to keep people in jail or prison to provide them mental health or drug treatment is kind of laughable. The only thing you do when you put someone who is addicted to drugs in prison is give them easy access to tainted drugs. Jails, or jails and prisons are full of really nasty drugs, and they're not hard to get. And the level of programming is pretty abysmal in most places. I mean, there, there is like a sad there is sort of a sad truth to what you're saying. If you talk to a lot of sheriffs in big cities, they will tell you that their jails are the largest mental health providers in the county.

Kassandra Frederique (31:51)
That's right. For treatment. Or substance use treatment, too.

CJ Ciaramella (31:54)
Right. So I mean, they are they are filling in a gap and a lot of times they don't want to do it. You know, correctional officers are not mental health professionals and they probably don't enjoy doing that. They would, you know, police officers, correctional officers I think would rather not be in that role all the time. But because after the US deinstitutionalized, jails and prisons just sort of took over that role. I was also going to say here. Oh, it was interesting what you're saying about the federal task forces. Yeah, a lot of those cases involve asset forfeiture where they're seizing, where they're seizing property in cash and things like that. And when they bump it up to the federal level, they don't have to abide by state rules, which are sometimes stricter than the feds. The other thing was, oh, yeah, drug rehab. Places like that. Reason's written a lot about sort of the problems and issues that drug courts and mandatory drug treatment creates. And you know, if you're an incre-- if you're like an incrementalist, and you might say that okay, well, making someone go to drug court might still be bad, but it's still better than going to prison? That's an argument. But there are huge problems. Some drug courts are much better than other ones. Some of them are pretty bad. And a lot of times they impose significant costs on people who go through them. They have to pay for the court and pay for the treatment, which is mandatory, and there's like a fairly lucrative industry in providing those services for drug courts. There's mandatory -- basically you can get assigned to work for companies and things like that as part of a rehab program. In some cases, you work for free as a condition of your mandatory treatment. ProPublica has done a huge series of articles on mandatory drug rehabs that involve working for free, which you know is, you know, working that it's basically slave labor. And there's huge health care, you know, worker's comp claims and injuries and you can't complain about it or else you get kicked out of your program and go to prison. So there are huge problems with building out that infrastructure, even though we've tried to decarcerate and move into these other programs, it's created this whole, like tertiary system of sort of less-than-ideal profiting and lack of autonomy. I think you brought that word up, it's still coercing people into these abusive programs and soaking them in fines and costs.

Kassandra Frederique (34:32)
So, you know, I think what is the biggest point, the biggest risk that we're on right now is how arbitrary this conversation around public safety at the federal level in general, you know, we see this, and the fact that we are able to decarcerate and we're not seeing crime go up and all these different things, you know, prosecutors, you know, are looking at their list and being like, yeah, these people don't, we're not gonna charge these people for these things. Like, it's really calling us to question in this moment, um, having us look at, kind of what outside structures look like, how pervasive the criminal legal system is. I mean, Sakira, I was so grateful that you brought up all the ways that people who are charged with drugs are specifically targeted. One of the big projects that DPA is coming out with in the fall is a massive report around mass criminalization, looking at multiple systems, at the federal/national and looking at New York as a case study of how those drug laws are playing out. And we're really excited about that, to really get people to understand how expansive and pervasive and insidious the drug war is in people's everyday lives. Because even if people never get arrested, and never step foot in a detention center or a jail or a prison, they are impacted by drugs, be it having to get public assistance, housing, child welfare, education, all these things are impacted. And it's like that's one of the things that's really interesting to me -- and you know, earlier we talked about the tropes that don't work or are hurting us in this moment -- is how should COVID-19 shape our media and justice demands?

Sakira Cook (36:13)
That's a good question. I mean, I think we've been using the moment of COVID, COVID-19, to elevate the demands that we've been making for years. You know, it isn't as if the policy proposals or solutions that you see organizations putting forward, that's organizations at the national level, or even those who work at the state and local level, those putting forward and the ability for our movement to mobilize really quickly, it's because we've been saying this all along. I think this moment has allowed for us to elevate those demands and elevate those asks and sort of, and sort of show that, you know, it's really important that we remember the humanity of everyone in that way. We have to, have to do this together. And I think CJ brought up something that was really interesting about incrementalism. Last August, was it August?, September, last September, The Leadership Conference issued a platform called Vision for Justice. You know, how to shift the public safety paradigm, right, a roadmap, basically, for shifting and transforming the criminal legal system, and changing the way that we think about public safety. And I think that COVID-19 is, is, you know, sort of a window into how we need to rethink and reshape both our public health system, public safety system and in our society as a whole that, you know, sort of whether we're talking about healthcare, whether we're talking about access to employment, whether we're talking about education, the real -- whether we're talking about the criminal legal system, the inequities that exist throughout our society are interrelated and interconnected. And this is really a moment, I think, for us to rethink and re-choose wisely about how we invest. We invest in those systems that will

create a society that is better for everyone and a society that is safer for everyone. It isn't just that those individuals had drug offenses, they also had underlying health conditions. They also had pre-existing conditions that made them particularly vulnerable to this virus. And the fact that the prison system in and of itself is a, is not a hygienic place, right? It is lacking on, on a multitude of ways. I hope that this moment really allows people to think more expansively about the ways that we've often thought about our criminal legal system, and that they are not just stuck in incrementalism, but that they push for something more and something greater. And we also don't let political, you know, the political whims of any one individual or any one party dictate how we treat human beings. And that's what's really, really, really important. And quite frankly, the federal government is far behind what many states are doing currently and what they've done in the past. And it really begs the question, if there are individuals in Congress that they are AUSAs who worked for Barr, AG Barr, making the case that people are better off being in prison in this moment, than they are going to home confinement, or than they are being released because they're elderly, or are released because they have a underlying health condition and are eligible for compassionate release. Like all of those things. Really, really, really in this moment. Any and everyone, everyone should be in agreement about releasing as many people as possible to make this, everyone more safe, right? And to make our society safer.

Kassandra Frederique (39:56)
CJ, what do you think about media, because what's interesting is that media has blame, you know, you guys have made the problem too. So it's like, how do we...what is media's role in COVID-19 getting the truth? But I also think it's I, I'll let you answer -- but I have an opinion

CJ Ciaramella (40:16)
In regards to the prisons and jails, or just coronavirus in general?

Kassandra Frederique (40:22)
I would say COVID-19 media in response to justice reform.

Sakira Cook (40:30)
Sure. Well, what I think is interesting, and what -- what, as I put on my reporter hat, what I would be really interested to see is, when this starts to subside, you know, we're going to have seen all these local district attorneys and prosecutors and police, like in San Francisco and Philadelphia, who made a choice and said, okay, you know, we're just not going to enforce all these laws, and we're going to do what we can to empty out our jails to a certain extent, to reduce the jail population intake. You know, this is obviously an extraordinary, sort of emergency situation. But, you know, if we can, if they do that, and there's not mass -- you know, societal unrest -- if things, you know, everything doesn't turn into New York City in The Warriors, you know, are -- how are they gonna, you know, I think defense attorneys and a lot of groups will be able to say like, Listen, you were able to do this. You know, is there a reason to start arresting people and putting them in jail again, if things didn't, you know, break down like you've always said they would? You know, the police unions in New York City successfully got the bail reform sort of gutted in New York state, based on a lot of a lot of fear-mongering and what I thought were inaccurate portrayals of how the law was working. You know, if we see that we can not put all these people in jail, in prison, without having, you know, rampant crime on the street and, you know, massive societal breakdowns, I think it might, or at least I would like to see a lot of media coverage and sort of debates about, you know, how far we should extend that, and you know, this, you know, sort of push the, at least possibility that this may be a way we can, you know, change the justice system, if we see that it works in this situation.

Kassandra Frederique (42:21)
Yeah. I want to thank you both for a such a fruitful conversation. I think we covered a lot in the little bit of time that we had. I think it's safe to say that we would love to have you back when we have new conversations. I want to thank the folks that are listening to this, please feel free to reach out to DPA with suggestions or people that you think that we should interview on our podcast. This moment is an extraordinary moment. It is incredible in scope, we will not be the same. And I want to send a heartfelt, heartfelt hug, virtual social distancing hug, to our listeners, to the folks that -- to CJ and Sakira, who are with us today. We, you know, Sakira laid something down that is really important to say, is that our demands are the same demands that we've been having for a long time. And I think it's also important to recognize is that there have been people working at the intersection of justice and autonomy for a very long time. And if those people had not been fighting, if those organizations had not been pushing, this could have been worse. Because we have done a lot. We have pushed a lot. We have created the messaging to create the containers for people to see decarceration as the only step forward. That could not have happened without organizations like Reason, without organizations like The Leadership Conference, that have been pushing for decades, trying to push back on the status quo. And so, you know, at the federal level, you know, we don't always like what we ended up with when it came to the Fair Sentencing Act. But we did get people out, right? And those are people that don't have to deal with COVID-19 right now. And there are people that have fought for different ballot initiatives throughout the country -- in California, who are not in right now, because we fought for those things. And I think, you know, in New York, we fought for the Rockefeller drug laws, and there are people who are not in right now because of those things. And so, I think, you know, Color of Change says "until justice is real," is what is super important, and, and what I would say is that we, we have the tools to do the things that are necessary for this moment. And it's just a moment of scaling up and being brave. And so I want to thank you both for joining us again today. And I want to thank our listeners on Drugs and Stuff. Again, this is Kassandra Frederique, Managing Director of Policy, Advocacy and Campaigns at Drug Policy Alliance. Thank you and be well.

Gabriella Miyares (45:09)
Thanks again to CJ, Kassandra, and Sakira for that incredible conversation. You can find CJ's really impactful reporting at reason.com. And to learn more about the work Sakira does at The Leadership Conference on Civil and Human Rights, visit civilrights.org. For DPA's work, specifically our pandemic response, you can visit drugpolicy.org/COVID-19. All month we're going to be featuring content centered around COVID-19 and how it ties into drug policy and related issues. And beyond that, we've got more new and exciting episodes that we're getting ready for you. In the meantime, if you have thoughts to share about what you just heard, or if you want to suggest new topics or guests, please tweet us. We're @drugsnstuffDPA. keep tuning in. And until next time, keep on keepin on.

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